

October 15, 2019

**RE: Tribal Notification to Request Advice and Comments Letter 19-19 Mi Via 1915(c) Home and Community-Based Services (HCBS) Waiver Renewal**

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 **5:00pm Mountain Time (MT) Wednesday, December 18, 2019** regarding proposed renewal of the Mi Via 1915(c) HCBS Waiver, which provides self-directed home and community-based services to eligible participants who have intellectual and/or developmental disabilities (I/DD), or medically fragile conditions (MF) with I/DD.

The purpose of this waiver renewal is to allow the State to continue administering the Mi Via Waiver program beginning October 1, 2020. The current waiver expires September 30, 2020. The State intends to submit its renewal application to the Centers for Medicare and Medicaid Services (CMS) by February 1, 2020.

The proposed changes to the Mi Via Waiver under this renewal are described below.

1. Language and acronyms throughout the Mi Via waiver application will be updated for consistency and to align with other 1915(c) HCBS waivers in New Mexico, as appropriate.

*HSD does not anticipate a service or financial impact to participants currently receiving services under approved Service and Support Plans (SSP)/budgets, to tribes and their healthcare providers.*

2. Appendix B: Participant Access and Eligibility will be updated with a revised definition of Developmental Disabilities used by the State to specify the targeted waiver group and will include the transition plan for implementation of this definition.

*HSD does not anticipate a service or financial impact to participants currently receiving services under approved SSP/budgets, to tribes and their healthcare providers.*

3. Appendix C: Consultant Services will be revised to increase face-to-face consultant visits from four (4) annually to six (6) annually. Support guide services has been incorporated as part of ongoing consultant services. Incorporation of support guide services as part of ongoing consultant services eliminates the need for participants to submit a request for the additional support of guide services.

*HSD anticipates these changes will impact consultant services for participants currently receiving services under approved SSP/budgets. HSD does not anticipate a financial impact to participants currently receiving services under approved SSP/budgets, to tribes and their healthcare providers.*

4. Appendix C: Homemaker Services will be revised to clarify that a home is considered agency owned or operated when the participant lives with a person specifically for the purpose of that person providing paid supports to the participant and when the participant would not live with that individual if the person were not being paid to provide services.

*HSD does not anticipate a service or financial impact to participants currently receiving services under approved SSP/budgets, to tribes and their healthcare providers. This change is further clarification of existing requirements that services be provided in the participant's own home or family home.*

5. Appendix C: In-home Living Supports (IHLS) Service will be revised to clarify the service is an intermittent support service intended to be provided intermittently throughout the day for a minimum of four hours per day up to twenty-four hours per day. Additional clarification will be added that a home is considered agency owned or operated when the participant lives with a person specifically for the purpose of that person providing paid supports to the participant and when the participant would not live with that individual if the person were not being paid to provide services.

*HSD does not anticipate a service or financial impact to participants currently receiving services under approved SSP/budgets, to tribes and their healthcare providers. This change is further clarification of existing requirements that services be provided in the participant's own home or family home.*

6. Appendix C: IHLS provider agency requirements will be updated to include completion of state required trainings; compliance with Department of Health (DOH) Division of Health Improvement (DHI) provider surveys; and records maintenance of provider qualifications for all staff and contractors who provide direct service to participants.

*HSD anticipates an impact for existing participants and their healthcare provider as providers come into compliance with the updated requirements.*

7. Appendix E: Participant Direction of Services will be revised to clarify who may be designated to direct waiver services on a participant's behalf. Only a legal representative may be designated to direct services on a participant's behalf.

*HSD anticipates an impact for existing participants upon their annual SSP/budget renewals.*

8. Participant G: Participant Safeguards. Abuse, Neglect, and Exploitation (ANE) training requirements for consultants, Employers of Record, participants, and employees will be revised. Consultants will complete DOH train the trainer courses to ensure each consultant agency has a certified ANE trainer on staff. All Employers of Record and employees will complete DOH approved ANE training either through the Consultant Agency certified trainer or online training.

*HSD anticipates an impact for existing participants and their healthcare provider as providers come into compliance with the updated requirements.*

## Estimated Total Financial Impact

HSD does not anticipate a financial impact related to these changes.

## Tribal Impact

As of July 30, 2019, there are 111 Native American participants receiving services on the Mi Via waiver and may be impacted by the proposed changes. The total number of Mi Via participants is 1,682.

## Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed Mi Via 1915(c) Home and Community-Based Services (HCBS) Waiver Renewal on the HSD webpage at:

<http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> **Notification Letter 19-19.**

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 on this Mi Via 1915(c) Home and Community-Based Services (HCBS) Waiver Renewal is scheduled be held at the State Capitol, 490 Old Santa Fe Trail, (Room 311), Santa Fe, New Mexico, 87501 on Wednesday, December 18, 2019 at 9:00 a.m., Mountain Time (MT).**

**Written advice and comments must be received no later than 5:00pm, Mountain Time (MT) on Wednesday, December 18, 2019.** Please send your advice, comments or questions to the MAD Native American Liaison, Theresa Belanger, at (505) 827-3122 or by email to [theresa.belanger@state.nm.us](mailto:theresa.belanger@state.nm.us). All comments and responses will be compiled and made available upon request.

Sincerely,



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

cc: Theresa Belanger, HSD/MAD