

June 7, 2024

RE: Tribal Notification to Request Advice and Comments Letter 24-11: Proposed Amendments to NMAC 8.200.430, *Medicaid Eligibility-General Recipient Rules-Recipient Rights and Responsibilities*.

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) on July 15, 2024**, regarding proposed amendments to the New Mexico Administrative Code (NMAC), 8.200.430, *Medicaid Eligibility-General Recipient Rules-Recipient Rights and Responsibilities*.

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: June 11, 2024

Hearing Date: July 15, 2024

Adoption Date: November 1, 2024

Technical Citations: 1917 (a) and (b) of the Social Security Act

Background

House Bill 98 (HB98) passed during the legislative session excludes the Department from pursuing Medicaid estate recovery from Achieving a Better Life Experience (ABLE) accounts. The ABLE account exclusion from Medicaid estate recovery contained in HB98 has an effective date of July 1, 2024.

The Department is proposing to amend the rule as follows:

8.200.430.19 (c)

Adding a paragraph three (3) under subsection C to include the exemption of ABLE accounts from Medicaid estate recovery.

Throughout the NMAC, amendments have also been made to comply with formatting and language requirements, including amending the rule to capture the name change from the Human Services Department (HSD) to the Health Care Authority (HCA).

Estimated Total Financial Impact

The proposed rule means the Department would not pursue Medicaid estate recovery on monies in an ABLE account thereby reducing the amount the Department would include in an estate recovery that would apply towards paid services.

Tribal Impact

The Department anticipates this change as having a positive tribal impact because the Department would not include monies in an ABLE account towards Medicaid estate recovery.

Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed amendments on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/> *Notification letter 24-11.*

A written copy of these documents may be requested by contacting HSD/MAD in Santa Fe at (505) 827-1337.

Important Dates

A public hearing to receive testimony on this proposed rule will be held in person at the **Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505** and via Zoom on **July 15, 2024 at 9:00 am, Mountain Time (MT).**

Join Zoom Meeting

<https://us02web.zoom.us/j/9182801909?pwd=YXZrNTV0M3MrUUUudUNVMGxlUkMvZz09&omn=86596241621>

Meeting ID: 918 280 1909

Passcode: y2CwhJ

Written advice and comments must be received no later than 5:00 p.m. MT on July 15, 2024.

Please send your advice, comments or questions to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email to theresa.belanger@hsd.nm.gov.

All comments and responses will be compiled and made available after August 5, 2024.

Sincerely,



Dana Flannery, Director
Medical Assistance Division