

Public Comments and Responses: SPA 23-0017 Chiropractic Services

The same commenter commented the following:

Comment to New Mexico Human Services Division in regard to the Proposed SPA 23-0017 Chiropractic Services (CS) which would allow Medicaid to pay for certain Chiropractic services under the State Plan.

The amendment proposes to add Chiropractic services for all residents on Medicaid and reads as follows:

Chiropractor Services-Services are to be provided by a qualified New Mexico licensed chiropractor are limited to those within their scope of practice as authorized by state law.

New Mexico State law 61-4-2 in part reads as follows: *It shall include, but not be limited to, the prescribing and administering of all natural agents to assist in the healing act, such as food, water, heat, cold, electricity, mechanical appliances, and medical devices; the selling of herbs, nutritional supplements and homeopathic remedies.*

The Federal Centers for Medicare/Medicaid severely limit chiropractic services under Medicare and do not include the same services the state law does. See:

https://downloads.cms.gov/medicare-coverage-database/lcd_attachments/31862_17/Chiropractic_FactSheet09.18.14.pdf

The way the amendment is written Chiropractors can sell unlimited herbs, supplements and remedies to patients and in essence become a free GNC store for almost a million New Mexico Medicaid recipients.

This is why other states limit the Chiropractic benefits. See <https://www.kff.org/medicaid/state-indicator/chiropractor-services/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

State Response: Chiropractic Services covered by Medicaid are specific to services only, related to the diagnosis outlined in the State Plan Amendment (SPA). Medicaid does not cover any herbs, remedies, or supplements in addition to the services.

Comment:

The amendment denies access to the benefit if it is available as a service under HCBS waivers or the Mi Via programs. These programs require the participant to deduct the Chiropractic service from the participants fixed budget. Thus in order to receive the benefit a participant may have to give up assistance with self-care or access to the community or help with employment or even physical, occupational or speech therapy.

If in fact the provision of chiropractic care is; “*Medically Necessary*” then limiting it under waivers deprives the elderly and developmentally disabled of equal access to “*Medically Necessary*” care. The way the amendment is proposed is blatantly discriminatory.

Public Comments and Responses: SPA 23-0017 Chiropractic Services

State Response: The purpose of the Chiropractic coverage SPA is to allow access to the adult population that currently has no access to Chiropractic care. Chiropractic services are currently allowable under the Home and Community Based Services (HCBS) Waivers and to children under the Early Periodic Screening and Diagnostic Treatment (EPSDT). HSD does recognize that establishing this coverage under a SPA may be an opportunity to review changes for HCBS populations and are reviewing how to establish this coverage under the SPA rather than HCBS Waivers through Waiver amendments.

Comment:

This amendment appears to have been proposed or influenced by a Human Services Department Medical Assistance Division employee who is also a practicing Chiropractor.

State Response: HSD ensures that there is no truth to this statement above.

Comment:

In 2016 Senate Memorial 70 passed the Senate. It required a working group to be assembled to study if chiropractic medicine services should be included in the state Medicaid plan. The reason for the Senate Memorial was to study whether or not including Chiropractic services would save the state money in the long run.

<https://nmlegis.gov/Sessions/16%20Regular/memorials/senate/SM070.html>

It required a report to be provided to the Interim Health and Human Services Committee by October 1, 2106. There is no record of any such report in the committee records.

https://nmlegis.gov/Committee/Interim_Committee_Archive?CommitteeCode=LHHS&Year=2016

In the 2019 legislative session Senate Bill 132 was introduced which would have added chiropractic and naprapathic services to the Medicaid benefit package. The bill failed to pass because it was not heard in the Senate Finance Committee.

The Financial Impact Report on the indicated that the states cost would be in the tens of millions of dollars which should clearly require legislative approval.

<https://nmlegis.gov/Sessions/19%20Regular/firs/SB0132.PDF>

The failure by HSD to do the determination of potential cost savings and the failure to gain legislative approval or funding renders this amendment as completely contrary to any legislative intent on the subject and should be withdrawn.

The executive budget for fiscal year 2024 does not include funding for the inclusion of chiropractic care and neither does the Legislative Finance Committee budget for fiscal year 2024 budget.

Public Comments and Responses: SPA 23-0017 Chiropractic Services

The annual fiscal year 2024 spending budget as passed in the legislature as House Bill 2 does not have any language appropriating funding for the inclusion of Chiropractic care in the Medicaid program.

It appears that the amendment is attempting to bind the state to millions of dollars of expenditures without either the knowledge or consent of the legislature in blatant disregard for the requirements of the state constitution regarding the appropriation and spending of funds.

State Response: HSD thoroughly reviews the financial implications of implementing a new service, this is included in the submission of a SPA. HSD reviews the current budget to ensure that the financial impact and the coverage of the service would potentially have cost savings. Chiropractic service cost savings include, but are not limited to:

- Reduction of emergency room visits, hospitalization, and surgeries
- Reduction of prescription use, including opioids

Comment:

It appears that a HSD bureau chief's individual conflict of interest and self-dealing is the motivation for the amendment and is needs to be withdrawn so HSD does not override the people's voice as represented by the legislature and the continuation of the pursuit of a pattern of discrimination against the elderly and disabled citizens of the state.

State Response: HSD ensures that this statement above is not true. HSD is implementing Chiropractic Services to expand coverage to the Medicaid covered adult population where this coverage is not currently available.