



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

April 20, 2021

RE: Tribal Notification to Request Advice and Comments Letter 21-09: Proposed amendments to NMAC rules 8.312.3 and 8.311.3

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 May 20, 2021** regarding proposed amendments to the following New Mexico Administrative Code (NMAC) rules 8.312.3 NMAC, *Long Term Care Services – Nursing Services, Cost Related Reimbursement of Nursing Facilities* and 8.311.3 NMAC, *Hospital Services, Methods and Standards for Establishing Payment - Inpatient Hospital Services*. The proposed rule changes are to provide a retention period that is in accordance with 42 CFR 425.314 subpart (b)(2) and to provide a defined period in which the financial and statistical records must be retained.

The Department is proposing to amend the rules as follows:

8.312.3 NMAC

Section 8 is being amended to include the Department's current mission statement.

Section 11, Subsection D, Paragraph (1) is being amended to provide a more defined retention period by replacing the "period of not less than four years" with "10 years".

Section 11, Subsection D, Paragraph (2) is being amended to provide a more defined retention period by replacing the "period of not less than three years" with "10 years".

Throughout the rule amendments are made to comply with NMAC rule formatting requirements.

8.311.3 NMAC

Section 8 is being amended to include the Department's current mission statement.

Section 14, Subsection D, Paragraph (1) is being amended to provide a more defined retention period by replacing the "period of not less than four years" with "10 years".

Section 14, Subsection D, Paragraph (2) is being amended to provide a more defined retention period by replacing the "period of not less than three years" with "10 years".

Estimated Total Financial Impact

There is no financial impact.

Tribal Impact

There is no service or financial impact to Native Americans or any Medicaid recipients. The impact will be on providers and audit agents with financial and statistical records. They must retain this information for a period of 10 years.

Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed NMAC rules 8.312.3 and 8.311.3 on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/>. *Notification Letter 21-09.*

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 rule amendments will be held via conference call on Thursday, May 20, 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. MT on May 20, 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.

All comments and responses will be compiled and made available after June 10, 2021.

Sincerely,



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