

July 3, 2014

RE: Tribal Notification of Medicaid Rule Changes

Dear Tribal Leadership, IHS, 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, through the Medical Assistance Division (MAD), is proposing a new rule 8.310.12 related to Indian Health Services and Tribal Facilities.

A draft proposed rule was previously submitted for consultation and was also a subject for discussion at meetings held with representatives of IHS and tribal facilities in Santa Fe and Gallup, primarily with individuals who are employees of those facilities as well as other interested individuals.

In response to the input HSD received from the first consultation period, HSD is holding a second tribal consultation period to solicit comments on this proposed rule which has changed significantly from the original version.

The proposed rule now includes wording to accommodate:

- Billing the OMB encounter rate when a recipient is seen in a structured IHS or tribal facility program that provides medical services similar to that which would be covered in a physician's office, including:
 - a. Instructions and management of a diabetic patient
 - b. Instructions and management of a patient on anticoagulants
 - c. Medical management of medications
- Billing the OMB encounter rate for follow up visits based on a practitioner's order even if the physician is not seen during the follow up visit, including:
 - a. Laboratory, radiology and other diagnostic tests
 - b. Physical and other therapies
- Billing for orthodontia for the initial service at a rate that includes the anticipated number of encounters that will be made for orthodontia, similar to how it is done for other dental providers.

- Allowing for telemedicine originating site fees for use of telemedicine between different I/T/U facilities; and between I/T/U facilities and providers contracted to I/T/U's. However, the originating site fees cannot be billed to connect an employee of the facility who is off site to a recipient who is at the facility.
- Paying the full Medicare co-insurance, deductible, and copayment on a claim.
- Paying the difference between the OMB rate and the amount paid by other insurance when an primary insurer has paid on the claim.
- Clarifying that pharmacy claims are not limited to less than a 90-day supply.
- Clarifying that in considering the discharge of a patient from the inpatient setting that the lack of alternatives for step down care, and distance from the recipient's residence for follow up emergency care may be considerations.
- Allowing a facility to enroll as a separate provider for services that may not qualify for 100% federal match. This may be for services not actually rendered within the IHS facility or may be for services specifically rendered to a non Native American population living in the area of a facility.

Impact: This rule is to provide clarification to Tribal entities and their healthcare providers on how services may be billed and paid. There is not an anticipated financial impact associated with this proposed rule.

This letter and the proposed rule will be available on the HSD website at:
<http://www.hsd.state.nm.us/providers/written-tribal-consultation-letters.aspx>

HSD is seeking comments or questions from Native American communities on this proposed rule. You may send your comments, 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.us.

Additionally, HSD through MAD is proposing an amendment to the Medicaid state plan regarding coverage and reimbursement to IHS and tribal facilities. A copy of the proposed amendment is attached to this document.

Impact: The purpose is to assure that the HSD state plan contains sufficient detail related to Medicaid coverage and reimbursement to IHS and tribal facilities. There is not an anticipated financial impact associated with this proposed state plan amendment.

Important Dates:

- ✓ Comments on both of these documents will be received through **August 8, 2014, 5 p.m. Mountain Daylight Time** to allow time for interested parties to submit their comments. All comments will be reviewed and recorded. HSD will incorporate recommended changes to the

proposed rule and state plan amendment whenever feasible. All comments and responses will be compiled and available after *August 15, 2014*.

- ✓ The proposed rule and the proposed state plan amendment have a projected effective date of *October 1, 2014*.

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

Sincerely,

Julie B. Weinberg, Director
Medical Assistance Division

CC: Nancy Smith-Leslie
Theresa Belanger
PPIB