Susana Martinez, Governor
Brent Earnest, Secretary
Nancy Smith-Leslie, Director

February 5, 2017

New Mexico Human Services Department
Medicaid Co-Payment Proposal & Notice of Opportunity to Comment

The New Mexico Human Services Department (HSD) is proposing to implement new or revised co-payment requirements for certain Medicaid recipients effective July 1, 2017, as described in this notice. HSD must comply with the 2016 General Appropriations Act, which directs the Department to "pursue necessary federal authority to include additional cost-sharing requirements for recipients of Medicaid services, including co-payments for certain services." HSD has developed a co-payment proposal for Medicaid recipients that will meet the requirements of the 2016 General Appropriations Act, while ensuring that cost-sharing responsibilities of Medicaid recipients are reasonable.

- Co-payments are amounts that Medicaid recipients pay directly to a provider for a service, visit, or item. Co-payments are to be paid at the time of service or receipt of the item. Certain services and populations are exempt from any co-payments, which means that no mandatory co-payments will be charged for those services or populations. These exemptions are explained and detailed in this notice.

- Below is a description of New Mexico's Medicaid co-payment proposal, which is subject to approval by the federal Centers for Medicare and Medicaid Services (CMS). Members will be notified of any changes in co-payments before they are implemented. HSD proposes an effective date of July 1, 2017. A State Plan Amendment (SPA) outlining HSD's co-payment proposal is posted at: http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx. Comments are being accepted through **5:00 p.m. MDT on March 17, 2017**. For instructions on how to submit comments, please see below.

- HSD's proposal includes co-payments in the following amounts for the services and categories described below:

    - **Outpatient Office Visits - $5/visit** for Other Adult Group (also referred to as the Medicaid Expansion or Category of Eligibility (COE) 100) recipients with income above 100% of the federal poverty level (FPL), Working Disabled Individuals (WDI) and the Children's Health Insurance Program (CHIP). Includes non-preventive care outpatient office and clinic visits or hospital outpatient department visits for physician or other practitioner services, dental visits, urgent care visits, and outpatient professional therapies. Only one co-payment is allowed per visit or session. Behavioral health outpatient visits, preventive care visits, prenatal visits/pregnant recipients, and laboratory, radiology and diagnostic laboratory tests and measurements ordered by a practitioner are exempt from any co-payment. Services provided to individuals in CHIP that are protected under state minor consent laws are also exempt.

- **Inpatient Hospital Stays - $ 50/entire stay** for Other Adult Group recipients with income above 100% FPL, WDI and CHIP. Inpatient psychiatric hospital stays and labor/delivery inpatient obstetric stays are exempt from any co-payment. Only one co-payment is allowed per inpatient stay, including when a patient is transferred from one hospital to another hospital.

- **Outpatient Surgery - $50/procedure** for Other Adult Group recipients with income above 100% FPL, WDI and CHIP. Applies to outpatient surgeries performed in office settings, outpatient facilities and ambulatory surgical centers that are performed separately and distinct from an office or clinic outpatient visit. The co-payment applies only to the primary surgical procedure performed. Services provided to individuals in CHIP that are protected under state minor consent laws are exempt from any co-payment.

- **Non-Emergency Medical Transportation - $2/trip** for Other Adult Group recipients with income above 100% FPL, WDI and CHIP. Applies only to travel for residents living in the Albuquerque Metro area and the cities of Santa Fe and Las Cruces, to destinations in within those same areas, in which free or low-cost public transportation is readily available.

- **Prescription Drugs - $2/prescription** for Other Adult Group recipients with income above 100% FPL, WDI and CHIP. The co-payment is not charged if the higher co-payment for non-preferred prescription drugs is applied, as described below. Contraceptives and family planning supplies are exempt.

- **Non-Preferred Prescription Drugs - $8/prescription** for Other Adult Group, WDI, CHIP, and most other Medicaid beneficiaries, unless described as exempt below. Certain behavioral health drugs are exempt. Contraceptives and family planning supplies are exempt.

- **Non-Emergency use of the Emergency Room - $8/visit** for Other Adult Group, WDI, CHIP and most other Medicaid beneficiaries, unless described as exempt below. Screening required in accordance with 42 CFR §489.24, and all requirements outlined in the State Plan must be met to assess co-payment.

- Individuals who are not covered under WDI or CHIP, and Other Adult Group recipients with income at or below 100% FPL, are exempt from most co-payments. However, most Medicaid beneficiaries **will** be charged co-payments for Non-Emergency use of the Emergency Room and Non-Preferred Prescription Drugs, including:

    - Persons who are enrolled in the Other Adult Group with income at or below 100% FPL
    - Persons who are enrolled in the Parent & Caretaker Relatives category
    - Children who are enrolled under Title XIX Medicaid, including newborns
    - Persons who are enrolled in Transitional Medical Assistance
    - Persons who are enrolled in Medicaid as refugees
    - Women who are enrolled in a Medicaid pregnancy category
    - Persons who are receiving Supplemental Security Income (SSI) Medicaid
    - Persons who are enrolled in an adoption or foster care category
    - Women who are receiving Medicaid under the Breast and Cervical Cancer program
    - Persons who are receiving Institutional Care or other Long-Term Services and Supports, including individuals who are enrolled in the 1915(c) Developmentally Disabled (DD) or Medically Fragile (MF) waiver program, and individuals who are enrolled in the *Mi Via* self-directed waiver program.

- Co-payments **are not to be** charged for the following exempt individuals:

    - Native Americans who are active or previous users of the Indian Health Service (IHS), tribal 638 health programs, or urban Indian health programs
    - Persons who are receiving care in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID)
    - Persons who are enrolled in the Qualified Medicare Beneficiary (QMB), Specified Low Income Beneficiary (SLIMB) or Qualified Individuals program
    - Persons who are covered only under the Medicaid Family Planning program
    - Individuals who are enrolled in the Program of All Inclusive Care for the Elderly (PACE)

- Co-payments **are not to be** charged for the following exempt services:

    - Family planning services and supplies
    - Pregnancy-related health care, including tobacco cessation treatment for pregnant women
    - Emergency services
    - Preventive services, such as Well-Child visits and immunizations
    - Services provided to minors that are protected under minor consent laws
    - Provider preventable services

- The state proposes allowing providers to require individuals to pay co-payments as a condition for receiving items or services when the household has income above 100% of the federal poverty level (FPL). Providers may not deny services to individuals with household income at or below 100% FPL, or to Medicaid recipients who are considered exempt from co-payments, as described above. Providers may not charge co-payments on any exempt items or services, as described above.

- The total amount of co-payments paid by a Medicaid member household cannot exceed five percent of the family's total income during a calendar quarter (January-March, April-June, July-September, and October-December). If a family reaches the five percent limit, then no more co-payments will be charged during the remainder of that quarter. HSD will have a process in place to track co-payments and to notify households of their co-payment responsibilities and tracked amounts.

Estimated Total Financial Impact

HSD estimates that the total financial impact of the proposed co-payment proposal will result in a savings of approximately $500,000 to $1.5 million in state general funds to the Department.

Opportunity to View Documents and Submit Comments

Medicaid providers, Medicaid recipients, and other interested parties are invited to make comments on this co-payment proposal.

A State Plan Amendment (SPA) outlining HSD's co-payment proposal is posted at: http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx.

SPA 17-001 Medicaid Premiums & Cost-Sharing

Please note that this SPA contains four separate documents, as follows:

G1 Cost-Sharing Requirements
G2a Cost-Sharing Amounts – Categorically Needy Individuals
G2c Cost-Sharing Amounts – Targeting
G3 Cost-Sharing Limitations

A written copy of these proposed documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-6252.

All comments must be received no later than 5:00 p.m. MDT on March 17, 2017.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to madrules@state.nm.us. Interested persons may address written comments to:

Human Services Department
Office of the Secretary
ATTN: Medical Assistance Division Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Written, electronic and recorded comments will be given the same consideration as oral testimony. Written or e-mailed comments are preferred because they become part of the record associated with these changes.

Copies of all comments will be made available upon request by providing copies directly to a requestor or by making them available on the HSD/MAD website or at a location within the county of the requestor.