



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

January 28, 2020

RE: Tribal Notification to Request Advice and Comments Letter 20-03: Proposed Amendments to Emergency Medical Services for Aliens (EMSA) NMAC rules 8.285.400, 8.285.600 and 8.325.10.

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 February 27, 2020** regarding proposed amendments to the following New Mexico Administrative Code (NMAC) rules: *8.285.400, Emergency Medical Services for Aliens (EMSA), Recipient Requirements*, *8.285.600, EMSA, Benefit Description* and *8.325.10, Specialty Services, EMSA*. These EMSA rules are being amended to delete outdated language and align with language found at 42 CFR 440.255.

The Department is proposing the following amendments:

### **8.285.400 NMAC**

Section 8 is amended to replace the outdated mission statement with the current one.

Section 9 is amended to remove obsolete Medicaid program categories and add descriptions for current Medicaid categories allowed for EMSA.

Section 10 is amended to delete the reference to the Medicaid utilization review contractor and definition of an emergency medical condition and refer to the program rules at 8.325.10.13 NMAC.

Section 12 is amended to replace the term "alien" with "non-citizen" to be consistent with immigration rules. The reference to a dummy number was deleted.

Section 13 is amended to align with language found at 42 CFR 440.255(c) regarding citizenship.

Section 14 is amended to refer to general provisions for residence found at 8.200.410.14 and 8.291.410.15 NMAC.

### **8.285.600 NMAC**

Section 8 is amended to add the current mission statement.

Section 10 is amended to delete outdated language that the client has to inform the provider of the status of the application.

Section 11 is amended to add language to indicate a Notice of Case Action (NOCA) form will be sent to the client. A Decision for EMSA Application (MAD 778) form will be sent to the provider. References to outdated forms were deleted.

### **8.325.10 NMAC**

Section 8 is amended to replace the outdated mission statement with the current one.

Section 9 is amended to replace the term “alien” with “non-citizen” to be consistent with immigration rules. This change has been made throughout these rules. Minor language changes were also made.

Section 11 is amended with minor wording changes.

Section 12 is amended to remove language that the recipient is responsible for notifying the provider of approval or denial of EMSA. New language was added that the provider will be notified via a Decision for EMSA Application (MAD 778) form. Other minor language changes were made.

Section 13 is amended to clarify the definition of an emergency and comport with language found at 42 CFR 440.255. New language was added to clarify that labor and delivery services provided by an out of state border hospital and/or emergency transfers from an in state acute hospital to a border acute care hospital are covered. The out of state border provider must be enrolled with the NM Medicaid program.

Section 14 is amended to refer to general provisions for residence found at 8.200.410.14 and 8.291.410.15 NMAC.

Section 16 is amended with minor language changes. New language was added to clarify how a provider and recipient can request a reconsideration. The new language clarifies that reconsideration requests must be in writing and received by MAD, its utilization review contractor, or a MAD designee within 30 calendar days after the date on the initial notice of action.

### **Estimated Total Financial Impact**

There is estimated to be no financial impact with this policy change as HSD currently covers EMSA services.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: January 28, 2020  
Hearing Date: February 26, 2020  
Adoption Date: Proposed as April 1, 2020  
Technical Citations: 42 CFR 440.255

### **Tribal Impact**

There is no tribal impact to Indian Nations, Tribes, Pueblos or their health care providers as the EMSA category is for certain non-citizens who are undocumented or who do not meet qualifying immigration criteria.

### **Tribal Advice and Comments**

Tribes and tribal health care providers may view the proposed 8.285.400, 8.285.600, and 8.325.10 NMAC on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> *Notification Letter 20-03*.

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.

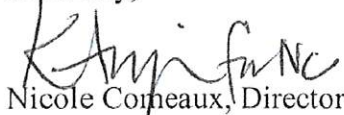
### **Important Dates**

**A public hearing on these rules is scheduled be held in the Seminar Room, Public Employees Retirement Association (PERA), 33 Plaza La Prensa, Santa Fe, NM 87507 on February 26, 2020 at 9:00 a.m. MT.**

**Written advice and comments must be received no later than 5:00 p.m. MT on February 27, 2020.** 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 March 13, 2020.

Sincerely,



Nicole Comeaux, Director  
Medical Assistance Division

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