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State/Territory Name: New Mexico

State Plan Amendment (SPA) #: NM 23-0013

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

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



Financial Management Group

March 13, 2024

Dana Flannery
Director Medical Assistance Division
New Mexico Human Services Department
P.O. Box 2348
Santa Fe, NM 87504-2348

RE: New Mexico State Plan Amendment (SPA) 23-0013

Dear Director Dana Flannery:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid state plan submitted under transmittal number (TN) 23-0013 effective August 18, 2023. The purposed amendment will reimburse Tribal 638 Nursing Facilities at the Office of Management and Budget (OMB) outpatient rate as published and specified in the Federal Register.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act and the regulations at 42 CFR 447 Subpart C. We hereby inform you that Medicaid State plan amendment 23-0013 is approved effective August 18, 2023. We are enclosing the CMS-179 and the amended plan pages.

If you have any questions, please contact Diana Dinh at Diana.Dinh@cms.hhs.gov.

Sincerely,



Rory Howe
Director

Enclosure

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

1. TRANSMITTAL NUMBER

2 3 — 0 0 1 3

2. STATE

N M

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

August 18, 2023

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR Part 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 23 \$ 966,235
b. FFY 24 \$ 8,015,360

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19D, Part 1 Page 1

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19D, Part 1 Page 1

(TN No. 22-0012)

9. SUBJECT OF AMENDMENT

To update the State Plan as Tribal Nursing Facilities receive a Tribal 638 authority designation to be reimbursed at the OMB publishing rate.

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted Signature]

12. TYPED NAME
Lorelei Kellogg

13. TITLE
Acting Director, Medical Assistance Division

14. DATE SUBMITTED
09/25/2023

15. RETURN TO

Lorelei Kellogg, Acting Director
Medical Assistance Division
P.O Box 2348
Santa Fe, NM 87504-2348

FOR CMS USE ONLY

16. DATE RECEIVED
September 25, 2023

17. DATE APPROVED
March 13, 2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

August 18, 2023

19. SIGNATURE OF APPROVING OFFICIAL

[Redacted Signature]

20. TYPED NAME OF APPROVING OFFICIAL
Rory Howe

21. TITLE OF APPROVING OFFICIAL
Director, FMG

22. REMARKS

COST RELATED REIMBURSEMENT OF NURSING FACILITIES

The New Mexico Title XIX Program make reimbursement for appropriately licensed and certified Nursing Facility (NF) services as outlined in this material.

I. GENERAL REIMBURSEMENT POLICY:

The Human Services Department will reimburse Nursing Facilities (effective October 1, 1990, the SNF/ICF distinction is eliminated; see section VIII) the lower of the following, effective July 1, 1984:

A. Billed Charges;

B. The prospective rate as constrained by the ceilings (Section V) established by the Department as described in this plan.

II. REIMBURSEMENT FOR TRIBAL 638 FACILITIES:

Effective August 18, 2023, the Human Services Department will reimburse Tribal 638 Nursing Facilities at the Office of Management and Budget (OMB) outpatient rate as published and specified in the Federal Register. This rate will be updated annually based on rates published each year in the Federal Register by the U.S. Department of Health and Human Services' Indian Health Service, under the authority of Sections 321 (a) and 322 (b) of the Public Health Service Act (42 U.S.C. 248 and 249 (b)), Public Law 83-568 (42 U.S.C. 2001 (a)), and the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

III. NURSING FACILITY RATE DETERMINATION FOR VENTILATOR DEPENDENT RESIDENTS

1. Effective for dates of service on and after March 14, 2022, the nursing facility per diem for a ventilator dependent resident will be \$305.66.
2. The per diem costs of providing services to the ventilator dependent residents shall be maintained separately (as a distinct part) of each facility's annual cost report beginning March 14, 2022.
3. Ventilator dependent per diem rates will cover all skilled nursing care services and will be all-inclusive.
4. No additional amount above the current nursing facility daily rate shall be allowed until the service is prior authorized by the Department's Medical Management Contractor.
5. The resident's clinical condition shall be reviewed every 90 days to determine if the resident's medical condition continues to warrant services at the ventilator dependent nursing facility rate. Prior authorization (PA) through the Department's Medical Management Contractor spans a 90-day maximum time period. The nursing facility is required to resubmit requests for continued stay prior to expiration of the current PA. If a resident no longer requires the use of a ventilator, the provider shall not receive additional reimbursement beyond the New Mexico Medicaid nursing home per diem rate determined for the facility.