

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: 10-013	2. STATE New Mexico
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE December 30, 2010	
5. TYPE OF PLAN MATERIAL (Check One):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Sections 1902(a)73		7. FEDERAL BUDGET IMPACT: none	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Pages 9 , 9 continued (1) and 9 continued (2)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): 9	
10. SUBJECT OF AMENDMENT: Tribal Consultation			
11. GOVERNOR'S REVIEW (Check One):			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Authority Delegated to the Medicaid Director.	
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Julie Weinberg		Julie Weinberg, Acting Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504	
14. TITLE: Acting Director, Medical Assistance Division			
15. DATE SUBMITTED: December 29, 2010			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: 29 December, 2010		18. DATE APPROVED: 21 March, 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 30 December, 2010		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health	
23. REMARKS:			

Revision: NM-AT-80-38 (BPP)

State: New Mexico

Citation  
42 CFR  
431.12(b)  
AT-78-90

**1.4 State Medical Care Advisory Committee**

There is an advisory committee to the Medicaid agency director on health and medical care services established in accordance with and meeting all the requirements of 42 CFR 431.12.

42 CFR  
438.104

X The State enrolls recipients in MCO, PIHP, PAHP, and/or PCCM programs. The State assures that it complies with 42 CFR 438.104c to consult with the Medical Care Advisory Committee in the review of Marketing materials.

**1.4a Tribal Consultation Requirements**

Section 1902(a)(73) of the Social Security Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs, whether operated by the Indian Health Service (IHS), Tribes or Tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA), or Urban Indian Organizations under the Indian Health Care Improvement Act (IHCA). Consultation is required concerning Medicaid matters having a direct impact on Indian health programs and Urban Indian organizations.

Please describe the process the State uses to seek advice on a regular, ongoing basis from federally-recognized tribes, Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to CMS. Please include information about the frequency, inclusiveness and process for seeking such advice.

- The tribal consultation process is based on a government-to-government relationship with each tribal or pueblo government and their healthcare providers.
- The state agency evaluates all proposed changes to reimbursement to determine whether the changes will have a direct effect on federally-recognized tribes, Indian Health Programs (including Indian Health Service programs, tribal health programs and urban Indian organizations) and facilities and whether it will impact payments

SUPERSEDES: TN- 03-03

STATE <u>New Mexico</u>	<b>A</b>
DATE REC'D <u>12-29-10</u>	
DATE APPV'D <u>3-21-11</u>	
DATE EFF <u>12-30-10</u>	
HCFA 179 <u>10-13</u>	

Revision: NM-AT-80-38 (BPP)

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to those facilities. The state agency will employ the consultation process when reductions in reimbursement for those providers are proposed.

- “Direct impact” is defined as any change that will result in any decrease in payment levels to IHS or other tribal healthcare providers or any decrease in covered benefits, frequency of benefits, or limitation on benefits that will affect a Native American recipient, or an IHS facility or other tribal healthcare provider.
- When changes in coverage or eligibility are made that limit or decrease benefits, payments, or eligibility in the Medicaid program or the state Children’s Health Insurance Program (CHIP) that affect Native American groups, the state agency will employ the consultation process.
- Prior to the submission to the federal government of a CHIP or Medicaid state plan amendment (SPA) or waiver, extension, amendment and renewal, or proposal for a demonstration project, the state agency will employ the consultation process.
- The consultation process begins with a written notification to the governor of each tribe or pueblo or their designee, to IHS facilities and other tribal healthcare providers, and to inter-tribal councils and inter-pueblo councils.

An updated list of all these entities is maintained by the state agency and is verified by the Native American liaison staff of the state agency.

This notification describes the purpose and anticipated impact of the SPA or waiver, amendment, extension, or renewal, or proposed demonstration project, and the method for each tribal or pueblo government, IHS facility, or other tribal healthcare to obtain more information and to make comments.

The notification is sent at least 60 days before the date of the state agency’s submission to CMS and will allow a reasonable amount of time for response to the notification which will be, at a minimum, 30 days. This will allow a tribal or pueblo government, IHS facility, or other tribal healthcare provider to make comments or to ask questions within a time frame that allows adequate time for the state agency to consider any issues raised and time for any necessary further discussion between the state agency and the tribal or pueblo government, IHS facility, or other tribal healthcare providers responding to the notification.

SUPERSEDES: NONE - NEW PAGE

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**Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment, when it occurred and who was involved.**

Initial notification of the proposed state plan amendment was provided to all tribes, pueblos, to IHS, and to all other tribal or pueblo health providers, by letter on October 29, 2010. The state agency allowed more than 30 days for written comment. No comments were receiving either in writing or verbally.

SUPERSEDES: NONE - NEW PAGE

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