



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

June 7, 2022

RE: Tribal Notification to Request Advice and Comments Letter 22-17: 8.313.3 NMAC, *Long Term Care Services – Intermediate Care Facilities, Cost Related Reimbursement of ICF-MR Facilities*, and 8.313.2 NMAC, *Long Term Care Services – Intermediate Care Facilities for the Mentally Retarded*.

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 pm., July 8, 2022**, regarding proposed amendments to 8.313.3 NMAC, *Long Term Care Services – Intermediate Care Facilities, Cost Related Reimbursement of ICF-MR Facilities*, and 8.313.2 NMAC, *Long Term Care Services – Intermediate Care Facilities for the Mentally Retarded*.

The Department is proposing to amend the rules as follows:

8.313.3 NMAC

Throughout the rule - Removal of Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR) and replace with Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

Section 8 – Updated to include the current Human Services Department Mission Statement.

Section 11 Subsection D (2) – Language added to reflect the state agency, or its audit agent, will retain all cost reports submitted by providers for a period of ten years.

8.313.2 NMAC

Throughout the rule

Replacement of terminology “Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR)” with “Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)” to reflect nationwide changes.

Section 8 – Updated to include the current Human Services Mission Statement.

Section 13 – Addition of Subsection C – Eligibility Requirements from NMAC 8.281.400.

Section 13 - Addition of Subsection D – Admission. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Section 13 - Addition of Subsection E – Transfer. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Section 13 - Addition of Subsection F – Discharge. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Throughout both 8.313.2 and 8.313.3 NMAC amendments have been made to comply with formatting requirements.

Estimated Total Financial Impact

HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with these amendments to 8.313.3 NMAC and 8.313.2 NMAC.

Tribal Impact

There are currently 4 Native American clients in the ICF/IIDs. The above changes of updating ICF/MR to ICF/IID, and abstract to review should not have a tribal impact.

Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed 8.313.3 NMAC and 8.313.2 NMAC on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/>. *Notification Letter 22-17.*

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 Friday, July 8, 2022, 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 July 8, 2022. 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 July 29, 2022.

Sincerely,



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