



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H., Director

December 1, 2021

Mr. Bill Brooks, Medicaid Associate Regional Administrator  
Division of Medicaid and Children's Health  
Centers for Medicare and Medicaid Services  
1301 Young Street  
Dallas, Texas 75202

Dear Mr. Brooks:

Enclosed please find documents related to New Mexico State Plan Amendment (SPA) 21-0014 Transportation Coverage.

Effective December 1, 2021 the New Mexico Human Services Department (HSD) updated its state plan to conform with regulatory requirements for the assurance of transportation. Language was added to specify that the statutory minimum requirements for non-emergency medical transportation (NEMT) providers and individual drivers are satisfied. The changes are being made in accordance with the statutory provisions added by section 209 of the Consolidated Appropriations Act, 2021.

HSD followed a process that included public notification, tribal notification and web posting. Documentation of these activities is attached.

Please refer to the attachments for the transmittal form and notices.

We appreciate your consideration of this state plan amendment. Should you have any questions, please contact Valeria Tapia at: [Valerie.Tapia@state.nm.us](mailto:Valerie.Tapia@state.nm.us) or (505) 257-8420.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Comeaux".

Nicole Comeaux, J.D., M.P.H., Director  
Medical Assistance Division

cc: Peter Banks, CMS  
Lorelei Kellogg, HSD/MAD Deputy Director



**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 1 — 0 0 1 4

2. STATE

N M

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

December 1, 2021

5. FEDERAL STATUTE/REGULATION CITATION

1902(a)(87) of the Act; 42 CFR part 438; 42 CFR 440.170(a)

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 22 \$ 0

b. FFY 23 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1-D

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

NM 73-30

9. SUBJECT OF AMENDMENT

Transportation Coverage

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT  
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME  
Nicole Comeaux

13. TITLE  
Director, Medical Assistance Division

14. DATE SUBMITTED  
December 1, 2021

15. RETURN TO

Nicole Comeaux, J.D., M.P.H., Director  
Medical Assistance Division  
P.O. Box 2348  
Santa Fe, NM 87504-2348

**FOR CMS USE ONLY**

16. DATE RECEIVED

17. DATE APPROVED

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

STATE PLAN PAGE(S) REDLINE VERSION

Attachment 3.1-D

STATE PLAN UNDER TITLE XIX  
OF THE SOCIAL SECURITY ACT

STATE OF NEW MEXICO

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**Methods of Providing Transportation.**

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~~Transportation required by clients to obtain needed medical care under the program is provided when such required transportation cannot be secured without charge through volunteer organizations such as fire departments, public ambulances and other public services, or from relatives.~~

The methods of providing transportation by the Agency are:

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New Mexico Medicaid assures that necessary transportation of recipients to and from Medicaid providers of Medicaid covered services will be provided. The following reimbursement methods and limitations will be used for transportation and transportation related services:

1. Reimbursement of emergency ambulance transportation for recipients with an emergency is provided.
2. Non-emergency medical transportation (NEMT) is provided as an optional medical service in accordance with 42 CFR 440.170(a)(4).

Reimbursement for NEMT is made:

a. By reimbursing providers of transportation by ambulance if other types of transportation are contra-indicated.

~~1-b. By reimbursing Medicaid enrolled specialized types of transportation providers regulated by New Mexico motor carrier regulations.~~

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~~2-c. By reimbursing providers of common carrier and other specialized types of transportation.~~

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~~3-d. By providing petty cash to clients recipients in compensation for cost of travel by private automobile.~~

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3. The New Mexico transportation regulatory authority is responsible for licensing and registering NEMT providers and for ensuring minimum requirements for NEMT providers and individual drivers are satisfied including:

a. Each provider and individual driver is not excluded from participation in any federal health care program (as defined in section 1128B(f) of the Act) and is not listed on the exclusion list of the Inspector General of the Department of Health and Human Services;

b. Each such individual driver has a valid driver's license;

c. Each such provider has in place a process to address any violation of a state drug law; and

d. Each such provider has in place a process to disclose to the state Medicaid program the driving history, including any traffic violations, of each such individual driver employed by such provider, including any traffic violations.

TN No. 21-00XX

Approval Date \_\_\_\_\_

Supersedes TN No. NM 73-30

Effective Date \_\_\_\_\_

4. Reimbursement is provided when transportation required by recipients to obtain needed medical care cannot be secured without charge through free alternatives such as family, friends, volunteer services, free public transit, nursing facilities or residential centers and is the least costly mode of transportation appropriate to the needs of the recipient.

5. Out of state transportation requires prior authorization.

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TN No. 21-00XX

Approval Date \_\_\_\_\_

Supersedes TN No. NM 73-30

Effective Date \_\_\_\_\_

STATE PLAN PAGE(S)

**STATE PLAN UNDER TITLE XIX  
OF THE SOCIAL SECURITY ACT**

**STATE OF NEW MEXICO**

**Methods of Providing Transportation**

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1. Reimbursement of emergency ambulance transportation for recipients with an emergency is provided.
2. Non-emergency medical transportation (NEMT) is provided as an optional medical service in accordance with 42 CFR 440.170(a)(4).

Reimbursement for NEMT is made:

- a. By reimbursing providers of transportation by ambulance if other types of transportation are contraindicated.
  - b. By reimbursing Medicaid enrolled specialized types of transportation providers regulated by New Mexico motor carrier regulations.
  - c. By reimbursing providers of common carrier.
  - d. By providing petty cash to recipients in compensation for cost of travel by private automobile.
3. The New Mexico transportation regulatory authority is responsible for licensing and registering NEMT providers and for ensuring minimum requirements for NEMT providers and individual drivers are satisfied including:
    - a. Each provider and individual driver is not excluded from participation in any federal health care program (as defined in section 1128B(f) of the Act) and is not listed on the exclusion list of the Inspector General of the Department of Health and Human Services;
    - b. Each such individual driver has a valid driver's license;
    - c. Each such provider has in place a process to address any violation of a state drug law; and
    - d. Each such provider has in place a process to disclose to the state Medicaid program the driving history, including any traffic violations, of each such individual driver employed by such provider, including any traffic violations.
  4. Reimbursement is provided when transportation required by recipients to obtain needed medical care cannot be secured without charge through free alternatives such as family, friends, volunteer services, free public transit, nursing facilities or residential centers and is the least costly mode of transportation appropriate to the needs of the recipient.
  5. Out of state transportation requires prior authorization.

TN No. 21-0014

Approval Date \_\_\_\_\_

Supersedes TN No. NM 73-30

Effective Date \_\_\_\_\_



NEWSPAPER PUBLIC NOTICE AND PROOF OF PUBLICATION

## **Newspaper Notice for SPA 21-0014 – Transportation Coverage**

The New Mexico Human Services Department (HSD) Medical Assistance Division (MAD) is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 21-0014 Transportation Coverage.

Effective December 1, 2021 the New Mexico Human Services Department (HSD) is updating its state plan to conform with regulatory requirements for the assurance of transportation. Language has been added to specify that the statutory minimum requirements for non-emergency medical transportation (NEMT) providers and individual drivers are satisfied. The changes are being made in accordance with the statutory provisions added by section 209 of the Consolidated Appropriations Act, 2021.

There is no financial impact associated with these changes.

### **OPPORTUNITY TO VIEW DOCUMENTS AND MAKE COMMENTS**

Medicaid providers, Medicaid recipients, and other interested parties are invited to make comments on this proposed SPA. The complete draft amendment may be found on the Department's website at:

<https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notice-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>

A written copy of these proposed documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-1337.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to [madrules@state.nm.us](mailto:madrules@state.nm.us). All comments must be received no later than **5:00 p.m. Mountain Time (MT) on November 23, 2021**. Written or e-mailed comments are preferred because they become part of the record associated with these changes.

Interested persons may address written comments to:

Human Services Department  
Office of the Secretary  
ATTN: Medical Assistance Division Public Comments  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

Copies of all comments will be made available by HSD/MAD upon request by providing copies directly to a requestor or by making them available on the HSD/MAD website or at a location within the county of the requestor.

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Journal: October 23, 2021

# AFFIDAVIT OF PUBLICATION

## STATE OF NEW MEXICO

County of Bernalillo SS

Elise Rodriguez, the undersigned, authorized Representative of the Albuquerque Journal, on oath states that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, that payment therefore has been made of assessed as court cost; and that the notice, copy of which is hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

10/23/2021

  
\_\_\_\_\_

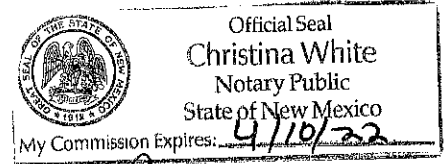
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

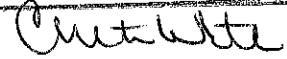
25 day of October of 2021

PRICE \$113.48

Statement to come at the end of month.

ACCOUNT NUMBER 1009565





**Affidavit of Publication**

Ad # 0004968733

**This is not an invoice**

**HUMAN SVCS DEPT - ME D ASSIST DIV**  
PO BOX 2348

**SANTA FE, NM 87504-2348**

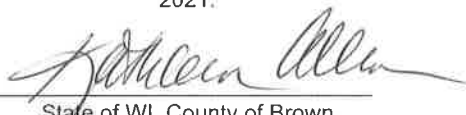
I, a legal clerk of the **Las Cruces Sun News**, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof in editions dated as follows:

**10/23/2021**

Desponent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

  
\_\_\_\_\_  
Legal Clerk

Subscribed and sworn before me this October 23,  
2021:

  
\_\_\_\_\_  
State of WI, County of Brown  
NOTARY PUBLIC

*1-7-58*  
\_\_\_\_\_  
My commission expires

KATHLEEN ALLEN  
Notary Public  
State of Wisconsin

Ad # 0004968733  
PO #: 63000-0000037020  
# of Affidavits 1

**This is not an invoice**

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PROVIDER, INTERESTED PARTIES, STAKEHOLDERS ASSOCIATIONS NOTICE



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H, Director

October 23, 2021

Interested Parties:

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There is no financial impact associated with this change.

#### **OPPORTUNITY TO VIEW DOCUMENTS AND MAKE COMMENTS**

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WRITTEN TRIBAL NOTIFICATION



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H, Director

October 23, 2021

**RE: Tribal Notification to Request Advice and Comments Letter 21-23: Transportation Coverage**

Dear Tribal Leadership, Indian Health Service, Tribal Health Providers, and Other Interested Parties:

Seeking advice and comments from New Mexico's Indian Nations, Tribes, Pueblos and their health care providers is an important component of the government-to-government relationship with the State of New Mexico. In accordance with the New Mexico Human Services Department's (HSD's) Tribal Notification to Request Advice and Comments process, this letter is to inform you that HSD, through the Medical Assistance Division (MAD), is accepting comments until **5:00 p.m. Mountain Time (MT), November 23, 2021**, regarding proposed changes to transportation coverage.

Effective December 1, 2021 the New Mexico Human Services Department (HSD) is updating its state plan to conform with regulatory requirements for the assurance of transportation. Language has been added to specify that the statutory minimum requirements for non-emergency medical transportation (NEMT) providers and individual drivers are satisfied. The changes are being made in accordance with the statutory provisions added by section 209 of the Consolidated Appropriations Act, 2021.

**Tribal Impact**

There is no impact to Indian Nations, Tribes, Pueblos and their health care providers. The proposed changes are to clarify that New Mexico Medicaid is in compliance with federal requirements.

**Tribal Advice and Comments**

Tribes and their healthcare providers may view the proposed changes, on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> **Tribal Notification 21-23.**

**Important Dates**

**Written comments must be submitted by 5:00 p.m. Mountain Time (MT) November 23, 2021.** Please send your comments to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email at: [Theresa.Belanger@state.nm.us](mailto:Theresa.Belanger@state.nm.us). All written comments received will be posted on the HSD website at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> along with this notification letter. The public posting will include the name and any contact information provided by the commenter.

**Tribal Leadership may request a government-to-government consultation by November 23, 2021.** This request may be made to: [Theresa.Belanger@state.nm.us](mailto:Theresa.Belanger@state.nm.us) or by calling (505) 670-8067.

Sincerely,



Nicole Comeaux, J.D., M.P.H.  
State Medicaid Director

NO COMMENTS RECEIVED