

## Exhibit B. Section 9817 Responses to CMS' Request for Additional Information on Initial HCBS Spending Plan

Below are CMS' request for additional information (RAI) from their review of HSD's American Rescue Plan Act of 2021 (ARP) initial spending plan and spending narrative submitted on July 12, 2021.

	Additional Information Requested by CMS	New Mexico Responses
	<b>Estimate the Anticipated Expenditures</b>	
1	Please update spending plan and narrative to provide the <b>estimated cost for each activity</b> to enhance, expand, or strengthen HCBS under the Medicaid program.	Refer to enclosed Exhibit A.
2	Identify which of the state's proposed activities are <b>administrative in nature</b> and not considered HCBS as described in Appendix B of the SMDL.	Refer to enclosed Exhibit A.
3	Under Table 2, Spending Plan Projection, please explain how the <b>"Reinvestment Funds Attributable to the HCBS FMAP Increase" of \$51 million was calculated</b> . Identify the reinvestment services that qualify for the additional round of increased HCBS FMAP across the course of three years as the state proposes in the spending plan.	The amount in this line is for state reference purpose. It shows the additional state general fund savings when New Mexico reinvests the initial fund to expand services in HCBS. To reach this number New Mexico identified the current investment in services that qualified for the additional round of increased HCBS FMAP as of April 1, 2021. That investment totals \$1.2 billion annually. New Mexico then applied the 10% additional FMAP to that total, taking into consideration the varying

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		<p>FMAPs by program area (e.g., only calculated 5% increase on expenditures for HCBS activities attributable to the expansion population because that FMAP is currently 90% so only a 5% increase from HCBS FMAP would be permissible under the ARPA statutory limitation that no FMAP shall exceed 95%). That 10% draw down results in about \$120 million that New Mexico can reinvest over the three-year period outlined for spending in SMD# 21-003. Endeavoring to optimize this opportunity and our investment in HCBS, New Mexico aimed to spend 50% of \$120 million in year one, April 2021 – March 2022, of the reinvestment period, and 25% in each of the two subsequent years. In Table 2 of New Mexico's spending plan, you can see that this means a \$60 million investment. That investment results in a total expenditure of \$537,453,484 on HCBS services. The \$51 million shows the additional general fund savings attributable to this investment in HCBS.</p>
	<b>Enhance, Expand, or Strengthen (EES) HCBS under the Medicaid program</b>	
4	Clearly indicate whether the activities are <b>targeted at providers</b> delivering services that are listed in Appendix B or that could be listed in Appendix B. If not focused on providers that are delivering services in Appendix B, explain how the activities EES HCBS under Medicaid.	See below by proposal.
4a	- Temporary Economic Recovery Payments	<p>Target Providers: Centennial Care Community Benefit services providers (MLTSS)</p> <p>1915c waiver providers: DDW, Mi Via, Supports Waiver and Medically Fragile Waiver – includes personal care services, self-directed personal</p>

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		<p>care services, occupational and physical therapy, Speech language pathology, case management, etc.</p> <p>EES HCBS: For Community Benefit, these payments will be given to current providers to help offset costs related to the PHE, including but not limited to PHE, increased wages and employment incentives, training, and increased liability insurance. This will help ensure that NM has an adequate provider base and workforce to care for our disabled and elderly members</p> <p>For 1915 c waiver providers, payments will be also be used to offset costs related to PHE, hiring and retention of direct service providers increased wages, training and support. The payments will provide funding to support the current waiver system</p>
4b	- Training Program	<p>Target Providers: PCS providers, UNM nursing students, MLTSS caregivers, family caretakers, ABA providers, etc.</p> <p>EES HCBS: Enhance. Pilot would establish training unit within Government Resource Center. Nursing students: provide targeted training to nursing students in the care of medically fragile children and young adults. Training will be in the form of home-based clinical internships and in-service. The training program will ensure an adequate provider network for Medically Fragile Waiver program. Center will develop expertise in high needs areas such as ABA provision and facilitate certification of</p>

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		providers to increase skilled HCBS providers statewide. Center will also develop online repository of training and tools for parents, families, and caretakers to assist them in taking care of members with IDD etc.
4c	<ul style="list-style-type: none"> <li>- School-based Investments (duplicate ask to explain how this activity will expand EES in another bullet)</li> </ul>	<p>Target Providers: School-based providers (nurses, OT, PT, etc.)</p> <p>EES HCBS: Expand. This proposal would support the expansion of the delivery of Medicaid reimbursable services in the schools beyond those children with an IEP or IFSP. This expansion would also strengthen the existing school-based services delivery to children with an IEP and IFSP because of increased staffing, training, technology, and infrastructure investment. NM is seeking guidance on if this will meet the criteria outlined in Appendix B of the SHO letter.</p>
4d	<ul style="list-style-type: none"> <li>- Grant Program to Increase HCBS Workforce – please confirm that the private duty nursing service is limited to private duty nursing provided in the home</li> </ul>	<p>Target Providers: MLTSS Private Duty Nurses</p> <p>EES HCBS: Expand/Enhance. Creates opportunity for provider to seek funding for the purposes of loan repayment, sign-on bonuses, training, and certification costs - creating financial incentives to expand the number, retention rates, and expertise/skills of the HCBS workforce.</p>
4e	<ul style="list-style-type: none"> <li>- BH Community Based Services Economic Recovery and Network Establishment Investment</li> </ul>	<p>Target Providers: Physicians or other licensed practitioners (as outlined in Appendix B in the Rehabilitative Services section)</p> <p>EES HCBS: Enhance. Increase rates for BH providers who provide rehabilitative services to HCBS members under the state Medicaid program. The BH network was decimated in New Mexico in 2016</p>

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		<p>resulting in severe rate disparities and provider shortages that have hindered access to services critical to this population. These rate investments will help restore stability and allow for growth of this network.</p>
4f	<ul style="list-style-type: none"> <li>- Supportive Housing Units, specifically the activity to evaluate and establish contracting arrangements with provider networks to provide HCBS to members living in those settings</li> </ul>	<p>Target Providers: N/A</p> <p>EES HCBS: Strengthen. Supportive housing units with sliding scale rent requirements and associated provider resources that are convenient and easily accessible would enable greater independence and peace of mind for families that loved ones have living independently have easy access to needed supports.</p>
4g	<ul style="list-style-type: none"> <li>- Closed Loop Referral System</li> </ul>	<p>Target Providers: All HCBS providers</p> <p>EES HCBS: Strengthen. Platform would enhance care coordination for HCBS members by allowing for a resource directory of services as well as enabling care teams to know if following a referral, service was received and what the result of intervention was.</p>
4h	<ul style="list-style-type: none"> <li>- High Fidelity Wraparound expansion</li> </ul>	<p>Target Providers: This would target providers of intensive care coordination trained in HFW (would be an expansion of case management section of Appendix B and is currently under review with CMS in an 1115)</p>

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		EES HCBS: Expand. Proposal would expand HFW statewide increasing access to this approach to help children and families achieve success at home, in school, and in the community.
5	Clearly indicate whether your state plans to pay for <b>ongoing internet connectivity</b> costs for the activities below. Ongoing internet connectivity costs are permissible use of funds to EES HCBS under ARP. However, states must demonstrate how ongoing internet connectivity costs would EES HCBS. Further, approval of ongoing internet connectivity costs in ARP Section 9817 spending plans and narratives does not authorize such activities for FFP.	HSD is not proposing to pay for ongoing internet connectivity as part of any of the three proposals highlighted in the RAI but rather intends to invest in technology equipment through these proposals.
5a	- BH Community Based Services Economic Recovery and Network Establishment Investment	
5b	- Member Level Technology Investment	
5c	- Assistive Technology Increase	
6	Clearly indicate whether your state plans to <b>pay for capital investment costs</b> as part of the activities below. Capital investment costs are permissible uses of funds to enhance, expand, or strengthen HCBS under section 9817 of the ARP. However, states must demonstrate how capital investments would enhance, expand, or strengthen HCBS and ensure that capital investments will result in settings that are fully compliant with the home and community-based settings criteria. Further, approval	New Mexico does intend to pay for capital investment costs as part of two of the three outlined below. We understand that these investments must enhance, expand, or strengthen HCBS and that these activities would not be eligible for FFP.

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	of capital investment costs in ARP section 9817 spending plans and narratives does not authorize such activities for FFP.	
6a	<ul style="list-style-type: none"> <li>- Behavioral Health Community Based Services Economic Recovery and Network Establishment Investment</li> </ul>	<p>This proposal currently contains two components which the state will separate in our quarterly submission. Part one includes a temporary economic recovery investment in the behavioral health work force in the form of temporary rate increases. Part two consists of one-time infrastructure payments to behavioral health (BH) facilities to assist with purchase of technology platforms, vehicles, construction, buildings, etc. Our behavioral health providers play a critical role in the provision of services to our home and community based populations. The investment in technology will allow them to continue to improve telehealth capabilities across our rural and frontier state so that we can better serve this population despite persistent provider shortages. Again, given the rural nature of our state, transportation for our HCBS populations has been a consistent issue and our BH providers have expressed need for vehicle support to transport members to services or to provide services to them in their homes. Finally, we had a recent departure of a BH provider that served a significant number of Medicaid members across the state. We have established a new provider relationship, however in working to lease buildings out of which to provide services during the high costs associated with the pandemic, these providers have struggled to invest in renovation to optimize patient care, particularly as it relates to serving the IDD population in office and via telehealth. This investment would allow us to enhance and strengthen the provision of HCBS BH services by</p>

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		allowing for appropriate and optimal facility design and encouraging provider retention in these settings.
6b	- Adult Day Care Site Funding	Under development. Phase II investment. New Mexico will address in 11/1/2021 quarterly spending plan update.
6c	- Supportive Housing Units.	Under development. Phase III investment. New Mexico will address in 11/1/2021 quarterly spending plan update.
7	Confirm that the state <b>will not pay for room and board</b> (which CMS would not find to be a permissible use of funds) as part of the "Supportive Housing Units" activity.	New Mexico confirms that we will not pay for room and board as part of any of our proposals, including the supportive housing units.
8	<p>Provide <b>additional information on the services</b> that would be paid for with ARP section 9817 funding under the activities to "Add Community Benefit Slots" and "Add Home and Community-Based Waiver Slots".</p> <p>Clarify whether the state intends to use ARP section 9817 funding to pay for any services other than those listed in Appendix B or that could be listed in Appendix B for individuals who are Medicaid-eligible prior to HCBS waiver enrollment, or any institutional services for individuals who become newly eligible because of the increase in waiver slots. Please note that, if a state increases the number of section 1915(c) waiver slots and enrolls additional individuals who are not already Medicaid eligible into the waiver program as a result, the state will have an increase in non-HCBS Medicaid expenditures as a result of the increase in waiver program enrollment. In this situation, states can use the funds</p>	<p>For the increased Community Benefit Slots, services that would be paid for with ARP section 9817 funding include the CB HCBS services that are included in the 1115 waiver.</p> <p>For increased Home and Community –Based Waiver slots, the state intends to use ARP section 9817 fund to pay services approved in 1915(c) waivers: NM.0448.R03.00; NM.1726.R00.00, NM.0223.R06.00, and NM.0173.R07.00 (renewal under CMS review). The state will not use funds attributable to the increased FMAP to pay for institutional services. Institutional services are not covered services under New Mexico's 1915 (c) waivers.</p> <p>State will use funds attributable to the increased FMAP to pay for community-based Medicaid expenditures for individuals who became</p>

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	<p>attributable to the increased FMAP to pay for community-based Medicaid expenditures, including community-based state plan services not listed in Appendix B, for individuals who become Medicaid eligible because of the increase in the number of waiver slots as part of the state's activities to enhance, expand, or strengthen HCBS under ARP section 9817. However, states cannot use the funds attributable to the increased FMAP to pay for institutional services for those individuals, as this would be inconsistent with the intent of ARP section 9817.</p>	<p>Medicaid eligible because of the increase in waiver slots as part to the state's activities to enhance and expand HCBS under 9817.</p>
9	<p>Explain how the <b>“School-based Investments”</b> and the <b>“School-based Services Infrastructure Investments”</b> activities will enhance, expand, or strengthen HCBS under Medicaid.</p>	<p>This expansion would strengthen the existing school-based services delivery to children with an IEP and IFSP as a result of increased staffing, training, technology, and infrastructure investment. This proposal would support the expansion of the delivery of Medicaid reimbursable services in the schools beyond those children with an IEP or IFSP. NM is seeking guidance on if this will meet the criteria outlined in Appendix B of the SHO letter.</p>
10	<p>Under the <b>“Development Funding for Caregiver Cooperative (Phase 2) to Support ALTSD”</b> activity, please indicate if “long-term” settings are institutional or home and community-based settings.</p>	<p>Under development. Phase II investment. New Mexico will address in 11/1/2021 quarterly spending plan update.</p>
11	<p>Explain how the state will ensure that the <b>“Faculty endowments for Nursing Schools”</b> activity will result in more nurses that are delivering the services that are listed in Appendix B or that could be listed in Appendix B.</p>	<p>Under development. Phase II investment. New Mexico will address in 11/1/2021 quarterly spending plan update.</p>

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12	Under the "Revolving Trust" activity, please provide the following information:	Under development. Phase II investment. New Mexico will address in 11/1/2021 quarterly spending plan update.
12a	- Which specific state agency will be making the money available?	
12b	- Will only SSI recipients be eligible for the payment(s)?	
12c	- Would the payment be a one-time payment, or will there be periodic payments? If a one-time payment, how much would the payment be (the SSI FBR x [X])?	
12d	- Would there be a designated purpose for the payments, or will use be wholly discretionary for the recipients?	
12e	- What is the purpose or benefit of making the payments through a trust? Will these trusts have a trustee?	
12f	- Will the recipients be required to pay back the money received through the trust?	
13	Under the " <b>intensive case management for services for children in state custody</b> " activity, identify the setting(s) in which the intensive case management services for children in state custody will occur.	Under development. Phase II investment. New Mexico will address in subsequent quarterly spending plan update.
<b>General Considerations</b>		

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14	<p>CMS expects your state to notify CMS as soon as possible if your state’s activities to enhance, expand, or strengthen HCBS under ARP section 9817:</p> <ul style="list-style-type: none"> <li>- Are focused on services other than those listed in Appendix B or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit). If any activities are not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how those activities enhance, expand, or strengthen HCBS under Medicaid.</li> <li>- Include room and board (which CMS would not find to be a permissible use of funds); and/or</li> <li>- Include activities other than those listed in Appendices C and D.</li> </ul>	<p>Acknowledged by NM.</p>