



Michelle Lujan Grisham, Governor
Kari Armijo, Acting Secretary
Lorelei Kellogg, Acting Medicaid Director

May 24, 2023

RE: Tribal Notification to Request Advice and Comments Letter 23-07: Nonprescription Drugs

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 25, 2023**, regarding state plan amendment (SPA) 23-0009 Nonprescription Drugs.

Effective July 1, 2023, New Mexico Medicaid is updating its state plan to comply with regulatory changes. The state plan pages are being revised as follows:

1. In accordance with 1927(d)(4) of the Social Security Act, verbiage has been added to specify that elective nonprescription (over-the-counter) medications will be covered as listed on the state's website or in the state's provider manual.
2. In accordance with Section 5008 of the 21st Century Cures Act (Cures Act) which amended Section 1903(i)(21) of the Social Security Act, the reference to agents used for cosmetic purposes or hair growth has been deleted.
3. In accordance with Section 2502 of the Affordable Care Act which amends section 1927(d)(2) of the Social Security Act, the provisions related to barbiturates, benzodiazepines and smoking cessation drugs has been removed.

There is no financial impact associated with this change.

Tribal Impact

HSD does not anticipate an 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 23-07.**

Important Dates

Written comments must be submitted by 5:00 p.m. Mountain Time (MT) June 25, 2023. Please send your comments to the MAD Native American Liaison, **Theresa Belanger**, at **(505) 670-8067** or by email at: Theresa.Belanger@hsd.nm.gov. 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 25, 2023. This request may be made to: Theresa.Belanger@hsd.nm.gov or by calling (505) 670-8067.

Sincerely,

Lorelei Kellogg
Acting Medicaid Director