



Michelle Lujan Grisham, Governor
Kari Armijo, Acting Secretary
Lorelei Kellogg, Acting Medicaid Director

September 8, 2023

RE: Tribal Notification to Request Advice and Comments Letter 23-17: State of New Mexico's 1915(c) Home and Community Based Services (HCBS) Waiver Amendments

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 seeking approval from the Centers for Medicare and Medicaid Services regarding amendments to New Mexico's Home and Community-Based Services (HCBS) 1915(c) Waivers: Developmental Disabilities Waiver (DDW) NM.0173.R07.01; Medically Fragile Waiver (MFW) NM.0223.R06.01; and Mi Via Waiver NM.0448.R03.01.

The State intends to submit the amendments to the Centers for Medicare and Medicaid Services (CMS) on November 15, 2023. The key components of proposed changes under the waiver amendments are as follows:

Developmental Disabilities Waiver NM.0173.R07.01:

Effective July 1, 2023, implement a cost of living adjustment (COLA) funded through state fiscal year 2024 legislative appropriation. The COLA will be applied as a 5.32% increase in the rates of the following services: Behavioral Support Consultation, Case Management, Community Integrated Employment, Customized Community Supports, Customized In-Home Supports, Crisis Supports, Living Supports, Nutritional Counseling, Preliminary Risk Screening and Consultation Related to Inappropriate Sexual Behavior, Adult Nursing, Respite, Socialization and Sexuality Education, Supplemental Dental, and Therapy Services.

Effective March 1, 2024, to support the provider network and service delivery, specify that a legally responsible person (LRI), relative, or legal guardian may provide Community Integrated Employment, Customized Community Supports, Customized In-Home Supports, and Respite

Medically Fragile Waiver NM.0223.R06.01:

Effective July 1, 2023, implement a cost of living adjustment (COLA) funded through state fiscal year 2024 legislative appropriation. The Cola will be applied as a 5.32% in the rates of the following services: Behavioral Support Consultation, Case Management, Customized Community Supports, Home Health Aide, Nutritional Counseling, Private Duty Nursing, Respite, Skilled Therapy for Adults,

and Specialized Therapies.

Effective March 1, 2024, to support the provider network and service delivery, specify that a legally responsible person (LRI), relative, or legal guardian may provide Home Health Aide, Private Duty Nursing, and Respite.

Mi Via Waiver NM.0448.R03.01:

Effective July 1, 2023, implement a cost of living adjustment (COLA) funded through state fiscal year 2024 legislative appropriation. The COLA will be applied as a 5.32% increase in the range of rates of the following services: Behavioral Support Consultation, Community Direct Support, Customized Community Group Supports, Consultant Services, Employment Supports, Home Health Aide, Homemaker/Direct Support, In-Home Living Supports, Nutritional Counseling, Personal Plan Facilitation, Private Duty Nursing for Adults, Respite, Skilled Therapy for Adults, and Specialized Therapies.

For consistency between waivers, addition of clarifying language in Appendix I-2-a that “The State can increase rates based on Legislative appropriation. HSD must approve all rates and any changes to these rates.”

Estimated Total Financial Impact

The estimated total financial impact is ten million, two hundred thousand (\$10.2) state general fund dollars annually.

Tribal Impact

There is no directed anticipated impact to tribes, however Native American providers will receive COLA through rate increases.

Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed amendments to New Mexico’s Home and Community-Based Services (HCBS) 1915(c) Waivers: Developmental Disabilities Waiver (DDW); Medically Fragile Waiver (MFW); and Mi Via Waiver on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/>. **Notification Letter 23-17.**

Please use the Microsoft Edge or Google Chrome internet browser to access and navigate the website. Internet Explorer may not display the full HSD Website.

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

Important Dates

A public hearing to receive testimony will be **held via conference call at 10:00 a.m., Mountain Time (MT) on November 6, 2023. The conference call toll-free number is: 800-747-5150, Access Code: 0440241.**

Written advice and comments must be received no later than **5:00 p.m. Mountain Time (MT) on November 6, 2023**. 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@state.nm.us.

All comments and responses will be compiled and made available after the public hearing.

Sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a horizontal line at the bottom.

Lorelei Kellog, Acting Medicaid Director
Medical Assistance Division