

**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

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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](mailto:Lane.Terwilliger@cms.hhs.gov).

Sincerely,

  
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

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER <u>2 3</u> — <u>0 0 3 8</u>	2. STATE <u>NC</u>
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <u>XIX</u> <u>XXI</u>	
5. FEDERAL STATUTE/REGULATION CITATION Section 1902(a)(73) and 2107(e)(1)(C)		4. PROPOSED EFFECTIVE DATE <u>October 01, 2023</u>	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Pages 9-V, 9-VI		6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>24</u> \$ <u>0</u> b. FFY <u>25</u> \$ <u>0</u>	
		8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <u>None</u>	

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

06565C1C2ABE4C8

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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