

## **REQUEST FOR COMMENTS**

DATE: June 16, 2014  
TO: All Interested Parties  
FROM: Julie B. Weinberg, Director

**RE: Modifications to the Mi Via program In Response to the Centers for Medicare and Medicaid Services (CMS) Final Rule 2249-F/2296-F**

The State of New Mexico Human Services Department Medical Assistance Division (HSD/MAD) is accepting written comments for a period of 30 calendar days through **July 17, 2014** regarding modifications to the Mi Via program, HSD's Medicaid 1915(c) Home and Community-Based Services (HCBS) Self-Directed waiver, to bring the program into compliance with the CMS Final Rule 2249-F/2296-F. CMS published a final CMS rule on January 16, 2014 with an effective date of March 17, 2014. **A public hearing on these modifications to HSD/MAD's Mi Via waiver application will be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM on July 17, 2014 at 1 p.m.**

### **Background<sup>1</sup>**

The final CMS rule addresses several sections of the Social Security Act and makes changes to the 1915(c) HCBS waiver program. It provides states the option to combine existing waiver targeting groups. The final CMS rule also established requirements for HCBS settings under the 1915(c), 1915(i) and 1915(k) Medicaid authorities, and person-centered planning requirements for Medicaid HCBS eligible recipients under 1915(c) and 1915(i). In addition, it clarifies the timing of amendments and public input requirements when a state proposes modifications to its HCBS waiver programs.

The final CMS rule requires that all HCBS settings meet certain qualifications<sup>2</sup>, including:

- The setting is integrated in and supports access to the greater community;
- Is selected by the eligible recipient from among all settings options;
- Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimizes autonomy and independence in making life choices; and
- Facilitates choice regarding services and who provides them.

### **Proposed Modifications to the Mi Via Program**

HSD/MAD along with the Department of Health (DOH) completed an assessment of Mi Via HCBS settings and found that two service areas will require modification. The following modifications will be included in HSD's transition plan to CMS:

#### **1) Eliminate Assisted Living**

An analysis of the Assisted Living service determined that it is not conducive to individuals with developmental disabilities. A review of the utilization data does not indicate that

<sup>1</sup> CMS Fact Sheet: Summary of Key Provisions of the 1915(c) Home and Community-Based Services Waivers Final Rule. January 10, 2014.

<sup>2</sup> CMS Fact Sheet: Summary of Key Provisions of the Home and Community-Based Services Settings Final Rule. January 10, 2014.

Medicaid recipients with developmental disabilities are accessing this service and further indicates that no Medicaid recipients with developmental disabilities have accessed this service in the last three waiver years. HSD does not anticipate service reduction impact or financial impact with the elimination of this service.

**2) Expand Service Definition of Customized Community Group Supports (CCGS)**

HSD also found that CCGS, a non-residential service, is not in compliance with the CMS HCBS requirements in terms of clearly defining the required setting characteristics. HSD will expand the definition of CCGS to include information specific to services being provided in an integrated setting and supporting access to the greater community. Information will be sent through community centers and community-based day programs that are integrated into the community. Vendor packets for CCGS will include an attestation that the services and supports provided will be delivered in a community-based integrated setting. Consultant providers will also be trained on the revised CCGS standards and monitor implementation through service plan development. HSD does not anticipate a financial impact with the addition of increased training and monitoring requirements.

HSD will include this information in its transition plan in the 1915(c) self-directed waiver renewal application with a proposed effective date of October 1, 2014.

**Public Comments**

HSD is issuing a public notice for comments on beginning on June 16, 2014 regarding these modifications and the notice is available along with this memorandum on the HSD webpage at: <http://www.hsd.state.nm.us>.

The federal rule 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>.

**A public hearing to receive testimony on the modifications to the Mi Via waiver application will be held at the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM on Friday, July 17, 2014, at 1 p.m.**

**Written comments must be submitted by 5:00 p.m. Mountain Daylight Time on July 17, 2014 by mail to: Cedric Chavez, MAD, Program Policy & Integrity Bureau (PPIB), P.O. Box 2348, Santa Fe, New Mexico 87504 or by email to: [Cedric.Chavez@state.nm.us](mailto:Cedric.Chavez@state.nm.us)**

**or**

**by calling 505-827-7743 to leave recorded comments.**

cc: Cathy Stevenson, Director, DOH, Developmental Disabilities and Supports Division (DDSD)  
Roberta Duran, Bureau Chief, DOH/DDSD  
Angela Medrano, Bureau Chief, HSD/MAD, Exempt Services and Program (ESPB)  
Melanie Buenviaje, Staff Manager, HSD/MAD/ESPB  
Christine Wester, Mi Via Program Manager, DOH/DDSD  
Cedric Chavez, HSD/MAD/PPIP-Program Management & Communications Unit