



October 31, 2022

Ms. Nicole Comeaux J.D, M.P.H.
Director, Medical Assistance Division
New Mexico Human Services Department

Dear Ms. Comeaux:

The New Mexico Association for Home and Hospice Care (NMAHHC) appreciates the opportunity to comment on the State of New Mexico Human Services Department's Waiver Renewal Request for the Draft Section 1115 Waiver Renewal Request. The New Mexico Association for Home & Hospice Care (NMAHHC) represents the interests of home health, hospice, and personal care agencies throughout New Mexico. We represent 91 providers who provide services at over 217 locations across the state.

First and foremost, our association is pleased to see the focus on Long Term Support Services (LTSS) in the Waiver Renewal Request. We fully support the State's efforts to spend more LTSS monies on Home and Community Based Services (HCBS) versus services within an institutional setting. **Home is both the more preferred and most cost-effective care setting for older adults.** As the Waiver Renewal Request points out, the average 2022 cost per member per month for nursing facility members is \$9,038.76 compared to \$3,582.48 for community-based members.

Eligibility Proposal

Our association fully supports the eligibility proposal (Eligibility Proposal #2) to expand Home & Community Based services community benefit enrollment opportunities through 1,000 additional waiver slots. However, our association is concerned that without HSD fully funding HCBS and reducing the administrative burden on our providers, that the personal care service provider network is in peril. Since 2019, the New Mexico statewide minimum wage rose by \$4/hour. However, based on our own rate study costs, driven by the State's minimum wage increases and other mandates, increased for providers during that same time by \$6.19/hour.

To date, reimbursement rate increases have only recognized the cost of the increased minimum wage but have not recognized the corresponding increases in FICA, social security, unemployment taxes, worker's compensation, nor corresponding increased overhead costs. Above and beyond to minimum wage and associated increased costs driven by wages, there have been a number of mandates that have driven provider costs that have not been fully recognized by HSD including the administrative costs associated with electronic visit verification, the cost to manage destination based gross receipt taxes, and the full costs of the paid sick leave law. Without adequate reimbursement the personal care service provider is in severe jeopardy and will not be able to keep pace with the current enrollment, much less expand enrollment.



Benefit Proposals

NMAHHC also supports the expansion to legally responsible individuals (LRIs) to render community benefit personal care services (Benefit Proposal #6). We have witnessed first-hand the impact of the shortage of health care workers and concur with the State that permanently allowing State-authorizes relatives, guardians, and/or legally responsible individuals to render care is a cost-effective strategy to provide person centered care. However, this benefit proposal alone will not address the current worker shortage. In order to continue serving the over 32,000 individuals currently receiving community based personal care services and eliminate the waitlist, it is, again, critical that this program is funded adequately. Providers need to be able to offer competitive wages, above and beyond the minimum wage that allows agencies to recruit and retain a workforce to perform this critical work.

Finally, NMAHHC fully supports increasing the environmental modification limit (Benefit Proposal #7) from \$5,000 to \$6,000 every five years for the community-based population. We have seen firsthand the impact of rising costs of materials, fuel costs, and labor and know that it is critical to increase the environmental modification budget.

Additional Recommendations

Electronic Visit Verification

One of NMHSD's stated goals is, "to successfully implement technology to give customers and staff the best and most convenient access to services and information". The New Mexico Association for Home & Hospice Care would urge you to evaluate the benefits of moving New Mexico to an open Electronic Visit Verification (EVV) model vs our current, closed model as a mechanism to achieve that goal.

Currently, New Mexico is one of only 5 states continuing to use a closed model EVV solution. A closed model system forces PCS agencies to only use the state provided solution, currently FisServ (known as Authenticare). Additionally, a closed model system limits the outcomes to incentivize and inhibits the provider's ability to perform in value-based contracting models due to the lack of access to real time data reported at the time of visit by the PCS agencies. The closed model also creates more administrative work and cost for PCS agencies, impacting how much of reimbursement rates can go towards wages and benefits for caregivers.

An open model system utilizes a data aggregator which provides the State the flexibility to implement a hybrid model that allows all providers to either utilize the State provided solution or integrate with the state system using their own compatible EVV solution. Finally, an Open System is fully compliant with EVV Cures mandate.

Critical Incident Reporting

Currently NMHSD requires PCS agencies to file a Critical Incident Report (CIR) for a variety of reasons that could pertain to the health and well-being of the New Mexico consumer. However, the two CIRs that are



filed at the highest volume, “insufficient staffing” and “member refusing care”, seem to create a significant burden on PCS agencies without enhancing the safety and well-being of the consumers.

According to the Managed Care Organizations at our most recent member meeting, “CIRs are a federal requirement that come from CMS and are communicated through HSD.” However, according to CMS Division of Long Term Services and Supports, “there is no standard definition of critical incidents at the national level” (Findings From the 1915(C) Waiver Incident Management Survey: Incident Management Systems and Processes; Division of Long Term Services and Supports, Disabled and Elderly Health Programs Group, Center for Medicaid and CHIP Services).

According to CMS’ Incident Management 101, key elements of building an effective Incident Management System include triaging, investigating, resolving, and tracking & trending incidents. By including “insufficient staffing” and “member refusing care” as triggers for CIRS (especially for each and every cascading missed visit) NMHSD is creating a large volume of reports that makes it difficult for MCOs and HSD to appropriate triage, investigate, resolve, and track critical incidents; not to mention the created PCS agency administrative burden.

Last year, almost 93,000 CIRs were filed, almost 3 per PCS member. In Q1 & Q2 of CY2022, already 60,247 CIRs have been filed. PCS agencies are reporting that they are declining clients for whom they can provide some but not fully staffed care because of the administrative burden associated with logging insufficient staffing CIRs. NMAHHC believes that the State should be looking for ways to minimize administrative burden so that PCS agencies are able to staff as much care as possible for members eligible for the community benefit. To do so, they should consider eliminating or modifying the reporting requirements “insufficient staffing” and “member refusing care” as triggers for CIRS.

The New Mexico Association for Home and Hospice Care (NMAHHC) appreciates the opportunity to comment on the state’s 1115 Waiver Renewal Application. We hope that NMHSD finds innovative ways to adequately reimburse and reduce the administrative burden for providers in order to ensure they are able to serve the almost 30,000 members using this critical service to stay in their homes and their community and avoid expensive nursing facility placement.

Sincerely,

A handwritten signature in blue ink that reads 'Meggin Lorino'.

Meggin Lorino, MSW
Executive Director
New Mexico Association for Home and Hospice Care

