

February 3, 2022

Jennifer Bowdoin
Director, Division of Community Systems Transformation
Center for Medicare and Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Dear Director Bowdoin,

The New Mexico Human Services Department, Medical Assistance Division received the Centers for Medicare & Medicaid Services' (CMS) partial approval of our initial Home and Community Based Services (HCBS) spending plan and narrative on November 5, 2021. We appreciate the partial approval and the opportunity to provide additional information on activities that have not yet been approved by CMS. New Mexico intends to comprehensively address CMS' partial approval in our next quarterly update; however, we respectfully request expedited review and approval of the following three proposals as further delay prevents New Mexico from quickly implementing activities that will enhance, expand, and strengthen HCBS in New Mexico during the COVID-19 Public Health Emergency (PHE) as well as the longer-term strategies that will impact the sustainability of our programs and services under the American Rescue Plan Act (ARPA) of 2021, Section 9817.

- W.2 – Temporary Economic Recovery Payment
- I.1 – Behavioral Health Community Based Services Economic Recovery
- S.3 – High Fidelity Wraparound Expansion

New Mexico confirms that the activities outlined in these proposals are targeted at providers delivering services that are listed in Appendix B of the State Medicaid Director Letter (SMDL) #21-003 or that could be listed in Appendix B. These providers are not delivering institutional Long-Term Services and Supports, or other medical or behavioral health services not listed in Appendix B (e.g., acute care hospital, primary care). Please find the following additional detail for each proposal:

- **Proposal W.2. Temporary Economic Recovery Payment** (Phase 1) to enhance HCBS.
 - Temporary percentage increase in payments for all HCBS (MLTSS, 1915(c), and EPSDT) providers phased down over a period of 3 years:
 - 15% reimbursement increase in year one (May 1, 2021 to June 30, 2022)
 - 10% reimbursement increase in year two (July 1, 2022 to June 30, 2023)
 - 5% reimbursement increase in year three (July 1, 2023 to June 30, 2024)
 - We recognize that the duration of each increase does not align with the calendar year contract period; however, HSD does not intend to increase HCBS provider reimbursement retroactive to January 1, 2021 as that would become the required reimbursement level for

maintenance of effort purposes. HSD understands the current deadline to expend funds is March 31, 2024, and CMS has indicated a willingness to extend the period for a year if a state demonstrates a good-faith effort in expending the funds. HSD is requesting an extension to spend the funds through at least June 30, 2024 for this initiative.

- When the state fully expends the funds, the HCBS provider rates would return to the levels effective as of April 1, 2021.
- Recovery payments can be used for retention, personal protective equipment (PPE), hazard pay, training, infrastructure, and/or technology improvements, to enhance current HCBS delivery.
 - For the Community Benefit available through the 1115 Demonstration, these payments will be given to current providers to help offset costs related to the PHE, including but not limited to increased wages and employment incentives, training, and increased liability insurance. This will ensure that New Mexico has an adequate provider base and workforce to care for our disabled and elderly members. For these MLTSS provider payments, HSD submitted a directed payment preprint to CMS on December 29, 2021 for the period of May 2021 through December 2021 designed to direct the Managed Care Organizations to pay providers respectively. HSD plans to submit the directed payment preprint for the period covering calendar year 2022 by March 31, 2022.
 - For the Section 1915(c) waiver program providers, payments will also be used to offset costs related to the PHE, including hiring and retention of direct service providers, increased wages, training, and support. The payments will provide funding to support the current HCBS waiver system. For these 1915(c) provider payments, HSD intends to submit an Appendix K and permanent 1915(c) Waiver Amendments to address the change in rate methodology and obtain Medicaid authority for such payments impacting providers serving 1915(c) waiver participants.
 - For providers of Personal Care Services (PCS) and Private Duty Nursing (PDN) under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit, payments will also be used to offset costs related to the PHE, including hiring and retention of direct service providers, increased wages, training, and support. This will ensure that New Mexico has an adequate provider base and workforce to care for our eligible members under the age of 21. For these provider payments, HSD intends to submit a Disaster State Plan Amendment (SPA) and a regular SPA to address the change to the fee schedule and obtain Medicaid authority for such payments impacting providers serving EPSDT participants.
- We intend to require a specified percentage of the temporary payment increases to be paid by the agency to direct care workers.
- The recovery payments will be provided to MLTSS, 1915(c), and EPSDT (PCS and PDN) providers delivering services listed in Appendix B of the SMDL or that could be listed in Appendix B. These providers are not delivering institutional Long-Term Services and Supports, or other medical or behavioral health services not listed in Appendix B (e.g., acute care hospital, primary care).

- Activities outlined within this proposal are not administrative in nature but intended to support HCBS providers. These payments are intended to be time-limited and will not require a sustainability plan.
- Estimated total expenditures are \$165,000,000 in Year 1, \$110,000,000 in Year 2, and \$55,000,000 in Year 3, with the state share funded through the HCBS FMAP dollars to be \$19,300,000 in Year 1, \$29,000,000 in Year 2, and \$14,500,000 in Year 3.
- **Proposal I.1. Behavioral Health Community Based Services Economic Recovery and Network Establishment Investment (Phase 1)** to enhance HCBS delivery.
 - Activity 1: One-time infrastructure payments to behavioral health (BH) facilities delivering rehabilitative services to assist with the purchase of technology platforms, vehicles, construction, buildings, etc. Making investments in infrastructure will help facilitate incorporation of HCBS into interoperable electronic health records (EHRs).
 - Payments will be used to cover individual telecommunications start-up costs, such as equipment, and internet connectivity activation costs to support HCBS.
 - HSD will not pay for ongoing internet connectivity costs and capital investment costs.
 - Activity 2: Temporary percentage increase in payments to Behavioral Health (BH) providers delivering rehabilitative services phased down over a period of 3 years:
 - 15% reimbursement increase in year one (May 1, 2021 to June 30, 2022)
 - 10% reimbursement increase in year two (July 1, 2022 to June 30, 2023)
 - 5% reimbursement increase in year three (July 1, 2023 to June 30, 2024)
 - We recognize that the duration of each increase does not align with the calendar year contract period; however, HSD does not intend to increase HCBS provider reimbursement retroactive to January 1, 2021 as that would become the required reimbursement level for maintenance of effort purposes. HSD understands the current deadline to expend funds is March 31, 2024, and CMS has indicated a willingness to extend the period for a year if a state demonstrates a good-faith effort in expending the funds. HSD is requesting an extension to spend the funds through at least June 30, 2024 for this initiative.
 - When the state fully expends the funds, the BH provider rates would return to the levels effective as of April 1, 2021.
 - For these provider payments, HSD intends to submit a Disaster State Plan Amendment and a regular State Plan Amendment to address the change to the fee schedule and obtain Medicaid authority for such payments impacting BH providers rendering rehabilitative services.
 - For both activities, payments will be provided to BH providers delivering rehabilitative services listed in Appendix B of the SMDL or that could be listed in Appendix B. These providers are not delivering institutional Long-Term Services and Supports, or other medical or behavioral health services not listed in Appendix B (e.g., acute care hospital, primary care).

- Activities outlined within this proposal are not administrative in nature but intended to support HCBS providers. These payments are intended to be time-limited and will not require a sustainability plan.
 - Estimated total expenditures for both activities over the three-year period are \$93,000,000, with the state share funded through the HCBS FMAP dollars at \$11,000,000. New Mexico will continue to update amounts with each quarterly update.
- **Proposal S.3. High Fidelity Wraparound Expansion (Phase 1)** to expand HCBS.
 - Expand high fidelity wraparound services statewide and to all qualified providers through a pending 1115 waiver amendment submitted to CMS March 1, 2021.
 - This proposal would expand high-fidelity wraparound statewide, increasing access to this approach to help children and families achieve success at home, in school, and in the community.
 - Activities are targeted at BH providers delivering rehabilitative services listed in Appendix B of the SMDL or that could be listed in Appendix B. These providers are not delivering institutional Long-Term Services and Supports, or other medical or behavioral health services not listed in Appendix B (e.g., acute care hospital, primary care).
 - Activities outlined within this proposal are not administrative in nature. Following the funding available through the enhanced HCBS FMAP, this service expansion will be sustained through normal Medicaid funding.
 - Estimated total expenditures are \$3,600,000 in each of Years 1, 2, and 3, with the state share of \$424,000 in Year 1, and \$955,000 each in Years 2 and 3, to be funded by the HCBS FMAP dollars.

New Mexico agrees to comply with program requirements as stated in the SMDL #21-003 and continues to provide the following assurances:

- The state is using the federal funds attributable to the increased federal medical assistance percentage (FMAP) to supplement and not supplant existing state funds expended for Medicaid HCBS in effect as of April 1, 2021.
- The state is using the state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program.
- The state is not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.
- The state is preserving covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021.
- The state is maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021.

- The state's activities to enhance, expand, or strengthen HCBS under ARP Section 9817 are not focused on services other than those listed in Appendix B of the State Medicaid Director Letter (SMDL) or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit).
- HSD will notify CMS as soon as possible if New Mexico's activities to expand, enhance, or strengthen HCBS under ARP section 9817 are focused on services other than those listed in Appendix B, C and/or D in order for CMS to verify whether they are permissible.
- HSD will not pay for ongoing internet connectivity costs and capital investment costs.
- The approval of the spending plan or any activities within the spending plan does not constitute approval for purposes of claiming Federal Financial Participation (FFP) for ongoing internet connectivity costs or capital investment costs.

We look forward to our continued partnership to provide person-centered care delivered in the home or community to support Medicaid beneficiaries who need assistance with activities of daily living. We appreciate CMS' support to strengthen New Mexico's caregiver workforce and facilitate greater access to HCBS, thereby ensuring health equity, and reducing health disparities. Please feel free to contact New Mexico's designated point of contact, Valerie Tapia with questions or concerns at 505-257-8420 or Valerie.Tapia@state.nm.us.

Sincerely,



Nicole Comeaux, J.D., M.P.H.
Director, Medical Assistance Division