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State/Territory Name: New Mexico

State Plan Amendment (SPA) #: 22-0004

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS Form 179
- 3) Approved SPA Pages

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

May 18, 2023

Ms. Lorelei Kellogg
Director
Medical Assistance Division
New Mexico Human Services Department
2025 South Pacheco Drive
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Re: New Mexico State Plan Amendment (SPA) NM-22-0004

Dear Ms. Kellogg:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) NM-22-0004. This amendment proposes that the state will allow school-based providers in rural and underserved areas access to an increased pool of eligible practitioners which can bill for services; and allow participating schools to seek reimbursement for covered services.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act at 1905(a) and 42 CFR 447. This letter is to inform you that NM-22-0004 was approved on May 18, 2023, with an effective date of July 1, 2022.

If you have any questions, please contact Dana Brown at 410-786-0421 or via email at Dana.Brown@cms.hhs.gov.

Sincerely,

A black rectangular box redacts the signature of James G. Scott.

Digitally signed by James
G. Scott -5
Date: 2023.05.18 07:42:35
-05'00'

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Valerie Tapia
Donna Lopez
Julie Lovato

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

1. TRANSMITTAL NUMBER <u>2 2 — 0 0 0 4</u>	2. STATE <u>N M</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input type="radio"/> XIX <input checked="" type="radio"/> XXI	

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
July 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 447; Section 1905(a) of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 22 \$ 15,433,371
b. FFY 23 \$ 61,733,482

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

State Supplement A to Attachment 3.1-A pg. 5d
Attachment 4.19-B pgs. 3c, 3d, **3e, 3f**
Attachment 4.19-B pg. 3g, **3h, 3i, 3j** (new)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
~~93-27~~ State Supplement A to Attachment 3.1-A pg. 5d
~~TN #15-0015~~ Attachment 4.19-B pgs. 3c, 3d, 3e, 3f
Attachment 4.19-B pg. 3g, 3h, 3i, 3j (new)

9. SUBJECT OF AMENDMENT
Medicaid School Based Services - New Mexico Medicaid is expanding services provided by school districts and Local Education Agencies (LEAs) under the Medicaid School-Based Services Program.

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME
Nicole Comeaux

13. TITLE
Director, Medical Assistance Division

14. DATE SUBMITTED
March 7, 2022

15. RETURN TO
Lorelei Kellogg, Acting Director
Medical Assistance Division
P.O. Box 2348
Santa Fe, NM 87504-2348

FOR CMS USE ONLY

16. DATE RECEIVED March 7, 2022	17. DATE APPROVED May 18, 2023
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL July 1, 2022	19. SIGNATURE OF APPROVING OFFICIAL Digitally signed by James G. Scott -S Date: 2023.05.18 07:43:04 -05'00'
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations

22. REMARKS

5/17/2023: CMS made a pen and ink change in Box 7 and 8 per communication with the state.

State Supplement A to Attachment 3.1A

14. Specific school based services provided by school districts or local education agencies certified by the State Department of Education. School based services are services that are listed in a Medicaid beneficiary's Individual Education Program (IEP), Individual Family Service Plan (IFSP), a Section 504 Accommodation Plan pursuant to 34 C.F.R. 104.36, an Individual Health Care Plan, or are otherwise medically necessary as appropriate for each covered service. The service must be medically necessary and coverable under one or more of the service categories described in Section 1905(a) of the Social Security Act, as well as necessary to correct or ameliorate defects or physical or mental illnesses or conditions discovered by an EPSDT screen.
15. Special rehabilitation services which are evaluative, diagnostic and treatment in nature and necessary to correct any defects or conditions or to teach compensatory skills for deficits that directly result from a medical condition. These services include obtaining, interpreting and integrating the above evaluative, diagnostic and treatment information appropriate to an individual's Individualized Family Service Plan.

Special rehabilitation services include the following:

- (a) Speech, Language and Hearing: These are services for individuals with speech, language and hearing disorders. The services are provided by or under the direction of a speech pathologist or audiologist, as the result of a referral by a physician as defined in 42 CFR 440.110(c). These services mean evaluations to determine an individual's need for these services and recommendations for a course of treatment; and treatments to an individual with a diagnosed speech, language or hearing disorder adversely affecting the functioning of the individual.
- (b) Occupational Therapy: These services are prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice and provided by or under the direction of a qualified occupational therapist as defined in 42 CFR 440.110(b). These services mean evaluations of problems interfering with an individual's functional performance and therapies which are rehabilitative, active or restorative, and designed to correct or compensate for a medical problem interfering with age appropriate functional performance.
- (c) Physical Therapy: These services are prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice and provided by or under the direction of a qualified physical

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F. Direct Medical Services for Local Education Agencies

Local education agencies (LEAs) are reimbursed for the following Medicaid 1905(a) services:

- Physician Services
- Nursing Services
- Psychology Services
- Counseling Services
- Social Work Services
- Speech-Language Services
- Audiology Services
- Occupational Therapy (OT)
- Physical Therapy (PT)
- Specialized Transportation

All costs described within this methodology are for Medicaid services provided by qualified personnel or a qualified health care professional that has been approved under Attachment 3.1- A of the Medicaid state plan.

Interim Payments

For the purpose of making interim Medicaid payments to local education agency (LEA) providers, the New Mexico Medicaid School-Based Services Fee Schedule will be applied to claims submitted to the Medicaid Management Information System (MMIS) for the above services. Except as otherwise noted in the state plan, state-developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rates were set as of July 1, 2022 and are effective for services provided on or after that date. All rates and any updates or periodic adjustments to the fee schedule are published on the New Mexico Human Services Department Website under Providers > Fee for Service > Fee schedules at:

<https://www.hsd.state.nm.us/providers/fee-schedules/>

For specialized transportation services, an interim rate will be determined based on a rate that represents the estimated cost of providing the transportation service by LEA, established by the Public Education Department based on school-based data, including number of students, number of buses, miles travelled, number of school days and transportation funds allocation.

(a.) Direct Medical Services Payment Methodology:

Beginning with cost reporting period July 1, 2022, the New Mexico Medical Assistance Division will begin settling Medicaid reimbursement for direct medical services at cost for all Local Education Agencies (LEAs). This reimbursement at cost methodology will include the following:

- LEA-specific total direct and indirect costs, less any federal payments, are collected
 - The LEA-specific Indirect Cost Rates are published annually by the New Mexico Public Education Department
- A statewide Random Moment Time Study (RMTS) is conducted quarterly to capture the percent of

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time spent on:

- Direct Medical Services
 - General Administration
 - Free Care/Direct Medical Services pursuant to other plans of care or are otherwise medically necessary
- LEA-specific Medicaid Ratios are calculated in order to allocate allowable costs to the eligible populations:
 - Medicaid IEP/IFSP Ratio
 - Medicaid Enrollment Ratio for Other Plans of Care
 - LEA-specific interim direct medical services billing is collected for purposes of settlement against payments already received
 - An annual cost report is completed and a reconciled settlement. If payments exceed Medicaid-allowable costs, the excess will be recouped. As a result of the annual Direct Medical Services Cost Reporting & Settlement process, final LEA reimbursement is determined by the results of the annual Cost Report.

To determine the Medicaid-allowable direct and indirect costs of providing direct medical services to Medicaid-eligible clients in the LEA, the following steps are performed:

1. Direct costs for direct medical services include payroll costs and other costs that can be directly charged to direct medical services. Direct payroll costs include total compensation of direct services personnel and/or contracted costs listed in the descriptions for the covered Medicaid services delivered by school districts.

Other direct costs include costs directly related to the approved direct services personnel for the delivery of medical services, such as direct medical purchased services, direct medical materials, direct medical supplies, and direct medical equipment.

Medical devices and equipment are only allowable for the provision of direct medical services.

These direct costs are accumulated on the annual cost report, resulting in total direct costs. The cost report has been reviewed by the Centers for Medicare & Medicaid Services (CMS), but the state is responsible for following the federal rules and regulations governing cost reporting.

2. The net direct cost for each service is calculated by applying the direct medical services percentages from the CMS-approved time study implementation plan to the direct cost in 1 above.

This CMS-approved time study is used to determine the percentage of time the medical service personnel spend on IEP/IFSP, other medical plans of care, or where medical necessity has been

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established for direct medical services, general and administrative time, and all other activities to account for 100% of time to assure there is no duplicate claiming.

The RMTS methodology will utilize one cost pool for direct medical services which includes all eligible staff (Specific providers are listed in the CMS-approved *NM Medicaid School-Based Services Administrative Claiming Implementation Plan*). The RMTS will generate the statewide Direct Medical Services time study percentages, one for Direct Medical Services pursuant to an IEP/IFSP and one for Direct Medical Services pursuant to other medical plans of care. The two Direct Medical Service time study percentages will be applied to only those costs associated with direct medical services to generate a Direct Medicaid Service cost amount for services provided pursuant to an IEP/IFSP and a Direct Medical Services cost amount for services provided pursuant to other medical plans of care for each cost pool. The direct medical services costs and time study results will be aligned to ensure proper cost allocation. The CMS approval letter for the time study will be maintained by the Human Services Department of New Mexico.

- The Random Moment Time Study (RMTS) Activity Code 4B (Direct Medical Services), Activity Code 4C (Free Care/Direct Medical Service pursuant to other medical plans of care) and Activity Code 10 (General Administration) are specifically applied based on the results of the four quarterly time studies for that fiscal year.
3. Indirect costs are determined by applying the school district's specific unrestricted indirect cost rate to its net direct costs. New Mexico public school districts use predetermined fixed rates for indirect costs. The Public Education Department (PED) is the cognizant agency for the school districts and approves unrestricted indirect cost rates for school districts for the US Department of Education (USDE). Only Medicaid-allowable costs are certified by providers. Providers are not permitted to certify indirect costs that are outside their unrestricted indirect cost rate.
 - The Indirect Cost Rate applied will be based on the approved PED rate that has been published and approved for the dates of services in that year.
 4. Net direct costs and indirect costs are combined.
 5. Medicaid's portion of total net costs is calculated by multiplying the results from Item 4 by applying two separate ratios for each participating LEA. When applied, these ratios will discount the associated Direct Medical Service costs by the percentage of Medicaid enrolled students:
 - Medicaid IEP Ratio: The Medicaid IEP Ratio will be used in the calculation of the Medicaid Direct Medical Service costs pursuant to an IEP/IFSP. The names, gender, and birthdates of students on an IEP/IFSP will be identified from the 80th Day Count Report and matched against the Medicaid enrollment file to determine the percentage of those that are enrolled in Medicaid. The numerator of the rate will be the number of Medicaid-enrolled students with an IEP/IFSP receiving Medicaid-eligible medical services and the denominator will be the total number of enrolled students with an IEP/IFSP receiving

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Medicaid eligible medical services. This ratio will be calculated for each LEA on an annual basis.

- Medicaid Enrollment Ratio for Other Medical Plans of Care (for example, including Individual Health Care Plans, Behavioral Health Care Plans, 504 Plans, etc.): The Medicaid Enrollment Ratio for Other Plans of Care will be used in the calculation of the Medicaid Direct Medical Service costs pursuant to medical plans of care other than an IEP/IFSP. The names, gender, and birthdates of students of all students will be identified from the 80th Day Count Report and matched against the Medicaid enrollment file to determine the percentage of those that are enrolled in Medicaid. The numerator of this rate will be the number of Medicaid-enrolled students and the denominator will be the total number of students. This ratio will be calculated for each LEA on an annual basis.

6. Total Medicaid Reimbursable Cost: The results of the previous steps will be a total Medicaid reimbursable cost for each LEA for Direct Medical Services.

(b.) Specialized Transportation Services Payment Methodology

For dates of service effective July 1, 2015 through June 30, 2023 providers will be paid on an interim cost basis. Providers will be reimbursed interim rates for school-based health services, specialized transportation services at the lesser of the providers billed charges or the interim rate. This reimbursement at cost methodology will include an annual cost report and reconciled settlement. On an annual basis, a cost reconciliation and cost settlement will be processed for all over and under payments. Transportation to and from school may be claimed as a Medicaid services when the following conditions are met:

1. Special transportation is specifically listed in the IEP as a required service;
2. A medical service is provided on the day that specialized transportation is provided; and
3. The service billed only represents a one-way trip

Transportation costs included on the cost report worksheet will only include those personnel and non-personnel costs associated with special education. The cost identified in the cost report includes the following:

- 1) Bus Drivers
- 2) Bus Aides/Monitors
- 3) Mechanics
- 4) Substitute Drivers
- 5) Fuel
- 6) Repairs and Maintenance
- 7) Rentals
- 8) Contract Use Cost
- 9) Vehicle Depreciation

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The source of these costs will be audited Chart of Accounts data kept at the school district and the Public Education Department (PED) level. The Chart of Accounts is uniform throughout the State of New Mexico. Costs will be reported on a cash basis.

- 1) An allocation ratio will be established and applied to the total transportation cost of the school system. This allocation ratio will be based on the *Total IEP/IFSP Special Education Department (SPED) Students in the District Receiving Transportation*. The result of this allocation (%) multiplied by the *Total District or Public Education Department Transportation Cost* for each of the categories listed above will be included on the cost report. It is important to note that this cost will be further discounted by the ratio of *Medicaid Eligible IEP/IFSP SPED Students Receiving Transportation* divided by the total number of *IEP/IFSP SPED Students in the District Receiving Transportation*
- 2) Indirect costs are determined by applying the school district's specific unrestricted indirect cost rate to its net direct costs. New Mexico school systems use predetermined fixed rates for indirect costs. The PED is the cognizant agency for the school systems and approves unrestricted indirect cost rates for the school systems for the US Department of Education (USDE). Only Medicaid allowable costs are certified by providers. Providers are not permitted to certify indirect costs that are outside their unrestricted indirect cost rate.
- 3) Net Direct Costs and Indirect costs are combined.

Effective June 30, 2023, the above methodology in section b. will terminate for calculating specialized transportation costs LEAs are eligible to claim for Medicaid.

Effective dates of service on or after July 1, 2023, providers will be paid on an interim cost basis. Providers will be reimbursed interim rates for school-based health services, specialized transportation services at the lesser of the providers billed charges or the interim rate. This reimbursement at cost methodology will include an annual cost report and reconciled settlement. On an annual basis, a cost reconciliation and cost settlement will be processed for all over and under payments. Transportation to and from school may be claimed as a Medicaid services when the following conditions are met:

1. Special transportation is specifically listed in the IEP/IFSP as a medically necessary service;
2. Specialized transportation (and the specific adaptation) is noted in the IEP as a medically necessary service;
3. A medical service is provided on the day that specialized transportation is provided; and
4. The service billed only represents the costs associated with the one-way trip(s) on the specially adapted transportation for direct medical services as listed in the IEP

Transportation costs included on the cost report worksheet will only include those personnel and non-personnel costs associated with special education as it pertains to specially-adapted vehicles that have been physically-adjusted or designed (e.g., special harness, wheelchair lifts, ramps, specialized environmental controls, etc.) to accommodate students with disabilities in the school-based setting. The cost identified in the cost report includes the following:

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- 1) Bus Drivers
- 2) Bus Aides/Monitors
- 3) Mechanics
- 4) Substitute Drivers
- 5) Fuel
- 6) Repairs and Maintenance
- 7) Rentals
- 8) Contract Use Cost
- 9) Insurance
- 10) Vehicle Depreciation

The source of these costs will be audited Chart of Accounts data kept at the school district and the Public Education Department (PED) level. The Chart of Accounts is uniform throughout the State of New Mexico. Costs will be reported on a cash basis.

- 1) **For school districts that are not able to discretely identify the specialized transportation costs:** An allocation ratio will be established and applied to the total transportation cost of the school district. This allocation will be based on a ratio of the *Total IEP/IFSP Special Education Department (SPED) Students in the District Receiving Transportation to the Total Students in the District Receiving Transportation*. The result of this allocation (%) will be multiplied by the total school district transportation costs for each of the categories listed above and will be included on the cost report.

For school districts that are able to identify the specialized transportation costs: They will solely report the total allowable personnel and non-personnel specialized transportation costs referenced above.

In both instances, the costs will further be discounted in the cost report using the school-district specific Medicaid One-Way Trip Ratio. This is calculated based on the ratio of *Medicaid-Enrolled IEP/IFSP One Way Trips to the Total Number of One-Way Trips on the specialized vehicles included in the cost pool*. This ratio ensures that only Medicaid allowable transportation costs are included in the cost allocation.

- 2) Indirect costs are determined by applying the school district's specific unrestricted indirect cost rate to its net direct costs (excluding transportation contracted costs). New Mexico school districts use predetermined fixed rates for indirect costs. The PED is the cognizant agency for the school districts and approves unrestricted indirect cost rates for the school districts for the US Department of Education (USDE). Only Medicaid allowable costs are certified by providers. Providers are not permitted to certify indirect costs that are outside their unrestricted indirect cost rate.
- 3) Net Direct Costs and Indirect costs are combined.

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(c.) Certification of Funds Process

On an annual basis, each provider will certify through its cost report its total Medicaid allowable costs/expenditures, including the federal share and the nonfederal share. Providers are permitted only to certify Medicaid-allowable costs and are not permitted to certify any indirect costs that are outside their unrestricted indirect cost rate.

(d.) Annual Cost Report Process

For Medicaid services listed in Amendment 93-27 State Supplement A to Attachment 3.1A pg. 5d #14 provided in schools during the state fiscal year, each LEA provider must complete an annual cost report. The cost report is due on or before April 1 following the reporting period.

The primary purposes of the cost report are to:

1. Document the provider's total Medicaid-allowable costs of delivering Medicaid coverable services using an approved cost allocation methodology.
2. Reconcile any interim payments to its total Medicaid-allowable costs using an approved cost allocation methodology.

The annual Cost Report includes a certification of funds statement to be completed, certifying the provider's costs/expenditures. All filed annual Cost Reports are subject to desk review by the New Mexico Medicaid Agency or its designee.

(e.) The Cost Reconciliation Process

The total approved, Medicaid-allowable scope of costs based on an approved cost allocation methodology are compared to any LEA provider's Medicaid interim payments delivered during the reporting period as documented in the Medicaid Management Information System (MMIS), resulting in a cost reconciliation.

For the purposes of cost reconciliation, the state may not modify the approved scope of costs, the approved cost allocation methodology procedures, or its CMS-approved time study for cost-reporting purposes. Any modification to the scope of cost, cost allocation methodology procedures, or time study for cost-reporting purposes requires approval from CMS prior to implementation; however, such approval does not necessarily require the submission of a new state plan amendment.

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(f.) The Cost Settlement Process

EXAMPLE:

If a provider's interim payments exceed the certified costs for Medicaid services provided in schools to Medicaid clients, the provider will remit the federal share of the overpayment at the time the cost report is submitted. The New Mexico HSD/MAD will submit the federal share of the overpayment to CMS within 60 days of identification.

If the certified costs of a LEA provider exceed the interim payments, the New Mexico HSD/MAD will pay the federal share of the difference to the provider in accordance with the final certification agreement and submit claims to CMS for reimbursement of that payment in the federal fiscal quarter following payment to the provider.

(g.) Federal Auditing and Documentation Requirements

The New Mexico State Medicaid agency and any contractors used to help administer any part of the school services program are aware of federal regulations listed below for audits and documentation:

- i. 42 CFR § 431.107 Required provider agreement
- ii. 42 CFR § 447.202 Audits
- iii. 45 CFR § 75.302 Financial management and standards for financial management systems

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