
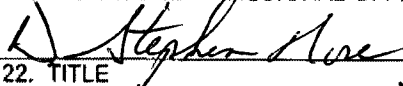


<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER: <b>11-001</b>	2. STATE: <b>COLORADO</b>
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>1/1/2011</b>	
5. TYPE OF PLAN MATERIAL (Check One):  NEW STATE PLAN                      AMENDMENT TO BE CONSIDERED AS A 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 <b>Section 1902(a)(73) of the Social Security Act</b>		7. FEDERAL BUDGET IMPACT a. FFY 2011 \$0 b. FFY 2012 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <b>Section 1.4: State Medical Care Advisory Committee; Pages 9a, 9b, 9c, and 9d</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <b>Section 1.4: State Medical Care Advisory Committee; Page 9 (Supersedes TN 03-032)</b>	
10. SUBJECT OF AMENDMENT <b>State Medical Care Advisory Committee. Adding OMB# 0938-1098 preprint language and description of consultation processes with Indian Health Programs and Urban Indian Health Organizations.</b>			
11. GOVERNOR'S REVIEW (Check One)  GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED  COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL  <p style="text-align: right;"><b>Governor's letter dated 29 July 2009</b></p>			
12. SIGNATURE OF STATE AGENCY OFFICIAL 		16. RETURN TO  Colorado Department of Health Care Policy and Financing 1570 Grant Street Denver, CO 80203-1818  Attn: Barbara Prehmus	
13. TYPED NAME <b>Robert G. Douglas</b>			
14. TITLE <b>Legal Division Director</b>			
15. DATE SUBMITTED <b>Jan 25, 2011</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED <b>1/25/11</b>		18. DATE APPROVED <b>5/25/11</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL <b>1/1/11</b>		20. SIGNATURE OF REGIONAL OFFICIAL 	
21. TYPED NAME <b>D. Stephen Nose, CPA</b>		22. TITLE <b>Acting ARA, DMCHO</b>	
23. REMARKS			

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
1600 Broadway, Suite 700  
Denver, CO 80202-4967



## Region VIII

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May 25, 2011

Susan E. Birch, MBA, BSN, RN, Executive Director  
Department of Health Care Policy & Financing  
1570 Grant Street  
Denver, CO 80203-1818

RE: Colorado #11-001

Dear Ms. Birch:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 11-001. This amendment implements the Tribal Consultation Requirements from Section 1902(a)(73) of the Social Security Act (the Act) which 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 (IHCA).

Please be informed that this State Plan Amendment is approved effective January 1, 2011. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Cindy Smith at (303) 844-7041.

Sincerely,

D. Stephen Nose, CPA  
Acting Associate Regional Administrator  
Division for Medicaid & Children's Health Operations

cc: Laurel Karabatsos  
Barb Prehmus  
John Bartholomew  
Sharon Parga

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Citation

42 CFR 431.12(b)

1.4 State Medical Care Advisory Committee

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.

42 CFR 438.104

x The State enrolls recipients in managed care organizations, prepaid inpatient health plans, and/or primary care case manager programs. The State assures that it complies with 42 CFR 438.104(c) to consult with the Medical Care 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.

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.

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:

The Department of Health Care Policy and Financing (the Department) intends to meet the requirements described above through execution of a formal consultation agreement

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with American Indian health programs in Colorado. The consultation agreement will be fully executed by representatives from all parties prior to official implementation. The parties to the consultation agreement include the Southern Ute Indian Tribe, the Ute Mountain Ute Tribe, Denver Indian Health and Family Services, the Colorado Department of Public Health and Environment, the Office of the Lieutenant Governor of Colorado, and the Department. The Department intends to use the following process, as described in the consultation agreement, to seek advice on a regular, ongoing basis from the parties:

**Programmatic Action Log Update:**

On a bi-monthly basis (approximately every sixty days) each State Agency [the Department of Public Health and Environment and the Department of Health Care Policy and Financing] shall distribute to the Tribes and the UIHO [Urban Indian Health Organization] a Programmatic Action Log Update. The Update shall contain a continuous list/log of Programmatic Actions being developed and/or initiated by each State Agency. The Update shall provide a short description of each Programmatic Action, any clearly foreseeable Tribal Implications, important dates or implementation timeframes, and if the Programmatic Action is considered an Actionable Item. The Update shall indicate a date by which additional consultation must be requested by a Tribe or the UIHO (thirty days from receipt of the Update). The Update shall also contain an area to track whether additional consultation was requested and by whom, and to update current status/resolution of Programmatic Actions.

**Additional Consultation:**

A Tribe or UIHO may request additional consultation on any Actionable Item on the Update or on any question, concern, policy, practice, or issue within the scope of the State Agencies' responsibilities relating to the health of American Indians/Alaska Natives living in Colorado. Actionable Items on the Update shall indicate a date by which a Tribe or the UIHO must request additional consultation (thirty days from receipt of the Update). Additional consultation shall be initiated by written notice (may be in the form of an email) from a designated Tribal or UIHO Liaison(s) and directed to a designated Indian Health Liaison(s). Consultation may include but shall not be limited to meetings (face-to-face or via teleconference), written correspondence including emails, presentations, and discussions at the Colorado Commission of Indian Affairs' Health and Wellness Committee meetings. When consultation is completed, a written response from one or both State Agencies to the Party that requested the consultation shall be sent describing the final determination

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or outcome regarding the topic of consultation. This information shall also be included on the Programmatic Action Log Update.

**Meetings:**

**Face-to-Face and Remotely**

The State Agencies, Tribes, and UIHO, all together or individually, shall meet face-to-face no less than once per fiscal year and as resources allow. As necessary, the State Agencies, Tribes, and UIHO, all together or individually, shall meet remotely via teleconference or videoconference to discuss outstanding issues and/or hold consultations as described above.

This State Plan Amendment contains language from the consultation agreement the Department intends to execute to seek advice on a regular, ongoing basis from the involved parties. The consultation agreement was developed through a collaborative process beginning in January 2010:

- January 2010 – Colorado Commission of Indian Affairs (CCIA) Health and Wellness Committee Meeting (face-to-face) – Discussed establishing channels for better communication between state agencies and the Tribes. (Included, among others: the chairman, the vice-chairman, and the tribal health director of the Ute Mountain Ute Tribe; a councilman from Southern Ute Indian Tribe; staff from the Office of the Lieutenant Governor; and state agency staff.)
- February 2010 – Department staff consulted with the Utah Indian Health Liaison and the Director of the Utah Division of Indian Affairs regarding their experience with consultation agreements.
- March 2010 – CCIA Health and Wellness Committee Meeting (face-to-face) – Developed list of specific contacts from each agency and Tribe to facilitate effective communication. Discussed need for written consultation agreement. (Included, among others: the vice-chairman of the Ute Mountain Ute Tribe; a councilman from the Southern Ute Indian Tribe, and state agency staff.)
- April 2010 – CCIA Health and Wellness Committee Meeting (conference call) – Spoke more in depth about a written consultation agreement. Reviewed consultation agreements from several other states. (Included, among others: the vice-chairman and the tribal health director of the Ute Mountain Ute Tribe; the director of the Ute Mountain Ute Health Center (an IHS facility); a councilman from the Southern Ute Indian Tribe; the director of the Southern Ute Health Center (a 638 facility); staff from the Office of the Lieutenant Governor; and state agency staff.)
- May 2010 – Department staff made an on-site visit to the Colorado reservations. Met individually with each Tribe to discuss their preferences regarding potential content and processes for the consultation agreement. (Included, among others: the tribal health

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director and a councilman from the Ute Mountain Ute Tribe; the director and office staff of the Ute Mountain Ute Health Center; the executive officer, the co-executive officer, a councilman, and legal representation for the Southern Ute Indian Tribe; the director of the Southern Ute Health Center; and Department staff.)

- June 2010 – First written draft of the consultation agreement was distributed via email and subsequent conference call was held to discuss the draft during which participants agreed to share draft with others in their organizations and get additional feedback. (Recipients of the initial email included: the chairman, the vice-chairman, the tribal health director, and a councilman of the Ute Mountain Ute Tribe; the chairman, the executive officer, the co-executive officer, and a councilman of the Southern Ute Indian Tribe; staff from the Office of the Lieutenant Governor; and state agency staff.)
- August 2010 – Second draft was distributed reflecting requested changes. Requested any additional changes before participants seek approval of the agreement from management and leadership. (Recipients included: a councilman from the Southern Ute Indian Tribe; the director of the Southern Ute Health Center; the vice-chairman and the tribal health director of the Ute Mountain Ute Tribe; the director of the Ute Mountain Ute Health Center; the director of the UIHO; staff from the Office of the Lieutenant Governor; and state agency staff.)
- September 2010 – Discussed at the quarterly CCIA meeting. Awaiting final comments from one of the Tribes.
- November 2010 – Having received no response from the UIHO, additional communication was sent to other representatives of the UIHO requesting advice and feedback on the draft.
- December 2010 – Discussed at quarterly CCIA meeting. Still awaiting final comments from one of the Tribes. It was decided that the Office of the Lieutenant Governor would send a written communication to the Tribes and request that the draft be reviewed by Tribal Councils for final changes prior to execution. Awaiting approval from Tribal Councils and agency management. Also awaiting feedback and approval from the UIHO.