



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

January 9, 2023

James G. Scott, Director
Division of Program Operations
Medicaid & CHIP Operations Group
Centers for Medicare and Medicaid Services
601 E. 12th St., Room 355
Kansas City, MO 64106

Dear Mr. Scott:

Enclosed please find documents related to New Mexico State Plan Amendment (SPA) 23-0001 Personal Care Services (PCS) and Private Duty Nursing (PDN) Rate Increase.

New Mexico Medicaid is implementing a rate increase for providers of PCS and PDN services under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit. Effective the first day after the public health emergency (PHE) ends, reimbursement for providers of PCS and PDN services under EPSDT will be set at the same rate as 1915(c) provider rates. The increase will help ensure that New Mexico has an adequate provider base and workforce to care for eligible members under the age of 21.

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 Valerie Tapia at: Valerie.Tapia@state.nm.us or (505) 257-8420.

Sincerely,

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 <u>2</u> <u>3</u> — <u>0</u> <u>0</u> <u>0</u> <u>1</u>	2. STATE <u>NM</u>
		3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <div style="display: flex; justify-content: space-around;">XIXXXI</div>	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE First day after the PHE ends	
5. FEDERAL STATUTE/REGULATION CITATION Section 9817 of the American Rescue Plan Act of 2021; Title 19 of the SSA and Sec 1135 of the SSA		6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>23</u> \$ <u>40,950</u> b. FFY <u>24</u> \$ <u>38,929</u>	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.19-B, pg. 16		8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.19-B, pg. 16 (HCFA 179 99-06)	
9. SUBJECT OF AMENDMENT Effective the first day after the public health emergency (PHE) ends, reimbursement for providers of Personal Care Services (PCS) and Private Duty Nursing (PDN) services under the Early Periodic Screening, Diagnostic and Treatment (EPSDT) benefit will be set at the same rate as 1915(c) provider rates.			
10. GOVERNOR'S REVIEW (Check One) <div style="display: flex; justify-content: space-between;"><div>GOVERNOR'S OFFICE REPORTED NO COMMENT COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL</div><div>OTHER, AS SPECIFIED: Authority delegated to the Medicaid Director</div></div>			
11. SIGNATURE OF STATE AGENCY OFFICIAL 		15. RETURN TO Nicole Comeaux, J.D., M.P.H., Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504-2348	
12. TYPED NAME Nicole Comeaux			
13. TITLE Director, Medical Assistance Division			
14. DATE SUBMITTED January 9, 2023			
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			

- (c) Private duty nursing services, Christian science nurse services, and personal care services. Effective the first day after the public health emergency (PHE) ends, reimbursement for fee-for-service providers of personal care services (PCS) and private duty nursing (PDN) under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit will be set at the same rate as 1915(c) provider rates. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. All rates are published on the state's website at: <https://www.hsd.state.nm.us/providers/fee-schedules/>.
- (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).

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.

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- (h) Services provided by Licensed Alcohol and Drug Abuse Counselors (LADACs).

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

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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.

Newspaper Notice: SPA 23-0001 PCS and PDN Rate Increase

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) 23-0001 Personal Care Services (PCS) and Private Duty Nursing (PDN) Rate Increase.

New Mexico Medicaid is implementing a rate increase for providers of PCS and PDN services under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit. Effective the first day after the public health emergency (PHE) ends, reimbursement for providers of PCS and PDN services under EPSDT will be set at the same rate as 1915(c) provider rates. The increase will help ensure that New Mexico has an adequate provider base and workforce to care for eligible members under the age of 21.

The estimated total financial impact is \$40,950 in federal funds for FFY 23 and \$38,929 in federal funds for FFY 24.

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-notices-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 **January 8, 2023**. 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

Ad # 0005512773

This is not an invoice

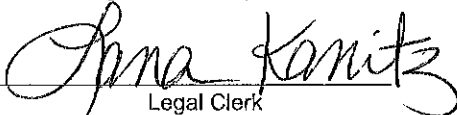
**HUMAN SVCS DEPT - ME D ASSIST DIV
PO BOX 2348**

SANTA FE, NM 87504-2348

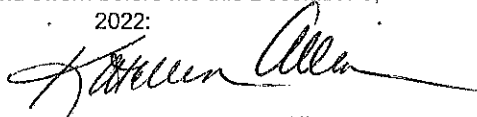
I, a legal clerk of the **Las Cruces Sun News**, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; 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:

12/08/2022

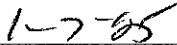
Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.


Legal Clerk

Subscribed and sworn before me this December 8,
2022:



State of WI, County of Brown
NOTARY PUBLIC



My commission expires

KATHLEEN ALLEN
Notary Public
State of Wisconsin

Ad # 0005512773
PO #: 37020
of Affidavits 1

This is not an invoice

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providing copies directly to
a requestor or by making
them available on the
HSD/MAD website or at a lo-
cation within the county of
the requestor.
#5512773, Sun-News, Dec. 8,
2022

ALBUQUERQUE PUBLISHING COMPANY

7777 Jefferson St. NE, Albuquerque, NM 87109

Account Number

1009565

Ad Order Number

0001560401

Ad Proof/Order Confirmation

N M DEPT OF HUMAN SERVICES
MEDICAL ASSISTANCE DIV
ATTENTION: PPIB
PO BOX 2348
SANTA FE, NM 875042348 USA

Ordered By Donna Lopez**Customer Phone**

5752576165

Joint Ad #**Customer Email****PO Number**

37004

Ad Cost \$110.64**Sales Rep**

cwhite

Tax Amount \$8.57**Order Taker**

cwhite

Total Amount \$119.21**Payment Method**

Credit Card

Amount Due \$119.21**Payment Amount**

\$0.00

Affidavits 0**Pick Up #****Product** Albuquerque Journal**Placement**

0Legal Notices

Ad Number 0001560401-01**Classification**

0Government

Ad Type 0 Legal Liner**Sort Text**SPA230001PCSANDPDNRATEINCREA
SETHENEWMEXICOHUMANSERVICE
SDEPARTMENTHSDTHROUGHTHEM
EDICALASSISTANCEDIVISIONMADIS
PROVIDINGTHISNOTIC**Ad Size** 1 X 147 li**Color****Run Date**

12/08/2022

12/08/2022

12/08/2022

WYSIWYG Content



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

December 8, 2022

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

December 8, 2022

RE: Tribal Notification to Request Advice and Comments Letter 22-31: Personal Care Services (PCS) and Private Duty Nursing (PDN) Rate Increase

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) January 8, 2023**, regarding state plan amendment (SPA) 23-0001 Personal Care Services (PCS) and Private Duty Nursing (PDN) Rate Increase.

New Mexico Medicaid is implementing a rate increase for providers of PCS and PDN services under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit. Effective the first day after the public health emergency (PHE) ends, reimbursement for providers of PCS and PDN services under EPSDT will be set at the same rate as 1915(c) provider rates. The increase will help ensure that New Mexico has an adequate provider base and workforce to care for eligible members under the age of 21.

Tribal Impact

HSD anticipates a positive impact for Indian Nations, Tribes, and Pueblos and their health care providers.

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 22-31**.

Important Dates

Written comments must be submitted by 5:00 p.m. Mountain Time (MT) January 8, 2023. 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 January 8, 2023.
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

Standard Funding Questions: SPA 23-0001 PCS and PDN Rate Increase

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: No supplemental or enhanced payments are made.

- 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.