

Revision: NM-AT-80-38 (BPP)

State: New Mexico

**Citation 42CFR**

**431.12(b)**

**1.4 State Medical Care Advisory Committee**

**AT-78-90**

There is an advisory committee to the Medicaid agency director on health and medical care services established in accordance with and meeting all the requirements of 42 CFR 431.12.

**42CFR**

**438.104**

- X. The State enrolls recipients in MCO, PIHP, PAHP, and/or PCCM programs. The State assures that it complies with 42CFR 438.104c to consult with the Medical Care Advisory Committee in the review of Marketing materials.**

**1.4a Tribal Consultation Requirements**

Section 1902(a)(73) of the Social Security Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs, whether operated by the Indian Health Service (IHS), Tribes or Tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA), or Urban Indian Organizations under the Indian Health Care Improvement Act (IHCIA).

Consultation is required concerning Medicaid matters having a direct impact on Indian health programs and Urban Indian organizations.

Please describe the process the State uses to seek advice on a regular, ongoing basis from federally-recognized tribes, Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to CMS. Please include information about the frequency, inclusiveness, and process for seeking such advice.

**Process for Tribal Notification Requesting Advice and Comments**

Seeking advice and comments from Indian Nations, Tribes, Pueblos, Indian Health Service Facilities, and other Tribal Health Providers is based on a government-to-government relationship with each tribal or pueblo government and their healthcare providers.

An updated list is maintained by the state agency of the Governor or President of each Tribe or Pueblo or their designee, Indian Health Service facilities, and other Tribal Health Providers.

When a contemplated or proposed State Plan Amendment might result in removing or reducing any Medicaid benefit for a Native American beneficiary; might cause a Native American to lose Medicaid eligibility or be less likely to qualify for Medicaid in the future; or might result in lower Medicaid reimbursement rates to Indian

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Health Service Facilities or other Tribal Health Providers, the Health Care Authority (HCA) will send a notification letter to Tribal Leaders, Indian Health Service Facilities, and other Tribal Health Providers. In addition to traditional mailing, HCA will email tribal notification letters to expedite receipt.

The notification letter will request advice and comments and include a 30-day comment period. HCA may require an additional 30 days after the comment period to review and address comments that are received; however, the HCA may shorten this period of time if comments are received or when all advice and comments have been considered and responses made.

The notification will describe the proposed changes including the estimated number of Native Americans who may be impacted, estimates of any financial impact, and include the website link where the full document with the proposed changes can be viewed or a copy otherwise obtained. The notice will also include a proposed effective date, the reason for the proposed change, and the date by which a summary of all comments received will be available.

HCA also offers Tribal Leaders, Indian Health Service Facilities, and other Tribal Health Providers the opportunity to discuss proposed changes by phone, email, and through conference calls, in addition to formally submitted written advice and comments to HCA. Tribal Leaders may request a face-to-face Tribal Consultation during the 30-day comment period on a proposed change.

A tribal notification letter will also be sent when there is a proposed State Plan Amendment that does not result in removing or reducing any Medicaid benefit for a Native American beneficiary; does not cause a Native American to lose Medicaid eligibility or be less likely to qualify for Medicaid in the future; and will not result in lower Medicaid reimbursement rates to Indian Health Service Facilities or other Tribal Health Providers. HCA will send a notification letter to Tribal Leaders, Indian Health Service Facilities, and other Tribal Health Providers about the proposed change; however, there may not be a 30 day comment period.

The state agency uses the same process for State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects to CMS, unless other notification or consultation requirements are specified by CMS.

When there is a comment period, the state agency may submit the proposed State Plan Amendment, waiver proposal, waiver extension, waiver amendment, waiver renewal or proposal for demonstration

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projects to CMS any time after the 30 day comment period if no comments or requests for further information or consultation have been made.

HCA/MAD has a tribal liaison to coordinate ongoing regularly scheduled meetings and discussions between Tribal Leaders, Indian Health Service Facilities, other Tribal Health Providers, agency administrators, program administrators, and managed care organizations. Participants provide input, advice and comments on issues regarding all aspects of the Medicaid program. Meetings are to be held at least quarterly, and at the request of the participants.

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**Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment, when it occurred and who was involved.**

Initial notification of the proposed state plan amendment was provided to all tribes, pueblos, to IHS, and to all other tribal or pueblo health providers, by letter on (Enter Date of Notice). The state agency allowed 30 days for comment.