



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

December 18, 2020

**RE: Tribal Notification to Request Advice and Comments Letter 20-32: Medically Fragile Waiver Program Renewal Application**

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) Monday, February 22, 2021** regarding the submission of the State’s application to the Centers for Medicare and Medicaid Services (CMS) for a five (5) year renewal of the Medically Fragile Waiver, a 1915 (c) Home and Community-Based Services program.

The Medically Fragile Waiver provides services for individuals diagnosed with a medically fragile condition who have a developmental disability, developmental delay, or are at risk for developmental delay before reaching 22 years of age and who require an Intermediate Care Facility for Individuals with Developmental Disabilities (ICF/IDD) level of care.

The State intends to submit its waiver renewal application to CMS by March 15, 2021 for an effective date of July 1, 2021.

The key components included in the waiver renewal application are as follows:

1. Addition of Customized Community Group Supports, Individual Directed Goods and Services, Specialized Therapies, and Vehicle Modifications services.
2. Individual Budgetary Cap are being increased to the following levels:

Client Type	Current Caps	Proposed Caps
Kids	\$25,000.00	\$42,000.00
Adult Level 1	\$70,000.00	\$190,000.00
Adult Level 2	\$60,000.00	\$145,000.00
Adult Level 3	\$48,000.00	\$100,000.00

3. To expand the providers under Home Health Aide services, certified nurse assistants were added as an approved provider working under a home health aide agency.
4. To increase access of Respite services to participants, settings where Respite services can be provided was expanded to include medically qualified foster care home or intensive medical living supports provider.

5. Limits for Specialized Medical Equipment and Supplies increased to \$1200 per ISP year from \$1000 per ISP year.
6. To demonstrate the incident management system is in place that effectively resolves critical incident reports of abuse, neglect, and exploitation (ANE), and prevents further similar incidents to the extent possible, an additional performance measure was added to measure the timeliness of review and completion of these critical incident reports within the Department of Health's required timelines.

### **Estimated Total Financial Impact**

HSD anticipates a financial impact of \$324,000.00 in state general fund related to these proposed changes.

### **Tribal Impact**

There are 16 Native American participants on the Medically Fragile Waiver. HSD anticipates a positive impact to participants, to tribes and their healthcare providers who provide Medically Fragile Waiver services.

### **Tribal Advice and Comments**

Tribes and tribal healthcare providers may view the proposed 1915 (c) Home and Community Based Services Medically Fragile Waiver Application on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> **Notification Letter 20-32.**

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 to receive testimony on this application will **be held via conference call at 10:00 a.m., Mountain Time (MT) on Monday, February 22, 2021.** The conference call toll-free number is: **1-800-747-5150**, Access code: **0440241**

**Written advice and comments must be received no later than 5:00p.m. Mountain Time (MT) Monday, February 22, 2021.** 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 the public hearing.

Sincerely,



Nicole Comeaux, J.D., M.P.H, Director  
Medical Assistance Division

cc: Megan Pfeffer, Deputy Director, HSD/MAD  
Theresa Belanger, Native American Liaison, HSD/MAD  
Exempt Services & Program Bureau, HSD/MAD  
Policy & Provider Services Bureau, HSD/MAD