



HUMAN SERVICES
DEPARTMENT

Susana Martinez, Governor
Brent Earnest, Secretary
Nancy Smith-Leslie, Director

RE: Tribal Notification Letter 16-12: Proposed Amendments to 8.308.12 NMAC, *Community Benefit*

Dear Tribal Leadership, Indian Health Service, Tribal Health Providers and other interested parties,

Seeking advice and comment from New Mexico's Indian Nations, Tribes, Pueblos and their healthcare 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) 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 through December 30, 2016, regarding proposed amendments to 8.308.12 of the New Mexico Administrative Code (NMAC).

Proposed amendments:

Throughout the rule:

- HSD has added language under both Agency-Based Community Benefit (ABCB) and Self-Directed Community Benefit (SDCB) sections that require providers to meet new Federal Home and Community-Based Settings Rule requirements.
- Clean-up of typos and clarification for consistency

Section 7

- Added definition of Community Benefits, Individualized Plan of Care (IPoC), and Nursing Facility Level of Care (NF LOC).
- Revised Employer of Record (EOR) definition to include the requirement that a member's Power of Attorney (POA) must be the EOR, if the POA includes the authority to make decisions regarding financial matters.

Sections 13 and 18

- Removed language requiring members who live in the same household to be assessed jointly for the need for services in order to come into compliance with the above mentioned Federal rule.
- Removed the requirement that respite may only be provided to give an "unpaid" caregiver a break, and clarified that "Respite provides a temporary relief to the primary caregiver of a CB member during times when he/she would normally provide unpaid care."

Section 18

- Added “Non-medical transportation services for minors is not a covered service as these are services that a legally responsible individual (LRI) would ordinarily provide for household members of the same age who do not have a disability or chronic illness.”

Section 19

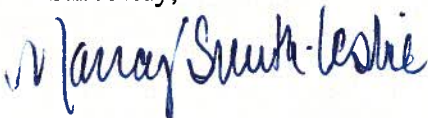
- Added under non-covered services: “cell phone service, including data, is limited to the cost of one hundred dollars per month;”
- Added under non-covered services: “cell phones and cell phone service for SDCB members who are minors;”
- Added under non-covered services: “home schooling materials or related supplemental materials and activities.”

Tribes and their healthcare providers may view the proposed 8.308.12 NMAC, on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx>, *Notification Letter 16-12*.

Important Dates:

- **Written comments must be submitted by 5:00 p.m. Mountain Standard Time (MDT) on December 30, 2016.** Please send your comments and questions to the MAD Native American Liaison, **Theresa Belanger**, at (505) 827-3122 or by email at: Theresa.Belanger@state.nm.us.
- All comments and responses will be compiled and available *after January 13, 2017*.
- **A public hearing on this rule is scheduled to be held in the Rio Grande Conference room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM on December 28, 2016 at 10 a.m. MST.**

Sincerely,



Nancy Smith-Leslie, Director
Medical Assistance Division

CC: Theresa Belanger
PPIB