



Michelle Lujan Grisham, Governor
Kari Armijo, Cabinet Secretary
Dana Flannery, Medicaid Director

May 16, 2024

RE: Tribal Notification to Request Advice and Comments Letter 24-10: 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 accepting written comments until **5:00 p.m., Mountain Time (MT) on July 17, 2024** regarding proposed amendments to New Mexico's Home and Community-Based Services (HCBS) 1915(c) Waivers: Developmental Disabilities Waiver (DDW) NM.0173.R07.06; Medically Fragile Waiver (MFW) NM.0223.R06.06; and Mi Via Waiver NM.0448.R03.06.

The State intends to submit the amendments to the Centers for Medicare and Medicaid Services (CMS) on July 19, 2024, to implement rate increases as recommended through the Department of Health, Developmental Disabilities and Supports Division rate study completed in 2023.

The key components of proposed changes under the waiver amendments are as follows:

Developmental Disabilities Waiver (DDW) NM.0173.R07.06

Implement rate increase funded through state fiscal year 2024 legislative appropriation for the following services: Behavioral Support Consultation Standard; Behavioral Support Consultation Incentive; Case Management Ongoing; Community Integrated Employment Job Maintenance; Customized Community Support Individual; Customized Community Support Group Category 1; Customized Community Group Category 2 Extensive Support; Family Living; Supported Living Category 4 Extraordinary Medical/Behavioral Support; Adult Nursing Services RN; Adult Nursing Services LPN; Respite; Socialization and Sexuality Education Standard; Socialization and Sexuality Education Incentive; Occupational Therapy Standard; Occupational Therapy Incentive; Occupational Therapy Assistant Standard; Occupational Therapy Assistant Incentive; Physical Therapy Standard; Physical Therapy Incentive; Physical Therapy Assistant Standard; Physical Therapy Assistant Incentive; Speech Language Pathology Standard; Speech Language Pathology Incentive; and Environmental Modifications. Updates were made to Appendix 1-2a, J-2-c-i, and J-2c-d waiver years 4-5.

Medically Fragile Waiver (MFW) NM.0223.R06.06

Implement rate increase funded through state fiscal year 2024 legislative appropriation for the following services: Case Management Ongoing; Home Health Aide; Private Duty Nursing RN; Private Duty Nursing LPN; Respite Home Health Aide; Respite Home Health Aide; Respite LPN; Respite RN; and Environmental Modifications. Updates were made to Appendix 1-2a, J-2-c-I, and J-2c-d waiver years 4-5.

Mi Via Waiver NM.0448.R03.06

Implement rate increase funded through state fiscal year 2024 legislative appropriation for the following services: Behavioral Support Consultation; Behavior Support Consultation Incentive; Community Direct Support; Customized Community Group Supports; Consultant Services; In-Home Living Supports; Private Duty Nursing Adults RN; Respite Standard; Physical Therapy; Physical Therapy Incentive; Occupational Therapy; Occupational Therapy Incentive; Speech Language Pathology; Speech Language Pathology Incentive; Transportation Mile; and Environmental Modifications. Updates were made to Appendix 1-2a, J-2-c-I, and J-2c-d waiver years 4-5.

Estimated Total Financial Impact

The estimated total financial impact is \$30,490,544.23 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 on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/>. *Notification letter 24-10.*

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 on this proposed rule will be held on **July 17, 2024 at 9:00 a.m., Mountain Time (MT)**. The hearing will be held at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via conference call. Conference phone number: 1-800-747-5150. Access Code: 2284263.

Written advice and comments must be received no later than 5:00 p.m. MT on July 17, 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@hds.nm.gov.

All comments and responses will be compiled and made available after July 31, 2024.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Flannery', with a large loop at the end.

Dana Flannery, Director
Medical Assistance Division