



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

October 16, 2018

RE: Tribal Notification to Request Advice and Comments Letter 18-08

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 Standard Time (MST) on November 15, 2018** regarding proposed amendments to the New Mexico Administrative Code (NMAC) rules 8.201.400, 8.215.400 and 8.281.400 effective January 1, 2019.

Summary of Revisions:

8.201.400 NMAC – Medicaid Eligibility – Medicaid Extension

The Department proposes to amend Section 9 to clarify that the Supplemental Security Income (SSI) extension categories are 001, 003, and 004.

The Department proposes to amend Section 10 to delete redundant language and to replace the outdated reference to the "disability determination services (DDS)" with the "disability determination unit (DDU)" throughout these rules. The outdated term "Income Support Specialist (ISS)" was replaced with "Income Support Division worker" throughout these rules.

The Department proposes to amend Section 10 subsection G(1) to allow certain recipients of SSI who become ineligible for SSI cash benefits to be automatically extended Medicaid benefits for an additional two months following the month in which SSI closes, as opposed to the current one-month policy.

Current language at Section 10 subsection G(2) allows for extended Medicaid for five SSI closure codes. The Department proposes to amend this language to allow for two months of extended Medicaid for 31 SSI closure codes.

The Department proposes to delete language at Section 10 subsection G(3)(a) and (b) regarding requiring an application for a second one-month extension of Medicaid, since these individuals will automatically receive two months of extended Medicaid under the new rule. Additionally, the

Department proposes to add new language implementing an ex-parte process to systematically evaluate two-month extended SSI clients for other Medicaid categories during their extension period.

The Department proposes to delete language at Section 10 subsection H regarding children terminated from SSI solely due to disability criteria implemented by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) because all of these individuals have aged out of the category. This regulatory language is no longer relevant.

The Department proposes to amend Section 12 enumeration language to refer to 8.200.410.10 NMAC, which is the correct citation.

8.215.400 NMAC – Medicaid Eligibility – Supplemental Security Income

The Department proposes to add a new section at 8.215.400.10 NMAC regarding coverage of Section 1619(b) recipients. The new proposed language clarifies that the Department has a 1634 Agreement with the Social Security Administration (SSA) under which the SSA makes Medicaid eligibility determinations for both SSI and 1619(b) recipients. These individuals automatically have Medicaid eligibility unless they fail to meet the assignment of rights or third-party liability requirements; or unless the Department has determined ineligibility under the Medicaid trust provision.

8.281.400 NMAC – Medicaid Eligibility – Institutional Care

Current language at Section 10 requires that an applicant/recipient be in a “Medicaid qualifying” bed in a New Mexico Medicaid approved institution for Institutional Care (IC) Medicaid. A proposed revision was added to include hospitals administered by the US Department of Veteran’s Affairs (VA) as Medicaid approved institutions. This proposed change will allow VA hospital patients who are preparing to transition out of the acute care hospital into an IC setting of care to have their IC Medicaid applications evaluated for eligibility sooner. This will reduce delays in application processing for VA hospital patients transitioning to IC settings.

The Department proposes to amend language at Section 11 to replace “ISD caseworker” with “Income Support Division worker” throughout these rules.

The Department proposes to amend Section 12 enumeration language to refer to the general recipient provisions found at 8.200.410.10 NMAC.

The Department proposes to amend Section 17 to replace the outdated reference to the “disability determination services (DDS)” with the “disability determination unit (DDU)” throughout these rules.

Estimated Total Financial Impact

Implementing an automatic two-month extension of Medicaid and expanding those eligible for the two-month extension from five to thirty-one SSI closure codes will result in increased cost to HSD. Implementation of an ex-parte process to evaluate two month extended SSI clients for other Medicaid may result in increased costs to HSD as some individuals will transition to other Medicaid categories rather than close.

Adding language about HSDs 1634 agreement with SSA to automatically cover SSI and 1619(b) recipients on Medicaid has no fiscal impact as HSD currently covers these individuals already.

HSD does not anticipate additional cost to the Medicaid program as a result of the removal of the “Medicaid qualifying” bed requirement for IC Medicaid along with the addition of VA hospitals to the list of New Mexico approved institutions. The VA is the primary payer for its residents. The revised rule will allow for these individuals to have their IC Medicaid applications evaluated sooner because of the elimination of the “Medicaid qualifying” bed requirement.

Tribal Impact

Implementing an automatic two-month extension of Medicaid and expanding those eligible for the two-month extension from five to thirty-one SSI closure codes has a positive tribal impact. The policy previously only allowed for an automatic one-month extension and required an application to receive a second one-month extension. Implementation of an ex-parte process to evaluate two month extended SSI clients for other Medicaid has a positive tribal impact to avoid new applications and gaps in coverage for individuals HSD is able to transition to other Medicaid categories.

There is no tribal impact adding language about HSD’s 1634 agreement with SSA to automatically cover SSI and 1619(b) recipients as HSD covers these individuals already.

Removal of the “Medicaid qualifying” bed requirement and the addition of the VA hospital to the list of New Mexico approved institutions has a positive tribal impact. Those VA hospital residents who want to transition out of the hospital into a different setting of care will have their IC Medicaid applications evaluated sooner.

Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed rules on the HSD webpage at <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx>. *Notification Letter 18-08*.

A written copy of these documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-6252.

Important Dates

A public hearing on these rules is scheduled to be held in the Hearing Room 2, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on November 14, 2018 from 10 a.m. to 11 a.m., Mountain Standard Time (MST).

Written advice and comments must be received no later than 5:00 p.m., November 15, 2018. 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.

All comments and responses will be compiled and made available after November 30, 2018.

Sincerely,



Nancy Smith-Leslie, Director
Medical Assistance Division

cc: Kari Armijo, HSD/MAD Deputy Director
Theresa Belanger, Native American Liaison, HSD/MAD
HSD/MAD Centennial Care Bureau
HSD/MAD Program Policy Bureau