



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Region IX

Division of Medicaid & Children's Health Operations

90 Seventh Street, Suite 5-300 (5W)

San Francisco, CA 94103-6706

APR 05 2011

Michael J. Willden, Director  
Department of Health and Human Services  
4126 Technology Way, Room 100  
Carson City, Nevada 89706-2009

Dear Mr. Willden:

Enclosed is an approved copy of Nevada State Plan Amendment (SPA) Number 10-013 which establishes the State's tribal consultation policy. This SPA implements Section 5006(e) of the Recovery Act, which mandates that States consult with Tribes and designees of Indian health programs on State plan amendments, waiver requests, or proposals for a demonstration project that are likely to have a direct effect on Indians, Indian health programs, or urban Indian organizations.

The approval is effective January 1, 2011. Attached are copies of the new pages of Attachment 1.4, Pages 9 (Continued) – 9 (Continued Pg. 2) to be incorporated into your State plan.

If you have any questions, please contact Cynthia Nanes at (415) 744-2977 or at [Cynthia.Nanes@cms.hhs.gov](mailto:Cynthia.Nanes@cms.hhs.gov).

Sincerely,

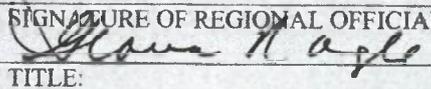
Gloria Nagle, Ph.D., MPA

Associate Regional Administrator

Division of Medicaid & Children's Health Operations

Enclosure

cc: Charles Duarte, Administrator, DHCFP  
Marta Stagliano, Chief, Compliance, DHCFP  
Michele Bowser, CMS Center for Medicaid & State Operations (two copies)

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>10-013</b>	2. STATE <b>NEVADA</b>
<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 <b>January 1, 2011</b>	
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: <b>42 CFR 431.12</b>		7. FEDERAL BUDGET IMPACT: a. FFY 2010                      \$0 b. FFY 2011                      \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Section 1.4 Page 9 (Continued) – Page 9 (continued Pg. 2)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>N/A</b>	
10. SUBJECT OF AMENDMENT: This state plan amendment is to memorialize the State of Nevada's tribal consultation process as extracted from the document "Tribal Consultation Process Nevada Department of Health and Human Services (NDHHS) and the Indian Tribes in the State of Nevada." The consultation process has been in effect since March 2010. The effective date of the state plan amendment is October 1, 2010 based upon guidance from the Centers from Medicare and Medicaid Services (CMS). In addition, CMS requires the consultation process to be added under the authority of the Medical Care Advisory Committee (MCAC).			
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                      The Governor's Office does not <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL                      wish to review the State Plan Amendment.			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: <b>Marta Stagliano, Chief, Compliance DHCFP/Medicaid 1100 East William Street, Suite 101 Carson City, NV 89701</b>	
13. TYPED NAME: <b>Michael J. Willden</b>		14. TITLE: <b>Director, Department of Health and Human Services</b>	
15. DATE SUBMITTED: <b>JAN 18 2011</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>January 18, 2011</b>		18. DATE APPROVED: <b>APR 05 2011</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>January 1, 2011</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <b>Gloria Nagle, PhD, MPA</b>		22. TITLE: <b>Associate Regional Administrator</b>	
23. REMARKS:  <b>Pen and ink change made to Box 8.</b>			

State:           Nevada          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 bases 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). Section 2107(e)(1) 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.*

Nevada Consultation Process

The Department of Health and Human Services (DHHS), Tribes, Indian Health Service, Tribal and Urban Indian Organizations (I/T/U) residing within of the State of Nevada created a Tribal Consultation Process. The Tribal Consultation Process was signed and became effective March 2010. Below is a summary of the process for the Tribal Consultation Process:

**Purpose** - The purpose of the agreement is to establish an open and meaningful consultation process between the Nevada Department of Health and Human Services and the Indian Tribes in the State of Nevada to facilitate better communication and collaboration between the entities.

**Agreement** - The guiding principle of the agreement is to ensure that open and meaningful communication occurs in a timely manner for consultation between the parties regarding high-level policy changes that significantly impact Indian Tribes in the State of Nevada. Policy changes that significantly impact Indian Tribes refer to actions that have substantial Tribal implications with direct effects on one or more Indian Tribes, on relationship between the State of Nevada and Indian Tribes, or on the distribution of roles on and responsibilities between the State of Nevada and Indian Tribes.

A copy of the tribe-state consultation process can be requested from the Division of Health Care Financing and Policy (DHCFP).

1. *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.*

Notification Process

In addition to the tribe-state consultation process set forth between DHHS, Tribes, and I/T/Us;

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DHCFP will consult with all federally recognized Tribes and I/T/Us within the State of Nevada on all Medicaid state plan amendments, waiver requests, waiver renewals, demonstration project proposals and/or on all matters that relate to Medicaid and CHIP programs.

- a. The notification will describe the purpose of the state plan amendment, waiver request, waiver renewal, demonstration project proposal and/or on matter relating to Medicaid and CHIP programs and will include the anticipated impact on Tribal members, Tribes and/or I/T/Us. The description of the impact will not be Tribal member, Tribe and/or I/T/U specific if the impact is similar on all Tribal members, Tribes and/or I/T/Us.
  - b. The notification will also describe a method for Tribes and/or I/T/Us to provide official written comments and questions within a time-frame that allows adequate time for State analysis, consideration of any issues that are raised and the time for discussion between the State and entities responding to the notification.
  - c. Tribes and I/T/Us will be provided a reasonable amount of time to respond to the notification. Whereof, thirty (30) days is considered reasonable.
  - d. In all cases where Tribes and/or I/T/Us request in-person consultation meetings, DHCFP will make these meetings available.
  - e. The tribe-state consultation process allows for an expedited process for notification of policy changes due to budget cuts prior to changes being implemented. The Centers for Medicare and Medicaid Services (CMS) requires Medicaid state plan amendments, waiver requests and waiver renewals, which fall within this category to have a notification process prior to these documents being submitted to CMS. Due to this, the State is instituting an expedited process which allows for notification to the tribes of at least one week notice prior to the changes being implemented as agreed upon in the tribe-state consultation process or two weeks prior to the submission of the state plan amendments, waiver requests and/or waiver renewals, whichever date precedes.
2. *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.*

State of Nevada, Department of Health and Human Services (DHHS) Tribal Consultation Process: On August 13, 2009, Michael J. Willden (Director, DHHS), Charles Duarte (Administrator, DHCFP) and John Liveratti (Chief of Compliance, DHCFP) met with representatives from the Indian Health Board of Nevada (IHBN) to begin tribal-state collaboration process discussions. To help facilitate this discussion, IHBN presented a draft of the State of Arizona's tribal-state consultation policy. Based on the outcome of this discussion and Arizona's draft policy, Mary Liveratti (Deputy Director, DHHS) created a draft tribal-state consultation policy. The draft policy was completed on September 15, 2009. Subsequently, the Deputy Director presented the draft policy to the IHBN and DHHS division administrators. On October 7, 2009, a follow-up meeting was convened to discuss the draft policy. Those in attendance were Mary Liveratti, Diane Comeaux (Administrator, Division of Child and Family Services), Romaine Gilliland (Administrator, Division of Welfare and

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Supportive Services), Carol Sala (Administrator, Division of Aging and Disability Services), Dr. Luana Ritch (Health Division) and Larry Curley (Indian Health Board Nevada). Resulting from the discussion and input during this meeting, a revised draft was created. On November 10, 2009, a subsequent meeting was convened. Those in attendance were Mary Liveratti, Diane Comeaux, Romaine Gilliland, Carol Sala, Dr. Luana Ritch, Larry Curley, Sherry Rupert (Executive Director, Nevada Indian Commission)<sup>1</sup> and Darryl Crawford (Executive Director, Inter-Tribal Council of Nevada). Based on agreements established during this meeting, in December 2009, DHHS mailed an explanatory letter (viz., requesting their input) and the draft tribal-state consultation policy to all Federally recognized Tribes, Inter-Tribal Council of Nevada, Indian Health Services and Tribal and Urban organizations residing within the State of Nevada. Based on feedback from the chairpersons, DHHS developed a final policy. In January 2010, DHHS mailed policy agreement letters, along with the final policy, to all the tribal chairpersons. Tribes were asked to sign and return the letters to DHHS. As of March 31, 2010, DHHS received 11 responses. On March 31, 2010, the Director sent out a memorandum to all of the division administrators, along with the policy, requesting they sign and return the policy agreement letters to DHHS.

Note<sup>1</sup>: The Nevada Indian Commission is codified into the Nevada Revised Statute (NRS 233A – Indian Affairs).

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