



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H, Director

November 9, 2021

RE: Tribal Notification to Request Advice and Comments Letter 21-25: Proposed Amendments to Several NMAC Rules Regarding 12-month Postpartum Period

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 Time (MT) on December 13, 2021** regarding proposed amendments to 8.291.400, 8.293.600, 8.294.600, 8.308.9, 8.308.11, 8.308.20, 8.310.2, and 8.326.3 NMAC which implements a 12-month postpartum period for Medicaid pregnant women categories.

Section 9812 of the American Rescue Plan 2021 provides a new Medicaid State Plan option that allows states to extend the current 60-day postpartum period for pregnant women to 12-months. Section 9812 allows states to do the following:

1. Extends the current 60-day postpartum period for pregnant women to 12-months; and
2. provides full Medicaid benefits during the pregnancy and the 12-month postpartum period; and
3. allows for an implementation date of April 1, 2022; and
4. limits the new State Plan option to five years unless extended.

The Department through this proposed register is implementing the new State Plan option allowed in Section 9812. The Department is also adding 42 Code of Federal Regulation (CFR) 435.170 language to these rules regarding continuous eligibility for pregnant women.

These changes impact Medicaid individuals who can receive full Medicaid coverage for a 12-month postpartum period rather than the current 60-day period.

**Implementation of a 12-month postpartum period for pregnant women is contingent upon legislative approval.**

Changes were made to Presumptive Eligibility (PE) rules to remove, revise, and add new language.

Changes were made to managed care rules to include that there are no age requirements to receive applied behavior analysis (ABA) services.

### **Estimated Total Financial Impact**

The estimated total fiscal impact for state fiscal year 2022 is \$6,164,867 (\$4,544,123 in federal funds and \$1,620,744 in state funds). The estimated fiscal impact for state fiscal year 2023 is \$54,719,484 (\$40,333,732 in federal funds, and \$14,385,752 in state funds).

### **Tribal Impact**

The impact to Native Americans is positive in that pregnant women will be eligible for full coverage Medicaid for the duration of the pregnancy and through a 12-month postpartum period. Currently pregnant women coverage is for a 60-day postpartum period.

### **Tribal Advice and Comments**

Tribes and tribal healthcare providers may view the proposed 8.291.400, 8.293.600, 8.294.600, 8.308.9, 8.308.11, 8.308.20, 8.310.2, and 8.326.3 NMAC on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-notification-letters/>. **Notification Letter 21-25.**

A written copy of these documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-1337.

### **Important Dates**

A public hearing to receive testimony on these proposed rules will be held via conference call on **Monday, December 13, 2021 at 10 a.m.**, Mountain Time (MT). **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

**Written advice and comments must be received no later than 5:00 p.m. Mountain Time (MT) on December 13, 2021.** Please send your advice, comments or questions to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email to [theresa.belanger@state.nm.us](mailto:theresa.belanger@state.nm.us).

All comments and responses will be compiled and made available after January 3, 2022.

Sincerely,



Nicole Comeaux, J.D., M.P.H, Director  
Medical Assistance Division