



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

March 29, 2022

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) 21-0011 Pediatric COVID-19 Vaccine Counseling.

Effective January 1, 2022, the New Mexico Human Services Department (HSD) is updating its state plan to conform with Section 9811 of the American Rescue Plan Act of 2021 (ARP) which requires state Medicaid programs to cover COVID-19 vaccine counseling for children under age 21 as part of the Early and Periodic Screening, and Diagnostic Testing (EPSDT) benefit.

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 on this amendment, please contact Valeria Tapia at: 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 2 — 0 0 1 1

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

January 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION

Section 9811 of the American Rescue Plan Act of 2021

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 22 \$ 130,860

b. FFY 23 \$ 174,480

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

State Supplement A to Attachment 3.1-A pg. 5f
Attachment 4.19-B, pg. 16

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

State Supplement A to Attachment 3.1-A pg. 5f (TN 08-03)
Attachment 4.19-B, pg. 16 (TN 99-06)

9. SUBJECT OF AMENDMENT

Pediatric Vaccine Counseling - effective January 1, 2022, NM Medicaid is updating its state plan to conform with Section 9811 of the American Rescue Plan Act of 2021 (ARP) which requires state Medicaid programs to cover COVID-19 vaccine counseling for children under age 21 as part of the EPSDT benefit.

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:
Authority delegated to the Medicaid Director

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME

Nicole Comeaux

13. TITLE

Director, Medical Assistance Division

14. DATE SUBMITTED

March 29, 2022

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 Supplement A to Attachment 3.1-A

Health and approved for participation and enrolled in the New Mexico Medicaid program. Services are provided directly by the special rehabilitation service provider or through subcontractors; and providers shall:

- (a) provide special rehabilitation services under the direction of professionals acting within their scope of practice as defined by State law; and
- (b) provide special rehabilitation services in the most appropriate least restrictive environment; and
- (c) assure that claiming for special rehabilitation services does not duplicate claiming for EPSDT administrative outreach services.

- 16. Medicaid covers stand-alone vaccine counseling for all pediatric vaccines under EPSDT, including COVID-19.

Item 4b EPSDT Services Included in the State Plan

Services already included in the state plan are described in Attachment 3.1A. Limitation to those services are described in the other sections of State Supplement A to Attachment 3.1A.

- (c) Private duty nursing services, Christian science nurse services, and personal care services.
- (d) Services by licensed master's level practitioners including psychologists, counselors, and social workers, and other individually licensed practitioners.
- (e) Chiropractic services.
- (f) Orthodontic services and other dental services not otherwise covered in the state plan.
- (g) Services provided by school districts and local education agencies. Reimbursement will be at the same rate as other providers of the specific service rendered.
- (h) Services provided by Licensed Alcohol and Drug Abuse Counselors (LADACs).
- (i) Standalone vaccine counseling.

2. Inpatient Institutional Services

Inpatient services provided by JCAHO accredited institutions are reimbursed using the methodology for specialty hospitals according to the reimbursement principles. of 4.19-A.

3. Outpatient Institutional Services

Outpatient services provided by JCAHO accredited institutions are reimbursed using the methodology for outpatient hospital according to the reimbursement principles of 4.19- B, III.

4. Rural Health Clinic and Federally Qualified Health Center Services

Services by these providers are reimbursed in accordance with the reimbursement methodology described in 4.19-B, Item VIII.

5. Durable Medical Equipment, Supplies, Prosthetics, and Orthotics

These items are reimbursed in accordance with the reimbursement methodology described in 4.19-B, Item VII.

6. Case Management

Case management services are reimbursed in accordance with the reimbursement methodology described in 4.19-B, Item X.

State Supplement A to Attachment 3.1-A

Health and approved for participation and enrolled in the New Mexico Medicaid program. Services are provided directly by the special rehabilitation service provider or through subcontractors; and providers shall:

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- (c) assure that claiming for special rehabilitation services does not duplicate claiming for EPSDT administrative outreach services.

16. Medicaid covers stand-alone vaccine counseling for all pediatric vaccines under EPSDT, including COVID-19.

Item 4b EPSDT Services Included in the State Plan

Services already included in the state plan are described in Attachment 3.1A. Limitation to those services are described in the other sections of State Supplement A to Attachment 3.1A.

- (c) Private duty nursing services, Christian science nurse services, and personal care services.
- (d) Services by licensed master's level practitioners including psychologists, counselors, and social workers, and other individually licensed practitioners.
- (e) Chiropractic services.
- (f) Orthodontic services and other dental services not otherwise covered in the state plan.
- (g) Services provided by school districts and local education agencies. Reimbursement will be at the same rate as other providers of the specific service rendered.
- (h) Services provided by Licensed Alcohol and Drug Abuse Counselors (LADACs).
- (i) **Standalone vaccine counseling.**

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Newspaper Notice: SPA 22-0011 Pediatric COVID-19 Vaccine Counseling

The New Mexico Human Services Department (HSD), through the Medical Assistance Division (MAD), is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 22-0011 Pediatric COVID-19 Vaccine Counseling.

Effective January 1, 2022, the New Mexico Human Services Department (HSD) is updating its state plan to conform with Section 9811 of the American Rescue Plan Act of 2021 (ARP) which requires state Medicaid programs to cover COVID-19 vaccine counseling for children under age 21 as part of the Early and Periodic Screening, and Diagnostic Testing (EPSDT) benefit.

The estimated financial impact is \$130,860 (in federal funds) for FFY 22 and \$174,480 (in federal funds) for FFY 23.

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. All comments must be received no later than 5:00 p.m. MT on **March 28, 2022**. 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.

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO

County of Bernalillo SS

David Montoya, 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):

02/26/2022

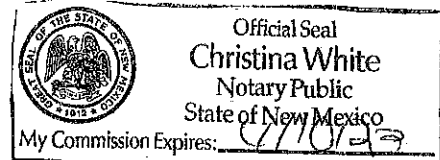
David Montoya

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this 28 day of February of 2022

PRICE \$105.42

Statement to come at the end of month.

ACCOUNT NUMBER 1009565



Christina White

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Las Cruces Sun News.

PART OF THE USA TODAY NETWORK

Affidavit of Publication

Ad # 0005150208

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:

02/27/2022

Despondent 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

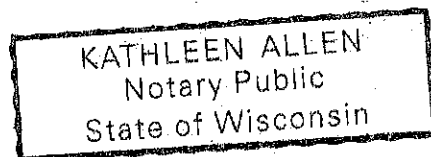
Subscribed and sworn before me this February 28,
2022:



State of WI, County of Brown
NOTARY PUBLIC

1-7-25

My commission expires



Ad # 0005150208

PO #.

of Affidavits: 1

This is not an invoice

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87504-2348

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#5150208, Sun-News, March 27, 2022



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

February 25, 2022

Interested Parties:

The New Mexico Human Services Department (HSD), through the Medical Assistance Division (MAD), is providing this notice of opportunity to comment on proposed State Plan Amendment (SPA) 22-0011 Pediatric COVID-19 Vaccine Counseling.

Effective January 1, 2022, the New Mexico Human Services Department (HSD) is updating its state plan to conform with Section 9811 of the American Rescue Plan Act of 2021 (ARP) which requires state Medicaid programs to cover COVID-19 vaccine counseling for children under age 21 as part of the Early and Periodic Screening, and Diagnostic Testing (EPSDT) benefit.

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Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to madrules@state.nm.us. **All comments must be received no later than 5:00 p.m. MT on March 28, 2022.** Written or e-mailed comments are preferred because they become part of the record associated with these changes.

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

February 25, 2022

RE: Tribal Notification to Request Advice and Comments Letter 22-09: Pediatric COVID-19 Vaccine Counseling

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) March 28, 2022**, regarding proposed State Plan Amendment (SPA) 22-0011 Pediatric COVID-19 Vaccine Counseling.

Effective January 1, 2022, the New Mexico Human Services Department (HSD) is updating its state plan to conform with Section 9811 of the American Rescue Plan Act of 2021 (ARP) which requires state Medicaid programs to cover COVID-19 vaccine counseling for children under age 21 as part of the Early and Periodic Screening, and Diagnostic Testing (EPSDT) benefit.

Tribal Impact

The HSD anticipates a positive impact for Indian Nations, Tribes, Pueblos and their health care providers. The proposed change expands current services provided through the EPSDT benefit.

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 22-09.**

Important Dates

Written comments must be submitted by 5:00 p.m. Mountain Time (MT) March 28, 2022. 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. 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 March 28, 2022. This request may be made to: Theresa.Belanger@state.nm.us or by calling (505) 670-8067.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Comeaux". The signature is fluid and cursive, with a large initial "N" and "C".

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

Standard Funding Questions – Pediatric COVID-19 Vaccine Counseling SPA 22-0011

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)

STATE RESPONSE: Providers are not required to return any portion of payments for these services.

2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either through an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local governmental entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:
 - (i) a complete list of the names of entities transferring or certifying funds;

- (ii) the operational nature of the entity (state, county, city, other);
- (iii) the total amounts transferred or certified by each entity;
- (iv) clarify whether the certifying or transferring entity has general taxing authority: and,
- (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).

STATE RESPONSE: These services are paid using appropriations from the state legislature from funds received by broad-based taxes levied by the state.

3. Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.

STATE RESPONSE: A supplemental payment is made to the state teaching hospital, the University of New Mexico Hospital, for practitioner services as described in the state plan on Attachment 4.19-B Page 1.

4. For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.

STATE RESPONSE: These fee schedule changes do not apply to any provider subject to the UPL calculations.

5. Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?

STATE RESPONSE: If governmental providers were to receive payments that exceed their reasonable cost of providing services, the excess payment would be recovered and the federal share of the excess would be reported and returned to CMS.