



HUMAN SERVICES  
DEPARTMENT

Susana Martinez, Governor  
Brent Earnest, Secretary  
Nancy Smith-Leslie, Director

May 19, 2017

RE: Tribal Notification to Request Advice and Comments Letter 17-007: Change Regarding Former Foster Care Recipients - New Mexico State Plan Amendment (SPA) 17-005.

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 provide notice that HSD, through the Medical Assistance Division (MAD), is submitting a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS) regarding a change in federal funding for Medicaid eligibility for individuals who were in another state's foster care system when they turned 18 or aged out of that state's foster care system.

Under New Mexico's existing Medicaid State Plan, an individual formerly in a foster care system in a state other than New Mexico who has turned 18 or aged out of that state's foster care system, may become eligible for New Mexico Medicaid from age 18 to age 26, and the state may claim federal financial participation (FFP) for this group from CMS. Due to a recent change in federal rules, New Mexico will no longer be able to access FFP to cover this group under the Medicaid State Plan. CMS has notified MAD that since FFP is no longer available to cover Medicaid services for individuals in this category, a State Plan Amendment is required immediately to remove the state's ability to claim federal funds.

**Please note that while the state will no longer be able to claim FFP for former foster care individuals from another state, New Mexico will continue to offer coverage to this group in accordance with state law.** Medicaid coverage for individuals this category will be paid for with state general funds. While this category of coverage will continue to exist, HSD notes that there are not currently any former foster care individuals from other states identified with this coverage in New Mexico, which means that no immediate general fund impact is expected. HSD intends to include authority to claim FFP for this population as part of its Centennial Care 1115 waiver renewal, which will begin on January 1, 2019.

**Estimated Total Financial Impact and Impact on IHS and Tribal Healthcare Facilities**

There is no anticipated financial impact to IHS, tribes and tribal health care providers.

**Other Tribal Impact or Impact on Native Americans**

Because the state will continue to cover individuals in this category with state funds, there is no impact upon Native American recipients or tribal health care providers.

**Tribal Advice and Comments**

Because this is a federal requirement and there is no anticipated impact on the Indian Health Service, tribal health care facilities, or Native American Medicaid recipients, a formal comment period has not been established. However, interested parties or individuals may ask questions, request clarification, make suggestions, or express concerns using the contact methods listed below.

Tribes and tribal health care providers may view proposed State Plan Amendment (SPA) 17-005 on the HSD webpage at <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> under TRIBAL NOTIFICATION LETTER 17-007 SPA 17-005 Former Foster Care Coverage.

A written copy of these proposed documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-6252.


**Important Dates**

CMS has required HSD to submit the State Plan Amendment by May 21, 2017, which is not a business day, so the anticipated submission date is May 19, 2017. Any concerns or issues expressed on the basis of this notice will be provided to CMS even if after the submission of the State Plan Amendment.

Please send any questions, requests for clarification, suggestions or concerns to the MAD Native American Liaison, Theresa Belanger, at (505) 827-3122 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 June 23, 2017 upon request.

Sincerely,



Nancy Smith-Leslie  
Director

cc: Kari Armijo, HSD/MAD Deputy Director  
Theresa Belanger, Native American Liaison, HSD/MAD  
HSD/MAD Centennial Care Bureau  
HSD/MAD Program Policy Bureau



# Medicaid Eligibility

State Name:

OMB Control Number: 0938-1148

Transmittal Number: NM - 17 - 0005

## Eligibility Groups - Mandatory Coverage Former Foster Care Children

S33

42 CFR 435.150  
1902(a)(10)(A)(i)(IX)

- Former Foster Care Children** - Individuals under the age of 26, not otherwise mandatorily eligible, who were on Medicaid and in foster care when they turned age 18 or aged out of foster care.

The state attests that it operates this eligibility group under the following provisions:

- Individuals qualifying under this eligibility group must meet the following criteria:

Are under age 26.

Are not otherwise eligible for and enrolled for mandatory coverage under the state plan, except that eligibility under this group takes precedence over eligibility under the Adult Group.

Were in foster care under the responsibility of the state or Tribe and were enrolled in Medicaid under the state's state plan or 1115 demonstration when they turned 18 or at the time of aging out of that state's or Tribe's foster care program.

The state elects to cover children who were in foster care and on Medicaid in any state at the time they turned 18 or aged out of the foster care system.

Yes  No

The state covers individuals under this group when determined presumptively eligible by a qualified entity. The state assures it also covers individuals under the Pregnant Women (42 CFR 435.116) and/or Infants and Children under Age 19 (42 CFR 435.118) eligibility groups when determined presumptively eligible.

Yes  No

The presumptive period begins on the date the determination is made.

The end date of the presumptive period is the earlier of:

The date the eligibility determination for regular Medicaid is made, if an application for Medicaid is filed by the last day of the month following the month in which the determination of presumptive eligibility is made; or

The last day of the month following the month in which the determination of presumptive eligibility is made, if no application for Medicaid is filed by that date.

Periods of presumptive eligibility are limited as follows:

No more than one period within a calendar year.

No more than one period within two calendar years.

No more than one period within a twelve-month period, starting with the effective date of the initial presumptive eligibility period.

Other reasonable limitation:



# Medicaid Eligibility

	Name of limitation	Description	
+			X

The state requires that a written application be signed by the applicant or representative.

Yes  No

The state uses a single application form for Medicaid and presumptive eligibility, approved by CMS.

The state uses a separate application form for presumptive eligibility, approved by CMS. A copy of the application form is included.

**An attachment is submitted:**

The presumptive eligibility determination is based on the following factors:

The individual must meet the categorical requirements of 42 CFR 435.150.

State residency

Citizenship, status as a national, or satisfactory immigration status

The state uses qualified entities, as defined in section 1920A of the Act, to determine eligibility presumptively for this eligibility group.

**List of Qualified Entities** S17

A qualified entity is an entity that is determined by the agency to be capable of making presumptive eligibility determinations based on an individual's household income and other requirements, and that meets at least one of the following requirements. Select one or more of the following types of entities used to determine presumptive eligibility for this eligibility group:

Furnishes health care items or services covered under the state's approved Medicaid state plan and is eligible to receive payments under the plan

Is authorized to determine a child's eligibility to participate in a Head Start program under the Head Start Act

Is authorized to determine a child's eligibility to receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990

Is authorized to determine a child's eligibility to receive assistance under the Special Supplemental Food Program for Women, Infants and Children (WIC) under section 17 of the Child Nutrition Act of 1966

Is authorized to determine a child's eligibility under the Medicaid state plan or for child health assistance under the Children's Health Insurance Program (CHIP)

Is an elementary or secondary school, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)

Is an elementary or secondary school operated or supported by the Bureau of Indian Affairs

Is a state or Tribal child support enforcement agency under title IV-D of the Act

Is an organization that provides emergency food and shelter under a grant under the Stewart B. McKinney Homeless Assistance Act



# Medicaid Eligibility

Is a state or Tribal office or entity involved in enrollment in the program under Medicaid, CHIP, or title IV-A of the Act

Is an organization that determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under section 8 or any other section of the United States Housing Act of 1937 (42 U.S.C. 1437) or under the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4101 et seq.)

Is a health facility operated by the Indian Health Service, a Tribe, or Tribal organization, or an Urban Indian Organization

Other entity the agency determines is capable of making presumptive eligibility determinations:

	Name of entity	Description	
+			X

The state assures that it has communicated the requirements for qualified entities, at 1920A(b)(3) of the Act, and has provided adequate training to the entities and organizations involved. A copy of the training materials has been included.

An attachment is submitted.

### PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

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