



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

August 18, 2023

**RE: Tribal Notification to Request Advice and Comments Letter 23-14 Draft Medicaid  
Turquoise Care 1115 Demonstration Waiver Renewal Supplemental Proposal**

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 written comments until **5:00 p.m., Mountain Standard Time (MST) on September 17, 2023** regarding the proposed supplemental request to the Centers for Medicare & Medicaid Services (CMS) for the New Mexico Turquoise Care 1115 Waiver Renewal application, submitted by New Mexico's Human Services Department (HSD).

This supplemental proposal will enhance the Medicaid Turquoise Care 1115 renewal application **to make permanent the 1115 demonstration authority to allow State-authorized legally responsible individuals (LRIs), such as relatives and guardians, to render Personal Care Services (PCS) under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit** and ensure no gap in 1115 waiver authority occurs.

**A. Eligibility, Enrollment, Benefits, Delivery System, and Cost Sharing for the Turquoise Care Supplemental Proposal for EPSDT LRIs**

**1. Eligibility and Enrollment**

This supplemental proposal for PCS LRIs under EPSDT has no impact on the Medicaid State Plan eligibility groups, the Centennial Care eligibility groups, or the proposed eligibility under the Turquoise Care renewal. HSD estimates an average of 1,248 members will use LRI for EPSDT PCS each year.

**2. Premiums and Cost Sharing**

Premiums and cost-sharing will continue to follow the approved Medicaid State Plan. There are no premiums or cost-sharing for EPSDT PCS.

## **B. Benefits**

### **Enhanced Supports for Members in Need of EPSDT Personal Care**

The COVID-19 pandemic created a notable shortage of health care workers and made it more difficult for individuals under 21 years of age find support in their homes and communities for activities of daily living (ADLs). As a result of the COVID-19 PHE, HSD received a number of CMS approved emergency waivers, permitting the state to temporarily allow payment for services rendered by family caregivers or LRIs under the Fee for Service and Managed Care delivery systems. Emergency Waivers included the following:

- Appendix K: Emergency Preparedness and Response and COVID-19 Addendum for Managed Care Delivery System
  - Approval Timeframe: January 27, 2020 – November 11, 2023
- CMS 1135 Waiver for Fee for Service Delivery System
  - Approval Timeframe: March 1, 2020 – May 11, 2023
- COVID-19 PHE Demonstration Application for Fee for Service and Managed Care Delivery Systems
  - Approval Timeframe: Pending CMS retroactive approval effective May 11, 2023 – November 11, 2023

HSD is proposing to permanently allow State-authorized legally responsible individuals (LRIs), such as relatives and guardians, to render Personal Care Services (PCS) under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit.

HSD's objectives in expanding the types of individuals eligible to render PCS under the EPSDT benefit include:

- Supporting access to PCS by allowing a wider pool of qualified providers;
- Enabling individuals to receive medically necessary services in the event the traditional provider workforce is diminished or there is inadequate capacity;
- Strengthening the provision of supports in the community using a cost-effective person-centered approach; and
- Ensuring that legally responsible individuals can be justly compensated for their caregiving work.

HSD is proposing to permanently allow LRIs to render PCS under Fee for Service and Managed Care Delivery systems for the EPSDT Benefit. This authority is currently granted under the applicable temporary emergency authorities above. Continuing this authorization is important to continue the State's support to unpaid caregivers and ensuring that individuals eligible for PCS can get their needs met in the community.

Members accessing services must coordinate with appropriate provider agencies to ensure the LRI's provision of service is authorized by the Managed Care Organization or Third-Party

Assessor (TPA). The LRI must meet all personal care service requirements, personal care service training, and extraordinary care requirements.

### C. Delivery System

LRIs will be permitted to serve as providers of EPSDT personal care services in both fee-for-service and managed care delivery systems.

***Tribal Impact:*** *HSD anticipates continued access to personal care services provided by LRIs for Tribal members, without any disruptions in service provision or payment.*

### Tribal Advice and Comments

The draft Medicaid 1115 demonstration waiver renewal **supplemental proposal** application is open for public comment from August 18, 2023 to September 17, 2023. All information and materials pertaining to the renewal, including the draft supplemental proposal, public hearing dates and times, public comment submission instructions, and a copy of HSD's full 1115 Waiver Renewal application (for information only) are available at: <https://www.hsd.state.nm.us/medicaid-1115-waiver-renewal/>

If you do not have internet access, a copy of the draft supplemental proposal may be requested by contacting HSD's Medical Assistance Division (MAD) at 505-827-1337. If you are a person with a disability and require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337.

### Tribal Consultation

Tribal partners may request a formal tribal consultation during this 30-day public comment period. HSD respectfully asks that this request for consultation be made no later than August 31, 2023. Please contact Theresa Belanger [theresa.belanger@hsd.nm.gov](mailto:theresa.belanger@hsd.nm.gov) and/or Shelly Begay [Shelly.Begay@hsd.nm.gov](mailto:Shelly.Begay@hsd.nm.gov) to formally request a Tribal Consultation on this supplemental request.

### Public Hearings

HSD will hold two public hearings for the general public, in order to present information on the supplemental request and receive comments. These hearings will take place in person and by teleconference.

August 21, 2023

1:00 p.m. – 4:00 p.m. Mountain Standard Time (MST)

*In-Person Attendance*

Human Services Department

1 Plaza La Prensa

Santa Fe, New Mexico 87507

*Virtual Attendance*

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August 29, 2023

4:00 p.m. – 5:00 p.m. MST

*In-Person Attendance*

Human Services Department

1474 Rodeo Road

Santa Fe, New Mexico 87507

*Virtual Attendance*

Zoom Webinar Information:

Dial In: (669) 900-6833

Meeting ID: 967 7249 3243

Password: 943031

Link: <https://mmc.zoom.us/j/96772493243?pwd=Sy91dm84WXBoU2FtUWxOaFhZeGkydz09>

Written advice and comments may also be sent by email or mail as follows:

- Email: [1115.PublicComments@state.nm.us](mailto:1115.PublicComments@state.nm.us)

- Mail:  
Human Services Department  
ATTN: HSD/MAD 1115 Public Comments  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

**The deadline to provide public comment is Sunday, September 17, 2023 at 5:00 pm MST.**

Sincerely,



Lorelei Kellogg, Acting Medicaid Director