

July 18, 2016

RE: Tribal Notification Letter 16-10
Medicaid Home and Community-Based Services Settings Transition

Dear Honorable Tribal Leader:

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 through its Medical Assistance Division (MAD) is accepting written comments through September 19, 2016, regarding the State of New Mexico's amended Home and Community Based Services (HCBS) Waiver Settings Statewide Transition Plan (STP).

This STP includes the following HCBS waiver programs: Developmental Disabilities (DD) waiver, Mi Via waiver, Medically Fragile waiver, and Centennial Care section 1115 waiver. Amendments to the STP are required in order to support the State's efforts to bring specific waiver programs related to HCBS into compliance with the Centers for Medicare and Medicaid Services (CMS) Final Rule 2249-F/2296-F. CMS published the Final Rule on January 16, 2014 with an effective date of March 17, 2014. States must achieve full compliance by March 17, 2019.

BACKGROUND

The CMS Final Rule addresses several sections of the Social Security Act and makes changes to Medicaid HCBS waiver programs. The Final Rule establishes requirements for HCBS settings under the 1915(c), 1915(i), 1915(k), and 1115 Medicaid authorities, and person-centered planning for Medicaid HCBS waiver participants under 1915(c) and 1915(i). In addition, it clarifies the timing of amendments and public input requirements when states propose modifications to HCBS waiver programs.

The Final Rule requires that any residential and non-residential setting where individuals live and/or receive HCBS must include the following qualities:

1. Are integrated in and support access to the greater community;
2. Are selected by the individual from among all settings options including non-disability specific settings and options for a private unit in a residential setting;
3. Ensure individual rights of privacy, dignity and respect, and freedom from

- coercion and restraint;
4. Optimize individual initiative, autonomy, and independence in making life choices, including, but not limited to, daily activities, physical environment, and with whom to interact, and,
 5. Facilitate choice regarding services and who provides them.

New Mexico submitted its initial STP to CMS on November 14, 2014 for the Mi Via waiver, followed by another STP submission on January 5, 2015 for the DD waiver. Based upon additional guidance provided by CMS, New Mexico revised its approach to validating responses to the provider self-assessment and incorporated specific timelines and approaches and included certain Centennial Care services in the STP. New Mexico submitted an amended STP to CMS on March 17, 2015 to address the Mi Via and DD waivers, followed by an amended STP to CMS on June 2, 2015 to address Centennial Care services. CMS reviewed the amended transition plan and provided further guidance in March 2016, requesting clarification on the systemic assessment process, heightened scrutiny (i.e. CMS review process to determine if a setting has qualities of an institution), beneficiary relocation, and ongoing monitoring. Furthermore, CMS requested that the Medically Fragile waiver be included in the STP and in the systemic assessment process.

PROPOSED MODIFICATIONS TO THE STATEWIDE TRANSITION PLAN

This notification is to inform New Mexico's Indian Nations, Tribes, Pueblos and their healthcare providers that New Mexico has amended its STP to incorporate and address overall comments from CMS regarding the systemic assessment process, heightened scrutiny, beneficiary relocation, ongoing monitoring, and adding the Medically Fragile Waiver to the STP. New Mexico plans to submit its amended STP to CMS by September 30, 2016.

Tribal Impact: HSD does not anticipate a service or financial impact to individuals, tribes or their healthcare providers with the additional updates to the STP.

TRIBAL CONSULTATION COMMENTS

Indian Nations, Tribes, Pueblos and their healthcare providers may view the amended STP at: <http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx>

The federal regulation is available on the CMS webpage at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

IMPORTANT DATES

- You may send your comments and questions to our Native American Liaison for the Medical Assistance Division (MAD), Theresa Belanger at (505) 827-3122 or by email at: Theresa.Belanger@state.nm by **5:00 pm Mountain Daylight Time on September 19, 2016.**

- HSD will incorporate recommended changes to the STP whenever feasible. All comments and responses will be compiled and available after September 30, 2016.
- A public hearing will be held on September 19, 2016 from 10 a.m.-11 a.m. at the Toney Anaya building, Rio Grande conference room, 2550 Cerrillos Road, Santa Fe, New Mexico.

Sincerely,



Nancy Smith-Leslie, Director
Medical Assistance Division

Cc:

Angela Medrano, Deputy Director, HSD/MAD
Theresa Belanger, Native American Liaison, HSD/MAD
Cathy Stevenson, Director, DOH/DDSD
Roberta Duran, Deputy Director, DOH/DDSD
Shari Roanhorse-Aguilar, Bureau Chief, HSD/MAD/ESPB
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