



Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

March 1, 2016

Mr. Scott Davis  
ND Indian Affairs Commission  
600 E Boulevard Avenue  
Bismarck, ND 58505

Dear Mr. Davis:

This letter is regarding the Tribal Consultation between the North Dakota Department of Human Services and the North Dakota Indian Tribes. The consultation process was established to ensure Tribal governments are included in the decision making processes when proposed changes in the Medicaid or Children's Health Insurance Program(s) will directly impact the North Dakota Tribes and/or their Tribal members.

**Medicaid Provider Rate Changes**

North Dakota State Law (Century Code Section 54-44.1-12) contains a provision for a budget allotment, should State revenue projections fall short of anticipated expenditures for the biennium. On Monday, February 1, 2016, the Office of Management Budget (OMB) released the revised revenue forecast. As a result of the revised revenue forecast, State agencies must reduce general fund expenditures. In order to comply with State Law, and the Constitution, the amount of the necessary savings is 4.05 %. For the Department of Human Services this equates to a \$53.95 million allotment. The budget changes must be made quickly as the allotment applies to expenditures for the 2015-2017 biennium.

The Department has carefully reviewed all programs and services, starting with Department Operation and Administrative expenses, and has submitted the required savings plan to OMB. Details about the savings plan can be found on the Department's web site at <http://www.nd.gov/dhs/>

The approved Tribal Consultation process allows for an expedited consultation to be used in situations that do not allow for advanced consultation. This expedited consultation would be used when there are changes in either Federal or State law that require immediate implementation or in cases where a natural disaster warrants immediate action. Under an expedited review, written notice will be provided to all individual entities identified in the Consultation section of this amendment; however, the response time may be truncated or implementation may need to occur prior to the issuance of the written notice. Due to the State needing to take immediate action to reduce general fund expenditures, the Department is using expedited consultation; however, will consider all

input received during the state plan process with the Centers for Medicare and Medicaid Services. The budget allotment will also be discussed during the Department of Human Services/Tribal Health/Indian Health Services meeting to be held on March 2, 2016.

The Department's allotment plan includes the following items, which impact payments to Medicaid providers:

- The **July 1, 2016** Provider Inflation will not be granted
  - This is effective for both Medicaid State Plan Services and Medicaid 1915 c Waiver services.
- The July 1, 2015 Rate Increase for Ambulance Services will end
  - The Medicaid Fee schedule was increased by a volume weighted average of approximately 13% for ambulance services, effective for dates of service on or after July 1, 2015. This increase was approved by the 2015 Legislative Assembly, but is included in the allotment plan and is scheduled to end **June 1, 2016**.
- The July 1, 2015 Rate Increase for PT, OT and Speech Therapy will end
  - The Medicaid Fee schedule was increased by a volume weighted average of approximately 21% for services provided by physical therapists, occupational therapists, and speech therapists, effective for dates of service on or after July 1, 2015. This increase was approved by the 2015 Legislative Assembly, but is included in the allotment plan and is scheduled to end **June 1, 2016**.
- Basic Care (Reference: 2013 HB 1359)
  - A planned increase in the limit for personal care provided by a residential provider will not be implemented on **July 1, 2016**.
- **January 1, 2017** Inflationary Increases for Nursing Facilities and Psychiatric Residential Treatment Facilities will not be granted.
- Effective **January 1, 2017**, rebasing of limits, operating margin, and incentive payments will not be included in the nursing home rates.
- Effective **January 1, 2017**, the operating margin within the rates for Basic Care Providers will be removed from the rates.
- Pharmacy Outpatient Rate Changes
  - On January 21, 2016 CMS issued a final rule requiring changes in how states reimburse Medicaid pharmacy costs. The deadline to implement is April 1, 2017; however the Department plans to implement this provision earlier to realize additional savings. This will result in a lower reimbursement for the product and a higher reimbursement for the professional dispensing fee. The Department intends to implement this change on or after **July 1, 2016**.
- Additional Medicaid Autism Waiver Slots authorized by the 2015 Legislative Assembly will not be filled.
  - The additional slots added to increase the age limit of the Medicaid Autism Waiver **WILL BE** able to be filled.
- Consistent with how other State Medicaid agencies operate a Medicaid Managed Care program, the fee schedule used by Sanford Health Plan for Medicaid Expansion will be adjusted to be closer aligned to the traditional Medicaid reimbursement structure. This transition will begin **January 1, 2017**.

- The Medicaid professional fee schedule will be reduced to align with Medicare. This impacts Evaluation and Management services, Physician services and other services performed by other providers/practitioners. Other providers/practitioners include: Audiologists, Chiropractors (x-rays), Clinical Nurse Specialists, Dieticians, Independent Laboratories, Independent x-ray Services, Licensed Addiction Counselors, Licensed Associate Professional Counselors, Licensed Professional Clinical Counselors, Licensed Social Workers, Licensed Independent Clinical Social Workers, Nurse Midwives, Nurse Practitioners, Opticians, Optometrists, Physician Assistants, Podiatrists, and Psychologists.
- The following North Dakota Medicaid 1915(c) Waivers are being amended to remove reference to provider inflationary rate increases that will not be granted on July 1, 2016:
  - Children’s Hospice
  - Medicaid Waiver for Home and Community Based Services
  - Technology Dependent
  - Traditional Individuals with Intellectual Disabilities/ Developmental Disabilities

This is effective for all service providers, including Qualified Services Providers that are funded through the above waivers.

In addition, the Home and Community Based Services and the Traditional Individuals with Intellectual Disabilities /Developmental Disabilities waivers are being amended to adjust the homemaker fee for service rate.

- The Home and Community-Based Services (Qualified Services Providers) fee-for-service rates for homemaker services ONLY will be adjusted. The current rates are \$5.09 per 15 minutes for individual providers and \$6.99 for agency providers and will be reduced to \$3.00 per 15 minutes and \$3.45 per 15 minutes, respectively. Homemaker services are provided under the HCBS Medicaid waiver, Traditional Developmental Disability Medicaid waiver, Service Payments to the Elderly and Disabled (SPED), and Expanded Service Payments to the Elderly and Disabled (Ex-SPED). The fee for service rate was established using North Dakota mean hourly wage information for similar work obtained from the U.S. Bureau of Labor and Statistics. This change is expected to be effective on or after July 1, 2016.

Comments and public input on these proposed waiver amendments will be accepted from March 1, 2016 **until 5 p.m. (central time) on March 30, 2016**. Comments will be accepted in the following ways:

**Email:** [dhshcbs@nd.gov](mailto:dhshcbs@nd.gov)

**Phone:** 800-755-2604 or 701-328-4602

**Fax:** 701-328-4875

**Mail:** North Dakota Department of Human Services

Medical Services Division

Attn: HCBS

600 E. Boulevard Ave., Dept. 325  
Bismarck, ND 58505 -0250

View the waiver amendment draft applications at  
[www.nd.gov/dhs/info/pubs/medical.html](http://www.nd.gov/dhs/info/pubs/medical.html)

AND

<http://www.nd.gov/dhs/services/disabilities/dd.html>

Copies of the draft applications will also be provided upon request.

**There will be no change to the Indian Health Services encounter rate as a result of the budget allotment.**

Effective **July 1, 2016**, Intermediate Care Facilities and Group Homes serving individuals with a Developmental Disability will continue to receive rate enhancements based on the medical and/or behavioral health needs of clients. The rate enhancement payments will not receive an inflationary increase on July 1, 2016.

**Provider screening**

The Department of Human Services continues efforts to update the Medicaid State Plan to reflect current provider screening efforts to include compliance with the monthly screening requirements and site visits for moderate and high risk providers. The Department is also working on implementing the steps necessary to comply with federal requirements related to finger-print based criminal background checks for high risk providers.

Please send comments, questions or concerns about the proposed State Plan Amendments or waivers to my attention at 600 East Boulevard Avenue, Department 325, Bismarck, ND 58505. You may also send information via e-mail to me at [manderson@nd.gov](mailto:manderson@nd.gov)

The Department appreciates the continued opportunity to work collaboratively with you to achieve the Department's mission, which is: "To provide quality, efficient, and effective human services, which improve the lives of people."

Sincerely,



Maggie D. Anderson, Executive Director  
ND Department of Human Services