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October 4, 2021

Dear Tribal Health Leaders

On behalf of the Department of Health and Social Services (the department) and in keeping with the responsibility to conduct tribal consultation, I am writing to inform you of a proposed future Medicaid state plan amendment (SPA) and a revision to the Alternative Benefit Plan (ABP).

Purpose and content of the proposed amendment:

Subject to new requirements imposed by the Consolidated Appropriations Act of 2021 (the CAA) – Division CC; Title II; Section 209 – the department intends to submit a SPA and ABP revision attesting to its compliance with the minimum requirements of (new) section 1902(a)(87) of the Social Security Act.

Section 209 of the CCA requires a Medicaid state plan to provide a mechanism, including attestation, to ensure any transportation provider or individual driver of non-emergency transportation (NEMT) meets specified minimum requirements.

The minimum requirements include that –

1. Each NEMT provider and individual driver is not excluded from participation in any federal health care program and is not listed on the exclusion list of the Inspector General of the Department of Health and Human Services;
2. Each individual driver has a valid driver's license;
3. Each NEMT provider has in place a process to address any violation of a state drug law; and
4. Each NEMT provider has a process to disclose the driving history, including any traffic violations, of each such individual driver employed by such provider to the state Medicaid program.

In addition to taxi companies and other providers of NEMT, these requirements apply to transportation network companies such as Uber, Lyft, and other "ride-sharing" companies and individual drivers. However, the requirements do not apply to any public transportation authority.

The department intends to demonstrate compliance with section 1902(a)(87) of the Act by adding the following language to Attachment 3.1-D and the NEMT benefit in the ABP:

II. Transportation Assurances:

The Medicaid agency assures it meets the minimum requirements in section 1902(a)(87) of the Social Security Act.

Anticipated impact on Medicaid-eligible Alaska Native/American Indian beneficiaries:

The department believes the imposition of these new federal requirements for non-emergency ground transportation could slightly decrease available NEMT ground transportation resources in some areas of the state. The Division of Health Care Services (HCS) is developing comprehensive NEMT provider training materials and working with existing enrolled NEMT providers to raise awareness of the minimum requirements to combat the potential reduction in NEMT providers available to beneficiaries.

Anticipated impact on tribal health programs and the Indian Health Service:

The department believes tribal health programs could experience a slight reduction in available NEMT provider resources once the requirement takes effect on December 27, 2021. However, as stated above, HCS is working to mitigate any potential reduction resulting from implementing this federal mandate.

Mechanism and timeline for comment

Written comments or questions regarding the proposed amendment are due no later than the close of business, November 3, 2021. If seeking an in-person meeting regarding the proposed changes, please provide a written request no later than 15-days of the date of this letter. Please direct all written correspondence to Courtney O'Byrne King, Alaska Department of Health and Social Services, 3601 C Street, Suite 902, Anchorage, AK 99503, or courtney.king@alaska.gov.

Sincerely,

/s/

Courtney O'Byrne King, MS

Medicaid State Plan Coordinator