

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

601 E. 12th St., Room 355

Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

February 2, 2024

Jay Ludlam

Deputy Secretary of Medical Assistance

Division of Medical Assistance

2001 Mail Service Center

1985 Umstead Drive

Raleigh, NC 27699-20014

Re: North Carolina State Plan Amendment (SPA) 23-0038

Dear Deputy Secretary Ludlam:

The Centers for Medicare & Medicaid Services (CMS) reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 23-0038. This amendment adds tribal consultation process for Indian Health Services Facilities and Urban Indian Organizations.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter is to inform you that North Carolina's Medicaid SPA 23-0038 was approved on January 29, 2024, with an effective date of October 1, 2023.

If you have any questions, please contact Lane Terwilliger at (443) 934-0726 or via email at Lane.Terwilliger@cms.hhs.gov.

Sincerely,

A black rectangular box redacting the signature of Falecia Smith.

Falecia Smith, Acting Director
Division of Program Operations

Enclosures

cc: Betty J. Staton, NC DHHS
Emma Sandoe, NC DHHS
Lane Terwilliger, CMS
Morlan Lannaman, CMS
Nancy Grano, CMS

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

1. TRANSMITTAL NUMBER

2 3 — 0 0 3 8

2. STATE

NC

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL

SECURITY ACT

☒ XIX

☐ XVI

4. PROPOSED EFFECTIVE DATE

October 01, 2023

TO: CENTER DIRECTOR

CENTERS FOR MEDICAID & CHIP SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. FEDERAL STATUTE/REGULATION CITATION

Section 1902(a)(73) and 2107(e)(1)(C)

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 24 \$ 0

b. FFY 25 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Pages 9-V, 9-VI

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION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

None

9. SUBJECT OF AMENDMENT

Adds tribal consultation process for Indian Health Services Facilities and Urban Indian Organizations

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: Secretary

DocuSigned by

06555C1C2ABE4C8

12. TYPED NAME

Jay Ludlam

13. TITLE

Deputy Secretary

14. DATE SUBMITTED

10/23/23 | 9:43 AM EDT

15. RETURN TO

Office of the Deputy Secretary

Department of Health and Human Services

2001 Mail Service Center

Raleigh, NC 27699-20014

FOR CMS USE ONLY

16. DATE RECEIVED

11/07/2023

17. DATE APPROVED

01/29/2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

10/01/2023

19. SIGNATURE OF

20. TYPED NAME OF APPROVING OFFICIAL

Falecia Smith

21. TITLE OF APPROVING OFFICIAL

Acting Director, Division of Program Operations

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: North Carolina

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.

North Carolina will use the process identified in this section to seek advice on a regular, ongoing basis from Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on all State Plan Amendments (SPA), waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to the Centers for Medicare and Medicaid Services (CMS).

To meet the requirements for timely notification of Indian Health Service (IHS) facilities in North Carolina for SPA/Waiver submissions or other policy changes that arise between MCAC Quarterly meetings the Medicaid Agency will notify IHS facilities in writing of these pending changes. The State will use this combined approach to seek IHS facilities' advice and input on matters related to the changes to Medicaid and CHIP programs. This approach will be applicable to IHS facilities that are not previously included in other areas of the State Plan or by other SPA pages.

TN No: 23-0038

Approval Date: 01/29/2024

Effective Date: 10/01/2023

Supersedes

TN No: NEW

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

a) If requested by the facility, in follow up to these notifications, the State will meet quarterly or as needed via conference calls with representatives of IHS facilities and Division of Health Benefits key leadership staff to discuss any items of importance to the parties. These discussions may include provision of additional information or IHS facilities' input on pending changes, update on current status of ongoing initiatives, and ongoing assessment of the consultation process to assure efficiency and effectiveness of the consultative activities. These meetings will provide a forum for IHS facilities to share and discuss concerns regarding policy and the consultation process with the decision-makers in the Medicaid Agency.

b) Appoint Medicaid primary contacts responsible for assuring notification of all pending SPA/Waiver or policy changes. If a SPA or waiver submission to CMS will occur outside of the scheduled MCAC quarterly meeting timeframe, DHB will notify the IHS facility in writing 30 days prior to submission to CMS or for SPA or Waivers that require expedited review the state will provide the SPA or Waiver in writing at least 10 days prior to submission to CMS.

c) Invite, on a routine basis, the Senior Health Official of a/an IHS facility or their designee to participate in policy planning (SPA, NC Administrative Code, Clinical Coverage), waiver development, program planning, and development workgroups and initiatives.

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.

After CMS alerted the state that the IHS facility was operating in the state, North Carolina set up a call with Unity Healing Center to explain the SPA and Waiver consultation process that is used for North Carolina Medicaid with the Eastern Band of Cherokee Indians (EBCI). As a result of that conversation, Unity and the State agreed that the state would send SPAs and waivers to Unity Healing Center prior to the SPA's submission to CMS. The state provides a copy of the SPA and a tribal form that includes an opportunity for the facility to respond. This meeting occurred on March 16, 2023 at 2pm EST with Joni Lyon, Cherie Rose from Unity and Emma Sandoe, Betty Staton and Cecilia Williams from DHB. The state began sending SPAs as part of this process to Unity Healing Center and continues to do so to this day. Per the state's understanding of CMS's guidance the state would need to develop a SPA to include this process for the IHS facilities. The state drafted a proposed SPA and shared it with three contacts – Joni Lyon, Cherie Rose and Robert Sanders at the Unity Healing Center on June 6, 2023 and again followed up on July 6, 2023.

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