

John Bel Edwards  
GOVERNOR



Rebekah E. Gee MD, MPH  
SECRETARY

**State of Louisiana**  
Department of Health and Hospitals  
Bureau of Health Services Financing

May 13, 2016

Bill Brooks  
Associate Regional Administrator  
Division of Medicaid & Children's Health  
DHHS/Centers for Medicare and Medicaid Services  
1301 Young Street, Room #833  
Dallas, Texas 75202

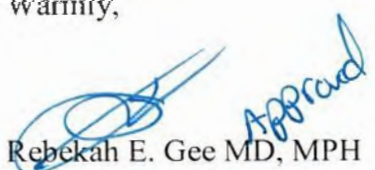
Dear Mr. Brooks:

**RE: Administrative Procedure- Tribal Consultation Process  
Transmittal No. 16-0006**

I have reviewed and approved the enclosed Louisiana Title XIX State Plan material.

I recommend this material for adoption and inclusion in the body of the State Plan.

Warmly,



Rebekah E. Gee MD, MPH  
Secretary

Attachment (2)

REG/WJR/JH

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:  
**16-0006**

2. STATE  
**Louisiana**

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE  
**June 20, 2016**

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (Check One):  
 NEW STATE PLAN     AMENDMENT TO BE CONSIDERED AS NEW PLAN     AMENDMENT  
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:  
**Section 1902(a)(73) of the Social Security Act**


7. FEDERAL BUDGET IMPACT:  
a. FFY 2016    0  
b. FFY 2017    0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
**Section 1.6, Pages 9c-9e**

9. PAGE NUMBER OF THE SUPERSEDED PLAN  
SECTION OR ATTACHMENT (If Applicable):  
**Same (TN 12-0013)**

10. SUBJECT OF AMENDMENT: **The SPA proposes to revise the provisions governing the tribal consultation process in the Medicaid program, specifically to clarify language pertaining to waiver amendments.**

11. GOVERNOR'S REVIEW (Check One):  
 GOVERNOR'S OFFICE REPORTED NO COMMENT     OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED    **The Governor does not review state plan material.**  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:  


13. TYPED NAME:  
**Rebekah E. Gee MD, MPH**

14. TITLE:  
**Secretary**

15. DATE SUBMITTED:  
**May 13, 2016**

16. RETURN TO:  
**Jen Steele, Interim Medicaid Director  
State of Louisiana  
Department of Health and Hospitals  
628 N. 4<sup>th</sup> Street  
P.O. Box 91030  
Baton Rouge, LA 70821-9030**

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

18. DATE APPROVED:

**PLAN APPROVED – ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

22. TITLE:

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Louisiana

**1.6 Tribal Consultation**

**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.

- Louisiana Medicaid recognizes the primary objective for the required consultations set forth in the Act is to keep Indian Health programs informed of changes to Medicaid/CHIP (submitted through State Plan amendments (SPAs), proposed waivers, waiver extensions, waiver amendments or waiver renewals) that are more restrictive for eligibility determinations, changes that reduce payment rates or changes in payment methodologies to Indian Tribe, Tribal Organization, Urban Indian Organization (ITU) providers or for services reimbursed to ITU providers, reductions in covered services, changes in consultation policies, and proposals for demonstrations or waivers that may impact Indians or ITU providers.
- Each quarter (or more frequently, as needed) the State Medicaid Agency’s (SMA) Policy and Compliance Section creates a letter detailing the name, purpose, and effective date of all SPAs, new waivers, renewals, extensions, amendments and demonstrations that have been proposed. The letter provides a summary of the actions the SMA will take and the impact those actions may have on Medicaid recipients.
- Upon request, the appointed SMA Designee of Indian Health Services will speak (i.e. teleconference) with the chosen representative (s) of the federally recognized tribes, including: Chitamacha, Coushatta, Jena Band of Choctaw and Tunica/Biloxi tribes as well as the CMS Native American contact to discuss relevant Medicaid/CHIP matters that are outlined in the letter and may affect the tribe’s health care.

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TN \_\_\_\_\_ Approval Date \_\_\_\_\_ Effective Date \_\_\_\_\_

Supersedes  
TN \_\_\_\_\_

- Louisiana has only one Indian Health Service (IHS 638) clinic also known as the “Chitimacha Health Clinic” located in Charenton, Louisiana. This clinic will be informed of any proposed changes to the Medicaid Program through an emailed summary. . The Tribes, or their appointed representatives, will have 30 days to respond with any comments, unless the date for CMS submission of the SPA or waiver becomes critical and needs to be expedited. In this case, the appointed representatives will have 7 days to respond with any comments they may have.
- The CMS Native American Contact is copied on all correspondence in this process by the agency designee to communicate our efforts to secure comments/input from the Tribes.
- If comments are received, they will be forwarded to the Medicaid Director for further consideration. A written response will be given to any written comments received.
- If no comments are received within the 30-day or 7-day time frame, the State will make the assumption the Tribes agree with the provisions in the proposed SPAs and waiver amendments.
- Comments from the Tribes, or lack thereof, will also be reported to the CMS Native American contact.
- The anticipated impact on Indians, Indian health providers, and Indian tribes will be improved communication and feedback concerning changes made to the Medicaid State Plan and approved waiver programs. These changes can effect provider payments and services, especially with regard to a reduction in services. The Indian health providers can better prepare for any negative impacts and have an avenue to express opinions to the State on these issues. The consultation process further aides in the implementation of Medicaid policy and works to ensure that policy plays a meaningful role in addressing issues affecting Indian tribes.

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.

- On January 22, 2010 the State received guidance from CMS on the implementation of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. The act includes general requirements expected of States to alert Tribal entities to proposed SPAs.
- Written notification of individual SPAs as well as a summary was sent to the four tribes and health clinic on the following dates: February 18, 2010, March 25, 2010, June 25, 2010, September 21, 2010, September 23, 2010, December 2, 2010 and December 17, 2010.
- On January 31, 2011 the state Medicaid Director, Deputy Director and State Plan Unit Program Manager visited the Chitimacha Health Clinic and spoke to representatives about the federal requirements.

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TN \_\_\_\_\_ Approval Date \_\_\_\_\_ Effective Date \_\_\_\_\_

Supersedes

TN \_\_\_\_\_

- The Chitimacha representatives expressed a preference for an abbreviated description of the SPAs and waivers as opposed to the existing practice of sending a longer description which included the actual State Plan pages. They noted they would notify the State if they wanted any further information or had any comments on the individual amendments.
- On July 18, 2011 a review of Idaho and Texas tribal consultation process was done by the Program Manager.
- As requested, the State began to send only summaries of the SPA purpose of SPAs / waiver amendments to the individual Tribes via email, also listing the name, description and effective date of the individual SPAs and waiver amendments.

A formal summary letter signed by the Medicaid Director was sent to the Chitimacha Health Clinic with the instructions to call or send any written questions or comments to the Policy and Compliance Section Chief.

- Notifications have been emailed and mailed on the following dates in 2011: March 3, 2011, March 10, 2011 (Coordinated Systems of Care notice), June 20, 2011, July 27, 2011, August 25, 2011 and November 14, 2011.
- On December 8, 2011, a review of several other states' (i.e. Arizona, New Mexico and Nebraska) tribal consultation process was completed by the Program Monitor.

The current practice is to send on-going, frequent written summaries which are emailed to the four Tribes and to the Chitimacha Health Clinic.

- A teleconference can be requested by the Tribes to give the Tribal representatives more opportunity to ask any questions directly to the State or Federal staff. The SMA designee will follow-up as needed.

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TN \_\_\_\_\_ Approval Date \_\_\_\_\_ Effective Date \_\_\_\_\_

Supersedes

TN \_\_\_\_\_



will provide the requirements deemed necessary to allow registered nurses and Advanced Practice Registered Nurses (APRNs) the authority to delegate medication administration in outpatient clinic settings for patients with stable and predictable health conditions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are not anticipated to result in costs and/or economic benefits to any person or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes do not affect competition and/or employment.

Karen C. Lyon  
Executive Director  
1603#075

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

Administrative Procedures  
Tribal Consultation Process  
(LAC 50:I.105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Federal regulations at §1902(a)(73) of the Social Security Act (the Act) requires states 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 (HIS), 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)(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.

In compliance with the provisions of §§1902(a)(73) and 2107(e)(I), the Department of Health and Hospitals, Bureau of Health Services Financing submitted the required Medicaid State Plan Amendment (SPA) under transmittal number (TN) 12-13 in June 2012 and secured federal approval of the Medicaid Program's tribal consultation process from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The tribal consultation process must be completed

for all Medicaid State Plan, waiver, and CHIP submissions to CMS.

CMS has now determined that LA SPA TN 12-13 needs to be amended in order to clarify the regulations governing the provisions relative to waiver submissions, and has directed the department to submit a corresponding SPA to make the necessary revisions. In compliance with CMS' directive, the department proposes to adopt provisions governing the tribal consultation process in the Medicaid Program and to promulgate these provisions in a codified format for inclusion in the *Louisiana Administrative Code*. This proposed rule will also satisfy the technical requirements for federal public notice for submission of the corresponding SPA.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 1. General Provisions

#### Chapter 1. Administrative Procedures

#### §105. Tribal Consultation Process

A. Pursuant to §1902(a)(73) and §2107(e)(I) of the Social Security Act, the Medicaid Program hereby establishes a process to seek advice on a regular, ongoing basis from designees of the state's federally-recognized Indian tribal organizations and Indian health programs about Medicaid and Children's Health Insurance Program matters that may have a direct impact on Indian health programs and tribal organizations.

B. The department shall comply with the technical requirements for providing verification of the tribal consultation process to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) when changes to the Medicaid Program are submitted through:

1. State Plan amendments;
2. waivers, including:
  - a. newly proposed submissions;
  - b. amendments;
  - c. extensions;
  - c. renewals; and
  - d. waiver terminations.

C. In accordance with the approved Medicaid State Plan governing the tribal consultation process, the Medicaid Program will periodically provide a summary, which includes the changes being made by the Medicaid Program, to the federally-recognized Louisiana tribal organizations to initiate the tribal consultation process.

1. Tribal organizations will have 30 days to respond with any comments, unless the date for submission of the changes to CMS becomes critical and needs to be expedited. Expedited submissions will have a 7-day comment period. This notification and comment period applies to all State Plan and waiver submissions.

2. If comments are received, they will be forwarded to the State Medicaid Director, or his/her designee, for further consideration. If no comments are received within the 30- or 7-day time frame, the Medicaid Program will make the assumption the tribes agree with the provisions in the proposed State Plan and waiver documents and proceed accordingly.

D. The tribal comment period must expire prior to the submission of State Plan and waiver documents to CMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Administrative Procedures Tribal Consultation Process**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that

\$648(\$324 SGF and \$324 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that \$324 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule adopts provisions governing the federally-mandated tribal consultation process in the Medicaid Program, and promulgates the provisions in a clear and concise manner for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will have no economic cost or benefit to the Medicaid Program for FY 15-16, FY 16-17 and FY 17-18.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Interim Medicaid Director  
1603#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Children's Choice Waiver—Unit of Reimbursement  
(LAC 50:XXI.12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.12101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Children's Choice Waiver in order to adopt requirements mandating that providers utilize the electronic verification system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 7).

Act 299 of the 2011 Regular Session of the Louisiana Legislature directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the Children's Choice Waiver in



# State of Louisiana

Department of Health and Hospitals  
Bureau of Health Services Financing

## VIA ELECTRONIC MAIL ONLY

March 10, 2016

Karen Matthews, Health Director  
Chitimacha Health Clinic  
3231 Chitimacha Trail  
Jeanerette, LA 70544

Angela Martin  
Chitimacha Tribe of Louisiana  
P. O. Box 640  
Jeanerette, LA 70544

Anita Molo  
Chitimacha Tribe of Louisiana  
P. O. Box 640  
Jeanerette, LA 70544

Marshall Pierite, Chairman  
Misty Hutchby, Health Director  
Tunica-Biloxi Tribe of Louisiana  
P. O. Box 1589  
Marksville, LA 71351-1589

Lovelin Poncho, Chairman  
Paula Manuel, Health Director  
Coushatta Tribe of Louisiana  
P. O. Box 818  
Elton, LA 70532

Chief Beverly Cheryl Smith  
Holly Vanhoozen, Health Director  
The Jena Band of Choctaw Indians  
P. O. Box 14  
Jena, LA 71342

Dear Louisiana Tribal Contact:

### **RE: Notification of Louisiana Medicaid State Plan Amendments**

In compliance with the provisions of the American Recovery and Reinvestment Act (ARRA) of 2009, the Department of Health and Hospitals, Bureau of Health Services Financing is taking the opportunity to notify you of the State Plan amendments (SPAs) that may have an impact on your tribe.

Attached for your review and comments is a summary of the proposed State Plan amendments. Please provide any comments you may have by April 8, 2016 to Ms. Darlene Budgewater via email to [Darlene.Budgewater@la.gov](mailto:Darlene.Budgewater@la.gov) or by postal mail to:

Department of Health and Hospitals  
Bureau of Health Services Financing  
Medicaid Policy and Compliance  
P.O. Box 91030  
Baton Rouge, LA 70821-9030



Louisiana Tribal Notice  
March 10, 2016  
Page 2

Should you have additional questions about Medicaid policy, Ms. Budgewater will be glad to assist you. You may reach her by email or telephone at (225) 342-3881. Thanks for your continued support of the tribal consultation process.

Sincerely,

  
for  
Jen Steele  
Interim Medicaid Director

Attachment (1)

JRK/DB/KS

c: Ford J. Blunt III  
Stacey Shuman

# **State Plan Amendment for submittal to CMS**

Request for Tribal Comments

March 10, 2016

## **Administrative Procedures- Tribal Consultation Process**

The SPA proposes to revise the provisions governing the tribal consultation process in the Medicaid program, specifically to clarify language pertaining to waiver amendments.

## **Eligibility- Asset Verification Program**

The SPA proposes to adopt provisions to establish a Medicaid Asset Verification Program to verify the assets of the aged, blind or disabled applicants for, and recipients of, Medicaid benefits.

## **Eligibility- Recipient Appeals and Fair Hearing Requests**

The SPA proposes to revise the provisions governing recipient appeals and fair hearings to ensure that the provisions are consistent with current Medicaid Program operations.