



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H., Director

January 10, 2020

**RE: Tribal Notification to Request Advice and Comments Letter 20-01: 1915(c) Home and Community-Based Services Supports (HCBS) Waiver Application**

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) Friday, March 13, 2020** regarding the submission of the State's application to the Centers for Medicare and Medicaid Services (CMS) for a new 1915 (c) Home and Community-Based Services (HCBS) Supports Waiver. The Supports Waiver will provide services to individuals with intellectual and developmental disabilities on the Department of Health (DOH) Developmental Disabilities (DD) Waiver Wait List. The Supports Waiver will be the State's fourth Medicaid 1915(c) HCBS waiver program currently operated to serve individuals with special needs.

The State intends to submit the waiver application to CMS by April 1, 2020 for an effective date of July 1, 2020.

The key components submitted in the waiver application are as follows:

1. Appendix A: Waiver Administration and Operation identifies that the Department of Health (DOH)/Developmental Disabilities Supports Division (DDSD) operates the day-to-day aspects of the Supports Waiver program with oversight by the HSD/Medical Assistance Division (MAD).
2. Appendix B: Participant Access and Eligibility notes the applicable Medicaid eligibility requirements and procedures for the evaluation and reevaluation of level of care. The application identifies that the State intends to serve up to 5,000 waiver participants by the end of waiver year one (1) and will continue to serve up to 5,000 participants throughout the three (3) year waiver cycle.
3. Appendix C: Participant Services lists the following proposed home and Community-Based Waiver Services (HCBS) including applicable limitations on such services: case management, customized community supports group and individual, employment supports, homemaker/personal care, assistive technology, behavior support consultation, environmental modifications, non-medical transportation, respite, and vehicle modifications. The maximum dollar amount of waiver services authorized for each participant is \$10,000.

4. Appendix D: Participant-Centered Service Planning and Delivery specifies the information and supports that the State makes available to participants, their family or legal representatives, to direct and actively engage in the service plan development process and stresses the participant's authority to determine who is included in the process.
5. Appendix E: Participant Direction of Services specifies that the Supports Waiver allows for participant direction opportunities for the proposed services and supports outlined in Appendix C.
6. Appendix F: Participant Rights outlines how the State provides an opportunity for participants to request a Fair Hearing and how the State provides information on the procedures to address participants' rights, grievances and complaints.
7. Appendix G: Participant Safeguards describes the safeguards and procedures that the State has established to assure the health and welfare of waiver participants.
8. Appendix H: Quality Improvement Strategy describes the processes by which the State will identify, assess, prioritize and implement system improvements.
9. Appendix I: Financial Accountability describes the methods by which the State determines rates, makes payments for waiver services, ensures the integrity of these payments, and complies with applicable federal requirements concerning payments and federal financial participation.
10. Appendix J: Cost-Neutrality demonstrates that the waiver is cost-neutral. For a waiver to be approved by CMS, the State must demonstrate that the average cost of the waiver per capita expenditure per year does not exceed the average cost per capita expenditure had care to participants been provided in a hospital, nursing facility, or intermediate care facility under the Medicaid state plan had the waiver not been granted.

### **Estimated Total Financial Impact**

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

### **Tribal Impact**

The average wait time for Developmental Disabilities (DD) waiver services in New Mexico is approximately 13.5 years and there are approximately 5,000 individuals on the DD Wait List. This includes 559 self-identified Native Americans enrolled in Medicaid who are waiting for DD waiver services and may benefit from the newly created Supports Waiver.

### **Tribal Advice and Comments**

A formal Tribal consultation was held regarding the Supports Waiver on October 28, 2019. The comments received from both the Tribal consultation and this Tribal notification will be reviewed by the State. Tribes and tribal healthcare providers may view the proposed 1915(c) Home and Community-Based Services (HCBS) Supports Waiver Application on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx> **Notification Letter 20-01.**

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 rule is scheduled be held in the Public Employees Retirement Association (PERA) Conference Room, 33 Plaza La Prensa, Santa Fe, NM 87507 on Friday, March 13, 2020 at 9:00 a.m., Mountain Time (MT).**

**Written advice and comments must be received no later than 5:00 p.m., Mountain Time (MT) on Friday, March 13, 2020.** 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 after April 1, 2020.

Sincerely,



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

cc: Theresa Belanger, HSD/MAD