



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

October 28, 2016

RE: Tribal Notification Letter 16-14
Mi Via 1915 (c) Home and Community-Based Services Waiver Amendment

Dear Tribal Leader, Indian Health Service, Tribal Facility or other interested parties:

Consultation with New Mexico's Indian Nations, Tribes, Pueblos and their healthcare 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) Tribal Consultation requirements, this letter is to inform you that HSD intends to submit an amendment to the Mi Via (NM.0448) 1915 (c) Home and Community-Based (HCBS) waiver to the Centers for Medicare and Medicaid Services (CMS). The State is seeking comments from Native American communities regarding this waiver renewal. Currently there are 92 Native American participants out of 1,297 participants receiving services under the Mi Via waiver program.

The Mi Via waiver was approved by CMS for another five year period, October 1, 2015 to September 30, 2020. The primary purpose of this amendment to the approved waiver is to update the estimated number of individuals to be served under the waiver; and include clarifying language on related goods, transportation, and respite services. The State intends to submit this amendment application to CMS in January 2017.

The Mi Via waiver program provides HCBS services to individuals who have an intellectual and/or developmental disability (I/DD) or medically fragile condition with I/DD. Participants receive services in their family home or their own home as an alternative to institutionalization. The Department of Health (DOH)/Developmental Disabilities Supports Division (DDSD) operates the day-to-day aspects of the Mi Via waiver program with oversight by the HSD/Medical Assistance Division (MAD).

The key components of proposed changes under this waiver amendment are as follows:

1. Update the number of participants being served under the waiver. The number of participants in Mi Via has increased and exceeded the projections previously submitted to CMS.

Tribal Impact: *HSD does not anticipate a service or financial impact to participants currently receiving services under approved Service and Support Plans (SSP)/budgets, to tribes and their healthcare providers.*

2. Related goods will be renamed Individual Directed Goods and Services and will include services, equipment or supplies not otherwise provided through this waiver or the Medicaid State Plan. Fees and memberships will be removed from the service description. Language will be added to clarify that this service excludes goods and services that are recreational or diversional in nature. Recreational and diversional in nature is defined as inherently and characteristically related to or denoting activities done for amusement, enjoyment, a pastime or hobby, distinct from what might be intended. Goods and services that are considered recreational or diversional in nature include, but are not limited to, tickets to sporting events, music concerts, and theatrical productions, and movie, zoo and museum passes. These changes bring this service in line with service descriptions as written in the *CMS Instructions, Technical Guide and Review Criteria, January 2015*.

Tribal Impact: *HSD anticipates a service and financial impact for existing members upon their annual Service and Support Plan (SSP)/budget renewals or revisions. Of the participants receiving this service who may be affected by this proposed change, 10 are Native American.*

3. Appendix I-2 *Rates, Billing and Claims*, will be updated to include clarifying language that reasonableness of rates for approval of Individual Directed Goods and Services will be determined by reviewing trends in utilization over a two year period.

Tribal Impact: *HSD does not anticipate a service or financial impact to participants currently receiving services under approved Service and Support Plans (SSP)/budgets, to tribes and their healthcare providers. The proposed changes may affect services for participants at the time of SSP/budget annual renewals or revisions.*

4. The Transportation service will be updated to clarify that payment for transportation under the waiver is limited to the costs of transportation needed to access waiver services included in the participant's service plan or to access other activities and resources identified in the service plan. It will also be clarified that transportation services for minors are non-covered as these are services that a legally responsible individual would ordinarily provide for household members of the same age who do not have a disability or chronic illness.

Tribal Impact: *Because this language is currently included in the Medicaid NMAC 8.314.6, HSD does not anticipate a service or financial impact to participants currently receiving*

services under approved Service and Support Plans (SSP)/budgets, to tribes and their healthcare providers. The proposed changes may affect services for new participants or new requests for this service at the time of SSP/budget annual renewals or revisions.

5. The Respite service will be updated to clarify that respite is provided on a short-term basis to allow the participants' primary unpaid caregiver a limited leave of absence in order to reduce stress, accommodate a caregiver illness, or meet a sudden family crisis or emergency. Services must only be provided on an intermittent or short-term basis because of the absence or need for relief of those persons normally providing care to the participant.

Tribal Impact: *HSD anticipates a service or financial impact to participants currently receiving services under approved Service and Support Plans (SSP)/budgets. The proposed changes may affect services for participants at the time of SSP/budget annual renewals or revisions. Of the participants receiving this service who may be affected by this proposed change, 7 are Native American.*

6. The In-home Living Support service will be updated to clarify that the service must be provided through a vendor agency and not through an independent contractor. This change is intended to ensure continuity of a service provider for the participant. Existing independent contractors providing In-home Living Supports prior to the approval of the amendment will be allowed to continue to provide services.

Tribal Impact: *HSD does not anticipate a service or financial impact to Native American participants currently receiving services under approved Service and Support Plans (SSP)/budgets, or their healthcare providers.*

The draft waiver renewal application is available on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx>. Letter 16-14.

IMPORTANT DATES

- Written comments must be submitted by 5:00 p.m. Mountain Daylight Time (MDT) on **December 29, 2016**. Please send your comments or questions to the MAD Native American Liaison, Ms. Theresa Belanger, by phone: (505) 827-3122 or by email: Theresa.Belanger@state.nm.us.
- A public hearing for HSD to accept comments on the Mi Via waiver amendment is scheduled to be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM, 87505 on **Thursday, December 29, 2016 at 10:00 a.m.**

- All comments and HSD responses will be compiled and posted on the HSD website in mid-January 2017.

Thank you in advance for your input and for your continued support of the Department's Native American initiatives.

Sincerely,

A handwritten signature in blue ink that reads "Nancy Smith-Leslie". The signature is written in a cursive, flowing style.

Nancy Smith-Leslie, Director
Medical Assistance Division

Cc: Cathy Stevenson, Director, DOH/ Developmental Disabilities and Supports Division (DDSD)
Roberta Duran, Deputy Director, DOH/DDSD
Angela Medrano, Deputy Director, HSD/MAD
Theresa Belanger, Native American Liaison, HSD/MAD