

December 6, 2010

James G. Scott  
Associate Regional Administrator  
for Medicaid and Children's Health Operations  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Suite 235  
Kansas City, Missouri 64106

RE: Nebraska SPA #10-05 – Tribal Consultation Process

Dear Mr. Scott:

Enclosed please find the above referenced amendment to the Nebraska State Plan regarding our Tribal Consultation Process and using the new template which you provided.

Prior to submitting this State Plan Amendment, the Division of Medicaid and Long-Term Care sought consultation from federally recognized Native American Tribes and Indian Health Programs within the State of Nebraska to discuss the impact that the proposed State Plan Amendment would have on the Tribes.

If you have content questions, please feel free to contact Sam Kaplan, [sam.kaplan@nebraska.gov](mailto:sam.kaplan@nebraska.gov), 402-471-0122.

Sincerely,



Vivianne M. Chaumont, Director  
Division of Medicaid and Long-Term Care  
Department of Health and Human Services

cc: Gail Brown Stevenson

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: 10-05	2. STATE Nebraska
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		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 December 1, 2010	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION:		7. FEDERAL BUDGET IMPACT: a. FFY 2011      \$0 b. FFY 2012      \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: 1.4, pages 8, 8a, 8b		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): 1.4, page 8	
10. SUBJECT OF AMENDMENT: Tribal Consultation Process			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Governor has waived review <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Patricia (Pat) Taft Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509	
13. TYPED NAME: Vivianne M. Chaumont			
14. TITLE: Director, Division of Medicaid and Long-Term Care			
15. DATE SUBMITTED: December 6, 2010			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Nebraska

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.

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.

**Please describe the process the State uses 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 State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to CMS. Please include information about the frequency, inclusiveness and process for seeking such advice.**

The Division of Medicaid and Long-Term Care (MLTC) meets on a quarterly basis with the tribes (Omaha, Ponca, Santee Sioux and Winnebago) and with the CMS Native American contact to discuss relevant Medicaid/CHIP matters that impact the tribes and to invite discussion and comments for consideration.

Effective September 1, 2010, MLTC implemented a policy regarding seeking consultation from all federally recognized tribes, Indian Health Service and Urban Indian Organizations within the state regarding State Plan Amendments (SPA’s) which may have an impact on those entities. All proposed SPA’s will be sent to the Tribes for comment, not just those that we believe will directly impact the tribes.

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TN No: 10-05

Supersedes

Approval Date \_\_\_\_\_

Effective Date \_\_\_\_\_

TN No. MS-03-12

(1.4 continued)

Proposed SPA's are routed to the tribes prior to submitting the SPA to CMS for comment/input. The proposed SPA is submitted to Tribal Clinics, Health Centers, the IHS Hospital, and to the Nebraska Urban Indian Health Coalition for comment. Unless the date for submission of the SPA to CMS becomes critical and needs to be expedited, MLTC allows the tribes 60 days to respond. If nothing is heard from the Tribes by the end of the stated time period, MLTC is then in a position to submit the SPA to CMS. The CMS Native American Contact is copied in this process by the MLTC to telegraph our efforts to secure comments/input from the Tribes.

If comments are, in fact, received from the tribes, the same is relayed to the Division Director for further consideration. A management decision is then made as to whether additional action (telephone conferences, meetings, research, etc.) would be appropriate under the circumstances prior to submitting the SPA to CMS.

Comments from the Tribes, or the lack of comments/response, are reported to the CMS Native American Contact, as well as our response/resolution to those comments.

**Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment, when it occurred and who was involved.**

In January of 2010, the State received guidance from CMS, SMDL# 10-001, that set forth the general requirements expected of States to alert tribal entities to proposed State Plan Amendments. On February 18, 2010, a Nebraska State/Tribal Consultation Meeting was held. Attending were representatives from the various Tribes in Nebraska, Indian health providers, the Native American Contact from CMS, the Nebraska Medicaid tribal liaison, and the Nebraska Medicaid Director. The tribal consultation issue was discussed in general terms at the meeting and the Tribes expressed a desire to become involved in the consultation process.

Following this, a written process was developed by Nebraska Medicaid outlining the process for the State to follow to secure consultation with the Tribes prior to the State submitting a SPA. The proposed process was reviewed and approved by Nebraska Medicaid administration. In June, 2010, the protocol for consultation was shared with Medicaid Division staff and sent to the tribal entities.

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TN No: 10-05

Supersedes

Approval Date \_\_\_\_\_

Effective Date \_\_\_\_\_

TN No. MS-03-12

(1.4 continued)

In October 2010, the State received additional guidance from CMS regarding the consultation process required with tribal entities prior to submitting a SPA to CMS. The additional guidance required that states give the Tribes a sixty day period to consult. The guidance suggested that states should submit to the Tribes a comprehensible summary of the effect of the proposed SPA rather than merely submitting the SPA documents. Nebraska Medicaid revised the protocol for submitting SPA's and securing tribal consultation and communicated to Medicaid Division staff. On November 2, 2010, the State notified all tribal entities its intent to submit a SPA regarding the tribal consultation process. The letter outlined a summary of the consultation process set forth in the revised protocol.

The tribal consultation issue was discussed in detail at a November 29, 2010 Nebraska State/Tribal Consultation Meeting. Attending were representatives from the various Tribes in Nebraska, Indian health providers, the Native American Contact from CMS, and the Nebraska Medicaid tribal liaison. The tribal consultation issue was discussed in detail at the meeting.

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 TN No: 10-05

Supersedes \_\_\_\_\_

Approval Date \_\_\_\_\_

Effective Date \_\_\_\_\_

TN No. MS-03-12

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)