

January 26, 2021

RE: Tribal Notification to Request Advice and Comments Letter 21-04: NMAC Change for Parent Caretaker Medicaid Category

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 Time (MT) on February 26, 2021** regarding proposed amendments to 8.292.400 NMAC Medicaid Eligibility-Parent Caretaker Recipient Requirements. The amendments add definitions for dependent child and caretaker relative consistent with the federal definitions.

42 Code of Federal Regulations (CFR) 435.4 defines a dependent child as, "a child who meets both of the following criteria: (1) Is under the age of 18, or, at State option, is age 18 and a full-time student in secondary school (or equivalent vocational or technical training), if before attaining age 19 the child may reasonably be expected to complete such school or training."

The Department in its State Plan for the Parents and Other Caretaker Relatives Medicaid category did elect the state option to include individuals who are parents or other caretakers of children who are 18 years old, provided the children are full-time students in a secondary school or the equivalent level of vocational or technical training.

The 18-year-old dependent full-time student requirement is not currently cited in the Department's Parent Caretaker NMAC. The Department is updating Parent Caretaker NMAC with the 18-year-old dependent full-time student requirement to comport with the State Plan and CFR language.

42 CFR 435.4 defines a caretaker relative as "a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for Federal income tax purposes), and who is one of the following—

- (1) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.
- (2) The spouse of such parent or relative, even after the marriage is terminated by death or divorce.

(3) At State option, another relative of the child based on blood (including those of half-blood), adoption, or marriage; the domestic partner of the parent or other caretaker relative; or an adult with whom the child is living and who assumes primary responsibility for the dependent child's care.”

The Department in its State Plan for the Parents and Other Caretaker Relatives Medicaid category did elect the state option to include as caretaker relative individuals within the fifth degree of relationship to the dependent child. The Department is updating Parent Caretaker NMAC with the 42 CFR 435.4 definition of caretaker relative to comport with the State Plan and CFR language.

### **Estimated Total Financial Impact**

The estimated total financial impact is minimal and would only impact adult applicants for Parent Caretaker Medicaid who have an 18-year-old dependent. The 18-year-old dependent would need to be a full-time student to be included in the Parent Caretaker household size for those adults seeking coverage.

### **Tribal Impact**

There would be tribal impact for adult applicants for Parent Caretaker Medicaid who have an 18-year-old dependent. The 18-year-old dependent would need to be a full-time student to be included in the Parent Caretaker household size for those adults seeking coverage.

### **Tribal Advice and Comments**

Tribes and tribal healthcare providers may view the proposed 8.292.400 NMAC on the HSD webpage at: <http://www.hsd.state.nm.us/providers/written-tribal-consultations.aspx>. *Notification Letter 21-04*.

A written copy of these documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-1337.

### **Important Dates**

**A public hearing on this rule is scheduled be held via conference call at 10 a.m. MT on Friday, February 26, 2021. Conference phone number: 1-800-747-5150. Access Code: 2284263.**

**Written advice and comments must be received no later than 5:00 p.m. MT on February 26, 2021.** Please send your advice, comments or questions to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email to [theresa.belanger@state.nm.us](mailto:theresa.belanger@state.nm.us).

All comments and responses will be compiled and made available after March 12, 2021.

Sincerely,



Nicole Comeaux, J.D., M.P.H, Director  
Medical Assistance Division