



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Angela Medrano, Deputy Secretary  
Kari Armijo, Deputy Secretary  
Nicole Comeaux, Medicaid Director

September 20, 2022

**RE: Tribal Notification to Request Advice and Comments Letter 22-28 – Notice of Proposed Voluntary Self-Identification Questions to the HSD Online Application for Assistance**

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, their health care providers, and other Tribal stakeholders 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, the New Mexico Human Services Department (HSD) is issuing this Tribal notice announcing the proposed addition of voluntary questions pertaining to sexual orientation and gender identity to HSD applications for assistance that are submitted through the YES-New Mexico (YES-NM) online application portal at [www.yes.state.nm.us](http://www.yes.state.nm.us). HSD is proposing to add these voluntary questions to the online applications for Medicaid, the Supplemental Nutrition Assistance Program (SNAP), and the other assistance programs that customers can apply for through YES-NM.

Through this notice, HSD invites Tribal leadership, customers, providers, and other Tribal stakeholders to comment on the proposed questions and their addition to HSD’s online application portal. **The deadline to comment is Thursday, October 20, 2022.**

**Executive Order 2021-048**

On August 16, 2021, Governor Lujan Grisham signed Executive Order 2021-048 ([EO-2021-048](#)) directing New Mexico executive departments to collect **voluntary** self-identification information pertaining to sexual orientation and gender identity. The Executive Order requires state agencies to ensure that:

- Agencies only use information about sexual orientation and gender identity for demographic analysis, coordination of care, quality improvement of agency services, conducting approved research, fulfilling reporting requirements, or guiding policy or funding decisions;
- Agencies collect information in accordance with state and federal law;
- Agencies do not report information in a way that permits identification of individuals or results in statistical unreliability;
- Reports on data collected must be aggregate categories at a state, county, city, census tract or zip code level to prevent identification of individuals, facilitate comparisons, and identify disparities; and
- Voluntary data may be available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential and shall not be disclosed.



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The voluntary self-identification questions that HSD proposes to add to the online application for assistance programs are described further below. These questions were developed by an interagency workgroup of New Mexico’s executive departments and have been recommended by the Department of Health (DOH) after reviewing recommendations from the National Academies of Science, Engineering and Medicine (NASEM), the Household Pulse Survey, and the US Census Bureau.

### **Proposed Questions and Application Language**

HSD proposes to add the lead-in language and questions below to the online application portal at YES-NM. These questions will appear at the end of the application process, after the collection of all necessary information to submit an application for program eligibility. HSD is not proposing to revise the sequence or wording of any questions that are required for an eligibility determination for any HSD program; and the proposed questions will remain entirely voluntary. Applicants will be given the option to decline to respond or skip the page.

#### **Proposed Lead-In Language**

Your responses to the following questions are voluntary and optional. Your answers will not affect your eligibility for HSD benefits or services. Your answers are confidential and will not be shared. If you do not want to respond, please choose “Decline/prefer not to answer,” or skip this page.

1. What is your current gender?
  - Male
  - Female
  - Transgender Man
  - Transgender Woman
  - Non-binary
  - Other (please specify) [text box]
  - Decline/prefer not to answer
  
2. Which of the following best represents how you think of yourself?
  - Gay or lesbian
  - Straight (not gay or lesbian)
  - Bisexual
  - Other (please specify) [text box]
  - Decline/prefer not to answer



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## TRIBAL IMPACT

There is no service or financial impact to Indian Nations, Tribes, Pueblos and their health care providers. Optional questions are being added to the Yes.NM benefits application page.

## OPPORTUNITY TO MAKE COMMENTS

Tribal leadership, customers, providers, and other Tribal stakeholders are invited to submit comments on the proposed questions and their addition to HSD's online application portal. **The deadline to comment is Thursday, October 20, 2022.**

Electronic comments may be submitted to [shelly.begay@state.nm.us](mailto:shelly.begay@state.nm.us). All comments must be received no later than 5:00 p.m. Mountain Time, October 20, 2022.

Written comments may be addressed to:

Human Services Department Office of the Secretary  
ATTN: Public Comments  
PO Box 2348  
Santa Fe, NM 87504-2348

HSD will consider all comments and summarize them for the public upon adoption of the final set of questions.