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State/Territory: North Carolina SPA 10-038

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Department of Health & Human Services
Centers for Medicare & Medicaid Services
61 Forsyth St., Suite 4T20
Atlanta, Georgia 30303-8909



March 18, 2011

Craigian Gray, MD, MBA, JD, Director
Division of Medical Assistance
NC Department of Health & Human Services
1985 Umstead Drive (ZIP 27603)
2501 Mail Service Center
Raleigh, NC 27699-2501

Re: North Carolina Title XIX State Plan Amendment, Transmittal #10-038

Dear Dr. Gray:

We have reviewed the proposed North Carolina State plan amendment (SPA) 10-038, which was submitted to the Atlanta Regional Office on December 28, 2010.

This Tribal consultation process was established as part of an agreement between the State and the Tribes, and complies with Section 5006 of the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA provides protections for Indians in Medicaid and the Children's Health Insurance Program. This amendment establishes North Carolina's Tribal consultation process, which consists of a representative of the Eastern Band of Cherokee Indians sitting on the Medical Care Advisory Committee.

Based on the information provided, we are now ready to approve North Carolina State plan amendment 10-038. This SPA was approved on March 17, 2011. The signed CMS-179 and the approved plan pages are enclosed. The effective date of this amendment is January 1, 2011.

If you have any additional questions or need further assistance, please contact Crystal Francis at (404) 562-7464 or Crystal.Francis@cms.hhs.gov.

Sincerely,

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 10-038	2. STATE NC
FOR: HEALTH CARE FINANCING ADMINISTRATION		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 January 1, 2011	
5. TYPE OF PLAN MATERIAL (Check One): ☐ NEW STATE PLAN ☒ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☐ 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) and 2107(e)(1)(C) of the Act		7. FEDERAL BUDGET IMPACT: a. FFY 2011 \$0.00 b. FFY 2012 \$0.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Pages 9-I, 9-II, 9-III and 9-IV		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Tribal Consultation			
11. GOVERNOR'S REVIEW (Check One): ☐ GOVERNOR'S OFFICE REPORTED NO COMMENT ☒ OTHER, AS SPECIFIED: SECRETARY ☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED ☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE: [Redacted] OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Lanier M. Cansler		Office of the Secretary Department of Health and Human Services 2001 Mail Service Center Raleigh, North Carolina 27699-2001	
14. TITLE: Secretary			
15. DATE SUBMITTED: 12/22/2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 12/28/10		18. DATE APPROVED: 03/17/11	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 01/01/11		20. [Redacted] OFFICIAL:	
21. TYPED NAME: Jackie Glaze		22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health Opns	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: North Carolina**Tribal Consultation**

Requirements and NC Plan

Section 1902(a)(73) of the Social Security Act (the 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 (IHCIA). Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program (CHIP). Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.

North Carolina will use the process identified in this section 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 all State Plan Amendments (SPA), waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to the Centers for Medicare and Medicaid Services (CMS).

- A. The State will assure nomination to the NC Department of Health and Human Services (DHHS) Secretary for appointment of a representative of the Eastern Band of the Cherokee Indians to the Medical Care Advisory Committee. This advisory committee meets at least quarterly to review activities of the Division of Medical Assistance and provide recommendations and advice on current and future policy initiatives and pending changes to the Medicaid program.
- B. The NC DHHS Secretary will appoint a designated liaison in the Office of the Secretary to facilitate the intergovernmental relationship between the Department

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and the Eastern Band of the Cherokee Indians, and any other Indian Health Program meeting the definition under the Act to assure compliance with the federal provisions for consultation and to expedite communication and between these entities.

To meet the requirements for timely notification of the Tribe for SPA/Waiver submissions or other policy changes that arise between MCAC Quarterly meetings the Medicaid Agency will notify the Tribe in writing of these pending changes. The State will use this combined approach to seek the Tribe's advice and input on matters related to the changes to Medicaid and CHIP programs.

- a. If requested by the tribe in follow up to these notifications, the State will meet quarterly or as needed in face-to-face meetings or via conference calls with representatives of the Eastern Band of the Cherokee Indians and Division of Medical Assistance key leadership staff to discuss any items of importance to the parties. These discussions may include provision of additional information or the Tribe's input on pending changes, update on current status of ongoing initiatives, and ongoing assessment of the consultation process to assure efficiency and effectiveness of the consultative activities. These meetings will provide a forum for the Tribe to share and discuss concerns regarding policy and the consultation process with the decision-makers in the Medicaid Agency.
- b. Appoint Medicaid Assistant Directors as primary contacts and positions responsible for assuring notification of all pending SPA/Waiver or policy changes and inclusion of federally recognized Tribal representatives on workgroups and planning initiatives. If a SPA or waiver submission to CMS will occur outside of the scheduled MCAC quarterly meeting timeframe, the DMA will notify EBCI in writing 60 days prior to submission to CMS, and EBCI will have 30 days to respond.
- c. Invite, on a routine basis, the Senior Health Official of the Eastern Band of Cherokee Indians or his/her designee to participate in policy planning (SPA, NC Administrative Code, Clinical Coverage), waiver development, program planning, and development workgroups and initiatives.
- d. Provide federally recognized Tribal programs with a current list of Division contacts for Medicaid Administration to include Director, Deputy Directors, Assistant Directors, and Medical and Dental Directors to facilitate requests for technical assistance, policy clarification and problem resolution.

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- e. Medicaid Agency Administration will make an annual onsite visit to federally recognized Tribal Programs and/or to facilitate collaboration and understanding among all parties.

Tribal Consultation Development Process

The consultative process that occurred for the development of this State Plan Amendment was based on a series of previous visits, contacts and discussions between the Eastern Band of the Cherokee Indians Health Services and the North Carolina Department of Health and Human Services. Discussions had occurred under former DHHS Secretary Odom relating to consultation. Discussions were re-initiated on April 28, 2010, during an on site visit to the Cherokee Health Services Program by DHHS Secretary Lanier Cansler and Michael Watson, Deputy Secretary. The need for a designated liaison in the Office of the Secretary to facilitate the Intergovernmental Relationship was discussed.

The Medicaid Agency has held many and varied calls with Cherokee Health Services regarding SPAs. A second site visit to the Cherokee Health Services program was made by the DMA Chief for Behavioral Health and clinical staff in August 2010. The purpose of the visit was to share information related to Medicaid program changes and representation on the MCAC; as well as to give the State an in-person learning experience with Cherokee Health Services and the Chief of the Eastern Band of the Cherokee Indians.

In preparation for the change in Medicaid Agency operations and the development of the Tribal Consultation SPA, DMA sent the Chief of the Behavioral Health Unit to September 2010 Indian Health Services Conference in Sioux Falls, South Dakota. This provided an opportunity to gain an understanding of the consultative process and of the provisions in the Indian Health Services Reauthorization Act.

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In November 2010, DMA began working to schedule a meeting to consult with Eastern Band of the Cherokee Indians (EBCI) Tribal leadership regarding the details of the consultation process. A conference call was established for December 7, 2010. Those participating on the call are as follows:

Eastern Band of the Cherokee Nation

- Vickie Bradley, Deputy Health Officer of Eastern Band of Cherokee Indians
- Trina Owle, Business Director, EBCI Health and Medical Division
- Casey Cooper, CEO of Cherokee Indian Hospital
- Jonathan Dando, Director of Business Office, Cherokee Indian Hospital

NC DHHS: Division of Medical Assistance

- Tara Larson, Chief Clinical Operating Officer
- Steve Owen, Chief Financial Operating Officer
- John Alexander, Acting Assistant Director, Budget Management
- Roger Barnes, Assistant Director, Finance Management
- Randall Best, MD, Medical Director
- Clarence Ervin, Assistant Director, Program Integrity
- Catharine Goldsmith, Chief, Behavioral Health Unit
- Kris Horton, CMS Liaison
- Teresa Smith, State Plan Coordinator
- Craig Umstead, Manager, Provider Services
- Betty West, for Managed Care Assistant Director

The Tribal Consultation SPA is the result of the December 7, 2010 conference call. All parties are committed to the provisions included in this amendment, to working together to assure open channels of communication, to facilitating problem resolution and to inclusion of federally recognized Tribal programs and/or Indian Health Service facilities in the initial phases of policy, program and waiver development, and changes in the Medicaid and CHIP State Plans.

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