

April 12, 2023

Dear Tribal Consultation Members:

This letter is regarding the Tribal Consultation between the North Dakota Department of Health and Human Services and the North Dakota Indian Tribes. The consultation process was established to ensure Tribal governments are included in the decision-making processes when proposed changes in the Medicaid or Children's Health Insurance Program(s) will directly impact the North Dakota Tribes and/or their Tribal members.

End of the Public Health Emergency (PHE)

The flexibilities that were temporarily implemented due to the COVID-19 Public Health Emergency (PHE) will sunset on May 11, 2023 with the end of the PHE.

Certain flexibilities that were granted through an 1135 waiver that will end on May 11, 2023 are:

- PASRR (Pre-Admission Screening and Resident Review) Level I and Level II assessments were waived for 30 days on admission. These assessments must now be completed as required by 42 CFR 483 Subpart C.
- Temporary suspension of fee-for-service prior authorization requirements
- Extension of pre-existing fee-for-service prior authorizations
- Extension of timelines for service authorization and appeal requirements for Medicaid managed care
- Extension of timelines for state fair hearing requests
- Waiver of certain provider enrollment requirements
- Allowing legally responsible individuals to render personal care services
- Waiver of the requirement to obtain beneficiary and provider written consent of new or amended HCBS person-centered service plans
- Modify the timeframes associated with Tribal Consultation

Certain flexibilities that were granted through a COVID-19 disaster relief SPAs that will end on May 11, 2023 are:

- The number of nursing facility therapeutic leave days will return to 24 days per year.
- The number of intermediate care facility (ICF) therapeutic leave days will return to 30 days per year.
- The 15-day limit for payment for bed hold for an inpatient hospitalization for a resident of a nursing facility or intermediate care facility (ICF) will be reinstated regardless of the diagnosis.
- The flexibilities of adjustments to the day supply or quantity limit for covered outpatient drugs, prior authorization for medications expanded by automatic renewal, exceptions to their published Preferred Drug List if drug shortages occur will expire.
- The option to suspend Qualified Service Provider qualifications regarding competency and state criteria will expire.

MEDICAL SERVICES

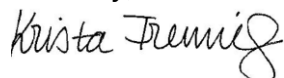
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- The option to waive the timelines for nursing facility rate reconsiderations and appeals will expire.
- ND Medicaid will resume collection of enrollment fees and premiums for the workers with disabilities and children with disabilities programs. Fees and premiums will not be collected until the member's full renewal is processed as part of the unwinding of Medicaid continuous enrollment. Renewals will be processed according to the month that the member would typically come up for review. Medicaid continuous enrollment unwinding must be completed by May 2024.

Please send comments, questions or concerns about the flexibilities to Medical Services, Attention: Tribal Consultation; 600 East Boulevard Avenue, Department 325, Bismarck, ND 58505. You may also send information via e-mail to ndmedicaid@nd.gov.

The Department appreciates the continued opportunity to work collaboratively with you to achieve the Department's mission, which is, "To provide quality, efficient, and effective human services, which improve the lives of people."

Sincerely,

A handwritten signature in cursive script that reads "Krista Fremming".

Krista Fremming, Interim Director
Medical Services Division