

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
JFK Federal Building, Government Center  
Room 2275  
Boston, Massachusetts 02203



*CENTERS for MEDICARE & MEDICAID SERVICES*

**Division of Medicaid and Children's Health Operations/Boston Regional Office**

June 28, 2011

Mary C. Mayhew, Commissioner  
Department of Health and Human Services  
11 State House Station  
Augusta, Maine 04333-0011

Dear Commissioner Mayhew:

We are now ready to approve State Plan Amendment (SPA) No. 10-019; attached you will find an approved copy of the SPA. This SPA is effective January 1, 2011 as requested.

This SPA amends the State's approved Title XIX State Plan to assure compliance with federal protections for Native Americans in Medicaid and CHIP services, as directed in a CMS State Medicaid Directors letter dated January 22, 2010. As amended, the State Plan now provides assurance that the State adheres to the required tribal consultation process.

If there are any questions, please contact Kathryn Holt at 617/565-1246 or via email at [kathryn.holt@cms.hhs.gov](mailto:kathryn.holt@cms.hhs.gov).

Sincerely,

/s/

Richard R. McGreal  
Associate Regional Administrator

Enclosures

cc: Stefanie Nadeau, Director, Office of Maine Care Services

|  |  |  |                           |
|--|--|--|---------------------------|
| <b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b><br><b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>   |  | 1. TRANSMITTAL NUMBER:<br><b>10 -- 019</b>   | 2. STATE:<br><b>MAINE</b> |
|  |  | 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)   |                           |
| TO: REGIONAL ADMINISTRATOR<br>CENTERS FOR MEDICARE AND MEDICAID SERVICES<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES  |  | 4. PROPOSED EFFECTIVE DATE(S)<br><br><b>JANUARY 1, 2011</b>  |                           |
| 5. TYPE OF PLAN MATERIAL (CHECK ONE):<br><br><input checked="" type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input type="checkbox"/> AMENDMENT<br><b>COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)</b>   |  |  |                           |
| 6. FEDERAL STATUTE/REGULATION CITATION:<br><b>42 CFR 431.12</b>  |  | 7. FEDERAL BUDGET IMPACT:<br>a. FFY <u>  </u> 10 Cost Neutral<br>b. FFY <u>  </u> 11 Cost Neutral  |                           |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:<br><b>1.4</b>  |  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): <b>14</b>   |                           |
| SUBJECT OF AMENDMENT: <b>ARRA PROTECTIONS FOR INDIANS IN MEDICAID AND CHIP</b>   |  |  |                           |
| 11. GOVERNOR'S REVIEW (Check One):<br><input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED<br><input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <b>COMMISSIONER, DEPT. OF HUMAN SERVICES</b><br><input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL |  |  |                           |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:<br><br>_____   |  | 16. RETURN TO:<br><br><b>ANTHONY MARPLE</b><br><b>Director, Office of MaineCare Services</b><br><b>#11 State House Station</b><br><br><b>442 CIVIC CENTER DRIVE</b><br><b>Augusta, ME 04333-0011</b> |                           |
| 13. TYPED NAME:<br><b>BRENDA HARVEY</b>  |  |  |                           |
| 14. TITLE:<br><b>Commissioner, Maine Department of Health and Human Services</b>   |  |  |                           |
| 15. DATE SUBMITTED: <b>DECEMBER 12, 2010</b>   |  |  |                           |
| <b>FOR REGIONAL OFFICE USE ONLY</b>  |  |  |                           |
| 17. DATE RECEIVED:<br><b>12/15/10</b>  |  | 18. DATE APPROVED:<br><b>06/28/11</b>  |                           |
| <b>PLAN APPROVED - ONE COPY ATTACHED</b>   |  |  |                           |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>01/01/11</b>   |  | 20. SIGNATURE OF REGIONAL OFFICIAL:<br><br>_____   |                           |
| 21. TYPED NAME: <b>Richard R. McGreal</b>  |  | 22. TITLE: <b>Associate Regional Administrator</b>   |                           |
| 23. REMARKS  |  |  |                           |

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Maine

1.4 State Medical Care Advisory Committee (42 CFR 431.12(b))

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.

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

Tribal Consultation Requirements

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.

X /State appoints a tribal advisory committee.

X /State appoints a designee of the IHS, Tribes or Tribal organizations operating health programs under the ISDEAA, and/or Urban Indian organizations operating health programs under the IHCIA to the State medical care advisory committee.

\_\_\_\_\_/Other, Specify:

\_\_\_\_\_/Not applicable because the State does not have at least one Indian Health Program or Urban Indian Organization furnishing health care services.

Maine intends to solicit advice that meets the requirements of §1902(a)(73) of the Act. The Department meets with Indian health directors and explains the purpose and intent of the Medicaid advisory and subcommittees. Then the Indian health directors determine which members would best serve the tribal population on the following committees. The Department also does its best to accommodate any special arrangements (i.e. phone calls into meetings) to allow members as much participation as possible. Maine uses the following process for consultation:

- Appointment of a member from each federally recognized tribe to the MaineCare Advisory Committee and subcommittee meetings (including the MaineCare Advisory Committee Transportation Subcommittee), meeting monthly,

- Invitation to all Provider Advisory Group and Technical Advisory Group Meetings (meeting monthly),
- Addition of Tribal Health Directors to MaineCare Listserv, to which all MaineCare notices are sent,
- Addition of Tribal Health Directors to MaineCare Interested Parties List, to which all proposed and adopted rules are sent,
- Invitation of Tribal Health Directors to ADHOC meetings to discuss policy development,
- Availability of DHHS staff to Tribal Health Director Quarterly Meetings,
- Development of a DHHS Tribal Advisory Committee to include all federally recognized tribes,
- Assignment of a MaineCare Provider Relations Specialist to Tribal Health providers to assure claims specific technical assistance,
- Availability of MaineCare staff as necessary to discuss other MaineCare related concerns.

Plan amendments, waiver requests, and proposals for demonstration projects will be identified as having a direct effect on Indians, Indian health programs, or urban Indian organizations as part of a two tier consultation. In the first tier Indian health providers are part of the Department's interested parties list and will receive written notification, listserv updates and any other correspondence that pertains to any change or updates in any area of MaineCare policy. They are also invited as a MaineCare Advisory Committee (MAC) member, to be part of all policy development and to provide feedback to the Department in an advisory capacity.

The second tier is direct consultation (phone conversations, face-to-face meetings, direct email communications) with Tribes when there is any change or update in policy that effect any services that Tribes are reimbursed for through MaineCare. Issues identified as having a direct effect on the Tribes will be raised in monthly meetings or via listserv at least 30 days in advance of submission to CMS. When notice is provided via a listserv, Indian health providers will have up to 30 days to respond with advice to the State. The notices or information provided to the Indian health providers will describe the change and the anticipated effect on Indians or Indian health providers.

The State reviewed this proposed consultation process with Tribal Leaders at an April 2010 meeting, at which representatives from all four federally recognized tribes were present. Representatives from US DHHS, CMS, the Maine Governor's Office of Health Policy and Maine DHHS MaineCare staff were present at this Quarterly Tribal Health Director meeting held in Indian Township, Maine. Tribal representatives were also sent a draft of the state plan amendment and letter on December 3, 2010 asking for feedback on the proposed state plan amendment; no feedback was provided to the Department.

The Department met with the Tribal health directors again at a May 13, 2011 meeting in Presque Isle, Maine to review the consultation process and once again solicit feedback. The feedback received was the recommendation by the Tribal health directors that as often as possible when direct effect was an issue concerning policy changes the health directors preferred a face-to-face meeting versus other types of communication.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is **0938-1098**. The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

CMS-10293 (07/2013)

TN 10-019  
Supersedes: Not applicable

Approved: 6/28/11      Effective Date: January 1, 2011