



HUMAN SERVICES  
DEPARTMENT

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

July 26, 2018

RE: Tribal Notification to Request Advice and Comments Letter 18-16: 8.311.3 NMAC, Methods and Standards for Establishing Payment – Inpatient Hospital Services

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 comments until **5:00pm Mountain Daylight Time (MDT) on September 13, 2018** regarding proposed amendments to 8.311.3 NMAC, Methods and Standards for Establishing Payment - Inpatient Hospital Services.

**The Department is proposing to amend the rule as follows:**

**Section 10: General Reimbursement Policy**

**Subsection G:** The Department proposes to add language extending the definition of “Outlier Cases” to include individuals of any age in the state teaching hospital.

***Tribal Impact:*** *HSD does not anticipate a financial impact to Native Americans, Pueblos, Indian Health Services or tribal health care providers. This change does not affect IHS or 638 tribal health care providers.*

**Section 12: Prospective Payment Methodology for Hospitals**

**Subsection C:** The Department proposes to add language regarding the computation of hospital prospective payments rates to specify that when a market basket index (MBI) inflation factor is applied, a notification will be sent informing the provider of the percentage increase that will be applied.

**Subsection F:**

The Department proposes to add language extending the definition of “Outlier Cases”. For the state teaching hospital, the Department proposes to define outlier cases as those cases for eligible recipients of any age with medically necessary services exceeding \$200,000 in billed charges or with medically necessary lengths of stay of 75 calendar days or more.

In this section, the Department also proposes language to include nationally-accredited primary care residency programs as a qualifying factor for teaching hospitals eligible for an Indirect Medical Education (IME) adjustment. It also clarifies that the IME adjustment payment will be calculated separately for traditional Medicaid and the Other Adult Group expansion categories.

There is also proposed language in this section that describes the allocation methodology for Graduate Medical Education (GME).

***Tribal Impact:*** *HSD does not anticipate a financial impact to Native Americans, Pueblos, Indian Health Services or tribal healthcare providers. These changes do not affect IHS or 638 tribal health care providers, which are paid at Office of Management and Budget (OMB) rates.*

### **Section 13: Disproportionate Share Hospitals (DSH)**

**Subsection E:** The Department proposes to add a section specifying that the Department has one year from the date of discovery of an overpayment to a provider to recover or seek to recover overpayment before the federal share must be refunded to the Centers for Medicare and Medicaid Services (CMS). The provider will be notified of the overpayment, including the dollar amount that is subject to recovery. The provider has 90 calendar days from the date of notification to submit the payment in full unless otherwise directed by the Department.

***Tribal Impact:*** *HSD does not anticipate a financial impact to Native Americans, Pueblos, Indian Health Services or tribal healthcare providers. This change does not affect IHS or 638 tribal healthcare providers, since they are not paid as disproportionate share hospitals.*

### **Section 14: Determination of Actual, Allowable, and Reasonable Costs**

**Subsection C:** As a result of a federal review, the Department proposes to add language allowing more time for hospitals to submit cost reports. Cost reports must be submitted within five months after the close of the hospital's fiscal year. Previously, the time requirement was 90 days. Because of this federal requirement, HSD implemented this provision of the rule through an Interim Policy and Procedure that was effective on July 1, 2018. Penalties for failure to file a report within the required time frames are also specified in this section.

***Tribal Impact:*** *HSD does not anticipate a financial impact to Native Americans, Pueblos, Indian Health Services or tribal healthcare providers. This change does not affect IHS or 638 tribal health care providers, since they are not required to submit cost reports.*

Tribes and tribal healthcare providers may view the proposed 8.311.3 NMAC on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> ***Notification Letter 18-16.***

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

**Important Dates:**

**A public hearing on this rule is scheduled to be held in Hearing Room 2, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on September 13, 2018 from 10 a.m. to 11 a.m., MDT.**

**Written advice and comments must be received no later than 5:00pm MDT on September 13, 2018.** Please send your advice, comments or questions 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 *September 27, 2018*.

Sincerely,



Nancy Smith-Leslie  
Director

cc: Kari Armijo, HSD/MAD Deputy Director  
Theresa Belanger, Native American Liaison, HSD/MAD