



COMMONWEALTH of VIRGINIA

Office of the Governor

Daniel Carey, MD
Secretary of Health and Human Resources

April 6, 2021

Francis McCullough, Associate Regional Administrator
Centers for Medicare & Medicaid Services
801 Market Street, Suite 9400
Philadelphia, PA 19107-3134

Dear Mr. McCullough:

Attached for your review and approval is amendment 21-011, entitled "Tribal Consultation" to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Carey", written over a horizontal line.

Daniel Carey, MD, MHCM

Attachment

cc: Karen Kimsey, Director, Department of Medical Assistance Services



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

KAREN KIMSEY
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

March 17, 2021

DECISION BRIEF FOR:
The Honorable Daniel Carey, M.D.
Secretary of Health and Human Resources

SUBJECT: AMENDMENT 21-011 to the PLAN for MEDICAL ASSISTANCE, entitled "Tribal Consultation"

ACTION NEEDED
BY 03/29/2021
RETURN TO DMAS

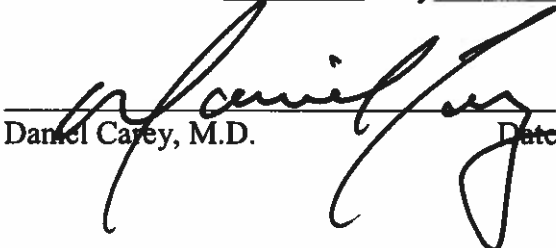
SUMMARY

1. **REQUEST:** The Department of Medical Assistance Services requests the approval of this Plan amendment TN No. 21-011 – Tribal Consultation.
2. **RECOMMENDATION:** Recommend approval of this State Plan amendment. The Agency intends to forward this SPA to the Centers for Medicare and Medicaid Services (CMS) Regional Office no later than April 9, 2021.


 Karen Kimsey, Director 2/23/2021
 Date

3. **SECRETARY'S ACTION:** Secretary of Health and Human Resources

Approve X Approve w/ Modifications _____ Deny _____


 Daniel Carey, M.D. 4/6/21
 Date

DISCUSSION

4. BACKGROUND: The section of the State Plan for Medical Assistance that is affected by this action is entitled “State Medical Care Advisory Committee”.

This state plan amendment proposes to amend the section dedicated to the *State Medical Care Advisory Committee*. The changes for this regulatory section are intended to meet the requirements of Section 1902(a)(73) of the Social Security Act §1902. Section 1902(a)(73) mandates that states that have Indian Health Programs: (1) develop and file a Tribal Consultation SPA and (2) solicit advice from Tribes and from Indian Health Programs prior to submitting any SPA or waiver amendment. Prior to the start of Virginia’s Pamunkey Tribe Indian Health Program, DMAS was only required to solicit advice for 1915 and 1115 waiver applications/renewals.

5. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.
6. FISCAL/BUDGETARY IMPACT: There is no fiscal or budgetary impact.
7. RECOMMENDATION: Recommend approval of this State Plan amendment. This amendment needs to be forwarded to the Centers for Medicare and Medicaid Services Regional Office no later than April 9, 2021.
8. REFERENCES:
 1. Social Security Act, Title XIX.
 2. Code of Federal Regulations, Part 430 to End of Title 42.
 3. Code of Virginia, § 32.1-325.

Transmittal Summary

SPA 21-011

I. IDENTIFICATION INFORMATION

Title of Amendment: Tribal Consultation

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: DMAS is requesting changes to the *State Medical Care Advisory Committee* section to conform to Section 1902(a)(73) which requires states that have Indian Health Programs, to develop and file a Tribal Consultation SPA and solicit advice from Tribes and Indian Health Programs, prior to submitting any SPA or waiver amendment.

Substance and Analysis: The section of the State Plan that is affected by this amendment is entitled *State Medical Care Advisory Committee*. Virginia currently has an Indian Health Program that furnishes health care services. The Pamunkey Tribe has established an Indian Health Program to provide Medicaid services to its community members. To maintain a cooperative channel of communication and informative dialogue between DMAS and the Pamunkey Tribe, the Agency has coordinated a process which seeks advice on a regular, ongoing basis from the tribal health program. DMAS shall solicit advice prior to the submission of any plan amendments, waiver requests, and proposals for demonstration projects that are likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. Also, as this interactive communication between DMAS and the tribal program will likely have a direct effect on the administration of the program's services, DMAS has identified a program designee as an advisory contact, through which, the dissemination of information will occur.

Impact: None

Prior Public Notice: Not applicable.

Public Comments and Agency Analysis: Not applicable.

Tribal Notice: See Attachment A1.



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

KAREN KIMSEY
DIRECTOR

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800/343-0634 (TDD)
www.dmas.virginia.gov

Attachment A1

February 23, 2021

SUBJECT: Notice of Opportunity for Tribal Comment: – State Plan Amendments related to:

- Tribal Consultation

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with the CMS entitled *Tribal Consultation*.

- Tribal Consultation: This SPA will allow the Virginia Medicaid program to conform to the *State Medical Care Advisory Committee* section of the State Plan. This section requires states that have Indian Health Programs to develop and file a Tribal Consultation SPA. To maintain a cooperative channel of communication and informative dialogue between DMAS and the Pamunkey Tribe, Virginia’s sole Indian Health Program, the Agency has coordinated a process which seeks advice on a regular, ongoing basis from the tribal health program. DMAS shall solicit advice prior to the submission of any plan amendments, waiver requests, and proposals for demonstration projects that are likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. Also, as this interactive communication between DMAS and the tribal program will likely have a direct effect on the administration of the program’s services, DMAS has identified a program designee as an advisory contact, through which, the dissemination of information will occur.

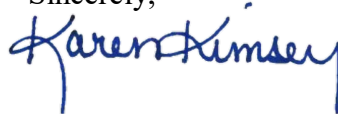
Please contact us if you would like to see the text changes or documents associated with this SPA.

The tribal comment period for this SPA is open through March 23, 2021. You may submit your comments directly to Jimreequa Williams, DMAS Policy Division, by phone (804) 225-3508, or via email: Jimreequa.Williams@dmas.virginia.gov. Finally, if you prefer regular mail, you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Jimiequa Williams
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in blue ink that reads "Karen Kimsey". The signature is written in a cursive style with a large initial "K".

Karen Kimsey, Director
Va. Department of Medical Assistance Services

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

1. TRANSMITTAL NUMBER
2 1 0 1 1

2. STATE
Virginia

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

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
3/01/2021

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

42 CFR Part 431

7. FEDERAL BUDGET IMPACT

a. FFY 2021 \$ 0

b. FFY 2022 \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Pre-Print Page, Page 9

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Same as Box #8

10. SUBJECT OF AMENDMENT

Tribal Consultation

11. 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 of Health and Human Resources

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME

Karen Kimsey

14. TITLE

Director

15. DATE SUBMITTED

2/23/2021

16. RETURN TO

Dept. of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Regulatory Coordinator

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

Revision: HCFA-AT-80-38
May 22, 1980

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

Citation

42 CFR 431.12(b)
AT-78-90

1.4 State Medical Care Advisory Committee

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 413.12.

XX The State enrolls recipients in MCO, HIHP, HAHP, and/or PCCM programs. The State assures that it complies with 42 CFR 438.104(c) to consult with the Medical Care Advisory Committee in the review of marketing materials.

Tribal Consultation:

Section 1902(a)(73) of the Social Security 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) Consultation is required concerning Medicaid matters having a direct impact on these Indian health programs .

DMAS seeks advice on an ongoing basis from federally recognized tribes, Indian health programs, and Urban Indian organizations on matters related to Medicaid and CHIP programs. Designees from each tribe, Indian health program, and Urban Indian organization receive written communication from DMAS about State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, and waiver renewals before any of these documents are submitted to CMS. Tribes, Indian health programs, and Urban Indian organizations may request additional information, and may request meetings to discuss the proposed changes. DMAS invites these groups to request additional information, and/or offer comments on proposed changes, within 30 days of the notification of State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, and waiver renewals. The coordination of this consultation process was established through an email communication with designees from each tribe and Indian Health program on January 29, 2021.

TN No. 21-011
Supersedes
TN No. 03-07

Approval Date _____

Effective Date 3/1/2021

Revision: HCFA-AT-80-38
May 22, 1980

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

Citation

42 CFR 431.12(b)
AT-78-90

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TN No. 03-07

Approval Date _____

Effective Date 3/1/2021