

## **Table of Contents**

**State/Territory Name: New Mexico**

**State Plan Amendment (SPA) #: 22-0017**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



April 21, 2023

Ms. Lorelei Kellogg  
Director  
Medical Assistance Division  
New Mexico Human Services Department  
2025 South Pacheco Drive  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

Re: New Mexico State Plan Amendment (SPA) NM-22-0017

Dear Ms. Kellogg:

The Centers for Medicare & Medicaid Services (CMS) reviewed the proposed Medicaid State Plan Amendment (SPA) and accompanying section 1135 waivers submitted on May 31, 2022 under transmittal number (TN) NM-22-0017. This amendment proposes to implement coverage of new mandatory benefits under Section 9811 of the American Rescue Plan (ARP).

Pursuant to section 1135(b)(5) of the Social Security Act (Act), for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. §430.20 that the state submit SPAs related to the COVID-19 public health emergency by the final day of the quarter, to obtain a SPA effective date during the quarter, enabling SPAs submitted after the last day of the quarter to have an effective date in a previous quarter, but no earlier than the effective date of the public health emergency.

The State of New Mexico also requested a waiver to modify the public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is modifying public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs). Pursuant to section 1135(b)(5) of the Act, CMS is approving the state's request to modify these notice requirements otherwise applicable to SPA submissions.

The State of New Mexico also requested a waiver to modify the tribal consultation timeline applicable to this SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is also allowing states to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA.

CMS conducted our review of your submittal according to statutory requirements in Title XIX of the Act and implementing regulations. This letter is to inform you that New Mexico's Medicaid SPA Transmittal Number NM-22-0017 is approved effective March 11, 2021.

If you have any questions, please contact Dana Brown at 410-786-0421 or via email at Dana.Brown@cms.hhs.gov.

Sincerely,

**Alissa M.  
Deboy -S**

Digitally signed by Alissa  
M. Deboy -S  
Date: 2023.04.21  
07:32:19 -04'00'

Alissa Mooney DeBoy  
On Behalf of Anne Marie Costello, Deputy Director  
Center for Medicaid and CHIP Services

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER <u>2 2 — 0 0 1 7</u>	2. STATE <u>NM</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <b>March 11, 2021</b>
--	---

5. FEDERAL STATUTE/REGULATION CITATION <b>Section 9811 and Section 9821 of the American Rescue Plan Act of 2021 (ARP)</b>	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>21</u> \$ <u>7,262,136</u> b. FFY <u>22</u> \$ <u>12,339,660</u>
--	--

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <b>Attachment 7.7-A pgs.1, 2, 3 (new) Attachment 7.7-B pgs.1, 2, 3 (new) Attachment 7.7-C pgs. 1, 2, 3 (new)</b>	c. FFY <u>23</u> \$ <u>18,384,788</u> 8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
--	--

9. SUBJECT OF AMENDMENT  
**New Mexico Medicaid is attesting to coverage and reimbursement for COVID-19 vaccines and administration of the vaccines, COVID-19 testing and treatment specifically for COVID-19 (including preventive therapies) in accordance with the American Rescue Plan Act of 2021 (ARP).**

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:  
**Authority delegated to the Medicaid Director**

11. AGENCY OFFICIAL <b>[REDACTED]</b>	15. RETURN TO  <b>Lorelei Kellogg, Acting Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504-2348</b>
12. TYPED NAME <b>Nicole Comeaux</b>	
13. TITLE <b>Director, Medical Assistance Division</b>	
14. DATE SUBMITTED <b>May 31, 2022</b>	

**FOR CMS USE ONLY**

16. DATE RECEIVED <b>May 31, 2022</b>	17. DATE APPROVED <b>April 21, 2023</b>
--	--

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL <b>March 11, 2021</b>	19. SIGNATURE OF APPROVING OFFICIAL <b>Alissa M. Deboy -S</b> <small>M. Deboy -S Date: 2023 04.21 07:32:35 -04'00'</small>
20. TYPED NAME OF APPROVING OFFICIAL <b>Alissa Mooney DeBoy</b>	21. TITLE OF APPROVING OFFICIAL <b>On Behalf of Anne Marie Costello, Deputy Director Center for Medicaid and CHIP Services</b>

22. REMARKS

**Vaccine and Vaccine Administration at Section 1905(a)(4)(E) of the Social Security Act**

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

**Coverage**

The state assures coverage of COVID-19 vaccines and administration of the vaccines.<sup>1</sup>

The state assures that such coverage:

1. Is provided to all eligibility groups covered by the state, including the optional Individuals Eligible for Family Planning Services, Individuals with Tuberculosis, and COVID-19 groups if applicable, with the exception of the Medicare Savings Program groups and the COBRA Continuation Coverage group for which medical assistance consists only of payment of premiums; and
2. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(H) and section 1916A(b)(3)(B)(xii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing or similar charge, pursuant to section 1937(b)(8)(A) of the Act.

The state provides coverage for any medically necessary COVID-19 vaccine counseling for children under the age of 21 pursuant to §§1902(a)(11), 1902(a)(43), and 1905(hh) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration, with respect to the providers that are considered qualified to prescribe, dispense, administer, deliver and/or distribute COVID-19 vaccines.

Additional Information (Optional):

<sup>1</sup> The vaccine will be claimed under this benefit once the federal government discontinues purchasing the vaccine.

**Reimbursement**

The state assures that the state plan has established rates for COVID-19 vaccines and the administration of the vaccines for all qualified providers pursuant to sections 1905(a)(4)(E) and 1902(a)(30)(A) of the Act.

List Medicaid state plan references to payment methodologies that describe the rates for COVID-19 vaccines and their administration for each applicable Medicaid benefit:

The state is establishing rates for COVID-19 vaccines and the administration of the vaccines pursuant to sections 1905(a)(4)(E) and 1902(a)(30)(A) of the Act.

The state’s rates for COVID-19 vaccines and the administration of the vaccines are consistent with Medicare rates for COVID-19 vaccines and the administration of the vaccines, including any future Medicare updates at the:

- Medicare national average, OR
- Associated geographically adjusted rate.

The state is establishing a state specific fee schedule for COVID-19 vaccines and the administration of the vaccines pursuant to sections 1905(a)(4)(E) and 1902(a)(30)(A) of the Act.

The state’s rate is as follows and the state’s fee schedule is published in the following location :

New Mexico will reimburse for COVID-19 vaccine and the administration of the vaccines, using the established pricing and rate methodology within the approved state plan. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. The agency’s fee schedule rate was set as of March 11, 2021 and is effective for services provided on or after that date. All rates are published at: <https://www.hsd.state.nm.us/providers/fee-schedules/>

The state’s fee schedule is the same for all governmental and private providers.

The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 vaccines and the administration of the vaccines are described under the benefit payment methodology applicable to the provider type:

The payment methodologies for COVID-19 vaccines and the administration of the vaccines for providers listed above are described below:

The state is establishing rates for any medically necessary COVID-19 vaccine counseling for children under the age of 21 pursuant to sections 1905(a)(4)(E), 1905(r)(1)(B)(v) and 1902(a)(30)(A) of the Act.

The state's rate is as follows and the state's fee schedule is published in the following location :

The agency's fee schedule rates were set as of March 11, 2021 and are effective for services provided on or after that date. Except as otherwise noted in the state plan, state developed fee schedule rates are the same for both governmental and private providers. All rates are published @ <https://www.hsd.state.nm.us/providers/fee-schedules/>

Vaccine counseling only visits codes:

- 99401 Preventive medicine counseling, typically 15 minutes, \$26.09
- 99402 Preventive medicine counseling, typically 30 minutes, \$28.70
- 99606 Medication therapy management services provided to an established patient by a pharmacist, 15 minutes, \$26.09
- 99607 Medication therapy management services provided by a pharmacist, each additional 15 minutes, \$26.09

Stand-alone vaccine counseling is reimbursed, regardless of whether other services are delivered in accordance with the American Rescue Plan Act of 2021 (ARP) regulations. COVID-19 vaccine counseling for eligible fee-for-service Medicaid beneficiaries under the age of 21 through the last day of the first calendar quarter that begins one year after the last day of the COVID-19 public health emergency (PHE) and will expire at the end of the PHE period. The diagnosis code Z71.89 identifies that the service was for COVID-19 vaccination counseling only. The agency's fee schedule rates were set as of January 1, 2022 and are effective for services provided on or after that date. Except as otherwise noted in the state plan, state developed fee schedule rates are the same for both governmental and private providers. All rates are published @ <https://www.hsd.state.nm.us/providers/fee-schedules/>

**PRA Disclosure Statement** Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

**COVID-19 Testing at section 1905(a)(4)(F) of the Social Security Act**

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

**Coverage**

The state assures coverage of COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

The state assures that such coverage:

1. Includes all types of FDA authorized COVID-19 tests;
2. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
3. Is provided to the optional COVID-19 group if applicable; and
4. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Please describe any limits on amount, duration or scope of COVID-19 testing consistent with 42 CFR 440.230(b).

n/a

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):



**Reimbursement**

The state assures that it has established state plan rates for COVID-19 testing consistent with the CDC definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 testing for each applicable Medicaid benefit:

The state is establishing rates for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

The state's rates for COVID-19 testing are consistent with Medicare rates for testing, including any future Medicare updates at the:

Medicare national average, OR

Associated geographically adjusted rate.

The state is establishing a state specific fee schedule for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

The state's rate is as follows and the state's fee schedule is published in the following location :

New Mexico will reimburse for COVID-19 testing using the established pricing and rate methodology within the approved state plan. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rate was set as of March 11, 2021 and is effective for services provided on or after that date. All rates are published at: <https://www.hsd.state.nm.us/providers/fee-schedules/> The Department of Health (DOH) reimburses for FDA authorized over-the-counter (OTC) at-home COVID-19 antigen tests at wholesale net unit (WNU) price plus 6%.

The state's fee schedule is the same for all governmental and private providers.

\_\_\_\_ The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 testing is described under the benefit payment methodology applicable to the provider type:

*Additional Information (Optional):*

\_\_\_\_ The payment methodologies for COVID-19 testing for providers listed above are described below:

***PRA Disclosure Statement*** Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

**COVID-19 Treatment at section 1905(a)(4)(F) of the Social Security Act**

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

**Coverage for the Treatment and Prevention of COVID**

The states assures coverage of COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

The state assures that such coverage:

1. Includes any non-pharmacological item or service described in section 1905(a) of the Act, that is medically necessary for treatment of COVID-19;
2. Includes any drug or biological that is approved (or licensed) by the U.S. Food & Drug Administration (FDA) or authorized by the FDA under an Emergency Use Authorization (EUA) to treat or prevent COVID-19, consistent with the applicable authorizations;
3. Is provided without amount, duration or scope limitations that would otherwise apply when covered for purposes other than treatment or prevention of COVID-19;
4. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
5. Is provided to the optional COVID-19 group, if applicable; and
6. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

**Coverage for a Condition that May Seriously Complicate the Treatment of COVID**

X The state assures coverage of treatment for a condition that may seriously complicate the treatment of COVID-19 during the period when a beneficiary is diagnosed with or is presumed to have COVID-19.

X The state assures that such coverage:

1. Includes items and services, including drugs, that were covered by the state as of March 11, 2021;
2. Is provided without amount, duration or scope limitations that would otherwise apply when covered for other purposes;
3. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
4. Is provided to the optional COVID-19 group, if applicable; and
5. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

X Applies to the state’s approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

X The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

**Reimbursement**

     The state assures that it has established state plan rates for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 treatment for each applicable Medicaid benefit:

The state is establishing rates or fee schedule for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

New Mexico will reimburse for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) using the established pricing and rate methodology within the approved state plan. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rate was set as of March 11, 2021 and is effective for services provided on or after that date. All rates are published at: <https://www.hsd.state.nm.us/providers/fee-schedules/>.

The state's rates or fee schedule is the same for all governmental and private providers.

The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 vaccines and the administration of the vaccines are described under the benefit payment methodology applicable to the provider type:

Additional Information (Optional):

**PRA Disclosure Statement** Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.