

April 24, 2018

RE: Tribal Notification to Request Advice and Comments Letter 18-03, 8.200.410 NMAC, General Recipient Requirements

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 **5:00pm Mountain Daylight Time (MDT) on May 24, 2018** regarding proposed amendments to the New Mexico Administrative Code (NMAC) rule *8.200.410-General Recipient Requirements*

The Department is re-promulgating this section of the rule in full within six months of issuance of the emergency rule (Volume 40 Register 27) in accordance with the New Mexico State Rules Act.

Summary of Revisions:

8.200.410.11(A)(4) NMAC

The Department is deleting language that covers non-citizens permanently residing in the United States under color of law (PRUCOL) because the Department is aligning its rules for Medicaid eligibility to mirror the federal structure for eligibility. For individuals who entered the United States prior to August 22, 1996, it is unnecessary to look at whether their immigration standard met PRUCOL. PRUCOL immigration standards were no longer in effect under federal law, after the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted on August 22, 1996.

8.200.410.11(B)(1)(l)

Language was added to state that the Department covers battered non-citizens under state general funds until the five year bar is met.

8.200.410.11(B)(3)(h)

Language was deleted to exclude non-citizens who are lawfully present in the Commonwealth of the Northern Mariana Islands. Federal rulemaking removes the language related to individuals who are lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. 1806(e) from

the definition of lawfully present at 42 CFR 435.4. Most of these individuals will continue to be covered under the definition of lawfully present in other categories.

Estimated Total Financial Impact

There is anticipated to be no financial impact by deleting non-citizens permanently residing in the United States under color of law (PRUCOL). PRUCOL immigration standards were no longer in effect under federal law, after the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted on August 22, 1996. Excluding non-citizens who are lawfully present in the Commonwealth of the Northern Mariana Islands is expected to have no financial impact as most of these individuals will be covered in other categories. Covering battered non-citizens with state funds until the five year bar is met has no financial impact as the rule change is a clarification that the state uses general funds to cover this group as federal financial participation is not allowed.

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: April 24, 2018

Hearing Date: May 24, 2018

Adoption Date: Proposed as July 1, 2018

Technical Citations: 42 CFR 435.4, 435.406, 435.956, 8 USC Section 1641

Tribal Impact

The Department anticipates no impact to Native Americans as a result of deleting language that covers non-citizens permanently residing in the United State under color of law (PRUCOL).

There is no impact with respect to covering battered non-citizens with state general funds until the five year bar is met. These individuals were covered before this rule. The clarification is the state is using state general funds to cover these individuals.

Excluding non-citizens who are lawfully present in the Commonwealth of the Northern Mariana Islands is anticipated to have no impact on Native Americans. Most of these individuals will continue to be covered under the definition of lawfully present in other categories.

Tribal Advice and Comments

Tribes and tribal health care providers may view the proposed 8.200.410 NMAC on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> *Notification Letter 18-03*.

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

Important Dates

A public hearing on this rule is scheduled to be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico, Thursday, May 24, 2018 from 9:30 a.m. to 10:30 a.m., MDT.

Written advice and comments must be received no later than 5:00pm MDT on May 24, 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.

All comments and responses will be compiled and made available after June 7, 2018.

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