



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

May 26, 2022

RE: Tribal Notification to Request Advice and Comments Letter 22-15: Post-Eligibility Treatment of Income (PETI)

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), June 26, 2022** regarding proposed state plan amendment (SPA) 22-0016 Post-Eligibility Treatment of Income (PETI).

Effective December 1, 2022, New Mexico is allowing the following medical expenses to be deducted from the Patient Paid Amount during the Post-Eligibility Treatment of Income (PETI) determination:

Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including:

1. Medicare and other health insurance premiums, deductibles, or coinsurance charges; and
2. Necessary medical or remedial care recognized under State law but not covered under the State's Medicaid plan, subject to reasonable limits on the amounts of these expenses.

A deduction for incurred medically necessary non-covered medical or remedial care expenses will be allowed when the bill is incurred during a period which is no more than three months prior to the month of an approved Institutional Care Medicaid application.

The deduction for medical and remedial care expenses that were incurred as the result of a transfer penalty period is limited to zero.

Deductions are allowed for the following expenses:

1. The non-covered expenses must be prescribed by a medical professional (e.g., a physician, dentist, optometrist etc.).
2. Deductions can be made for routine and emergency dental services.
3. Hearing aids and necessary related services. Deductions can only be made for the following services: (1) audiogram (2) ear mold (3) hearing aid (4) batteries (5) hearing aid orientation.
4. Eyeglasses and necessary related services. Deductions can only be made for the following services: (1) examination and refraction (2) frame (3) lenses (bifocal) (4) lenses (single).
5. Institutional long-term care medical expenses.

Deductions are not allowed for the following expenses:

1. Payments for cosmetic/elective procedures (e.g., face lifts or liposuction etc.) except when prescribed by a medical professional.
2. Expenses resulting from the failure to obtain prior approval from applicable private insurance, Medicare, or Medicaid.
3. Procedures allowed by Medicaid when prior authorization is denied due to the service being medically unnecessary.
4. Expenses when a third party (including Medicaid) is liable for the expenses, even if provided by an out-of-network provider.
5. General health insurance premiums paid by someone other than the recipient (excluding the community spouse) who is not a financially responsible relative and repayment is not expected to be paid back to the third party by the recipient.

HSD is implementing these changes to the current state plan limits on amounts for necessary medical or remedial care to comply with 42 CFR 435.725(c)(4).

Tribal Impact

This change is a positive one for Indian Nations, Tribes, Pueblos and their health care providers. Medical expenses that were not previously deductible from the patient paid amount during PETI determination are now included.

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 22-15.**

Important Dates

Written comments must be submitted by 5:00 p.m. Mountain Time (MT) June 26, 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 June 26, 2022. This request may be made to: Theresa.Belanger@state.nm.us or by calling (505) 670-8067.

Sincerely,



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