DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services

Region IX
Division of Medicaid & Children's Health Operations
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6706

JUN 15 2012

Toby Douglas, Director
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Mr. Douglas:

Enclosed is an approved copy of California State Plan Amendment (SPA) 12-002. This SPA was submitted to my office on March 30, 2012 requesting to amend the Medi-Cal tribal advisory process as outlined in the current State Plan.

The effective date of this SPA is January 1, 2012. Enclosed are the following approved SPA pages that should be incorporated into your approved State Plan:

- Section 1.4, pages 9, 9.1, 9.2 and 9.3

In addition to the formal process and requirements described in the State Plan, the State has also agreed to provide Indian health programs and Urban Indian organizations with information regarding positive changes to the Medi-Cal program. We understand that the State will be publicizing these changes on its website and/or distributing tribal notices so that there is an opportunity for input to be provided on positive changes as well.

If you have any questions, please contact Kristin Dillon by phone at (415) 744-3579 or by email at Kristin.Dillon@cms.hhs.gov.

Sincerely,

for

Gloria Nagle, Ph.D., MPA
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosure

cc: Cyndi Gillaspie, Centers for Medicare and Medicaid Services
Lane Terwilliger, Centers for Medicare and Medicaid Services
Kathyryn Waje, California Department of Health Care Services
Sam Willburn, California Department of Health Care Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: **12-002**

2. STATE: CA

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

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
January 1, 2012

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 43.1.12(b)

7. FEDERAL BUDGET IMPACT:
a. FFY $0
b. FFY $0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Section 1.4 State Medical Care Advisory Committee
~~Pages 9 – 12~~ Pages 9-9.3

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

Section 1.4 State Medical Care Advisory Committee

Pages 9 – 9.3

10. SUBJECT OF AMENDMENT:
Amendment to the Medi-Cal Tribal and Designee Advisory Process

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:
The Governor's Office does not wish to review the State Plan Amendment.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:
Toby Douglas

14. TITLE:
Director

15. DATE SUBMITTED: MAR 30 2012

16. RETURN TO:

Department of Health Care Services
Attn: State Plan Coordinator
1501 Capitol Avenue, Suite 71.326
P.O. Box 997417
Sacramento, CA 95899-7417

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: March 30, 2012

18. DATE APPROVED: JUN 15 2012

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: 1/1/12

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME: Gloria Nagle

22. TITLE: Associate Regional Administrator

23. REMARKS:

Pen and Ink changes to Box 8 confirmed via email from the State dated 5/17/12.

FORM HCFA-179 (07-92)

Citation	1.4 State Medical Care Advisory Committee
42 CFR 43 1.12(b) AT-78-90	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 43 1.12.
42 CFR 438.104	X The State enrolls recipients in MCO, PMP, PAHI', 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 Requirements

Section 1902(a)(73) of the Social Security Act (the 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). Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program (CHIP). Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.

DHCS is committed to providing information and seeking advice on a regular, ongoing basis from Tribes and designees of Indian health programs and Urban Indian Organizations concerning Medi-Cal matters having a direct effect on Indians, Indian health programs and Urban Indian Organizations. DHCS recognizes that the United States government has a unique legal relationship with American Indian Tribal Governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. DHCS also recognizes the State of California adopted Public Law 83-280 in 1954 at which time the State accepted responsibility for some Indian Affairs.

California Indian Health Care Delivery System

Indian health programs in California are operated by Tribes and urban Indian organizations. The Indian health care delivery system consists of a network of primary care clinics that are funded by the Federal Indian Health Services (IHS) to provide care to American Indians and other underserved populations as identified in the clinic charter /mission. These clinics participate in Medi-Cal as Tribal Health Providers funded under the authority of Public Law (PL) 93-638, 25 USC 450 et seq. or as Federally Qualified Health Centers. There are 7 urban Indian health programs operated by non-profit Boards of Directors (BOD) elected by the urban Indian community. There are also 31 tribally operated health programs. These programs are governed either by the Tribal council, BOD appointed by the Tribal Council, or

(Tribal Consultation Requirements Continued)

BOD elected by Tribal membership separate from the Tribal Council, or as established under the bylaws of the organization.

Process to Seek Advice
DHCS will direct all communication to Tribal Chairpersons as officially listed on the Federal Bureau of Indian Affairs website and will update contact information on a semi-annual basis.

DHCS recognizes that only the Indian health program BODs have authority to designate representatives to speak on behalf of the respective Indian health program. Therefore, DHCS will request all Indian health program BODs identify a designee on an annual basis. DHCS will direct all communication to these designees.

DHCS will use a variety of methods to communicate information and solicit feedback on State Plan Amendments (SPA), Waivers, and Demonstration Project (SWDP) proposals, renewals, extensions or amendments, which directly effect Tribes and Indian health programs. DHCS defines direct effect as changes to the Medi-Cal program that: further restrict eligibility; or reduce payment rates or make updates to payment methodologies to Indian health programs; or reduce or restrict access to covered services; or increase services reimbursed to Indian health programs; or update the tribal consultation policy in any way.

The methods of communication include, but are not limited to the following:

- Written communication
  DHCS will send notifications of SWDPs at least 35 days prior to the submission of the SWDP to CMS. DHCS will allow for at least a 30 day time frame for response. However, there may be circumstances that require immediate submission, including but not exclusive to State or Federal legislation authorization, promulgation of State or Federal regulations, direction from CMS, court orders, settlement agreements, technical changes, etc. Technical changes do not change eligibility, coverage or reimbursement. In the event that shorter notice is necessary, DHCS will immediately email/fax/mail information and convene a teleconference 14 days prior to submission to CMS to allow for immediate feedback.
- Webinars
  DHCS will host webinars on a quarterly basis to review SWDPs and allow for discussion. Webinars will be scheduled at least 30 days prior to the end of the quarter. Tribes and Designees will be notified 20 days prior to the scheduled webinar. DHCS-Indian Health Program (IHP) will maintain invitee lists, monitor attendees, and record minutes regarding issue raised or discussed. An opportunity to provide written feedback will be available at all webinars

(Tribal Consultation Requirements Continued)

- Face-to-face meetings
  DHCS will host one annual Tribal meeting. DHCS will ensure that Tribal leaders are provided at least 45 day notice of the meeting. Additionally, DHCS will convene other meetings if further discussion is warranted regarding SWDPs. DHCS-IHP will maintain invitee lists, monitor attendees, and record minutes regarding issue raised or discussed.
- Arrange stakeholder teleconference lines
  DHCS will notify Tribes and Indian health program designees when they can access meetings via teleconference

DHCS will also:

- Participate in federal agency consultation meetings and conferences

Expectations

➢ **DHCS Medi-Cal Program**

- Seek advice on a regular, ongoing basis from Tribes and designees of Indian health programs and Urban Indian Organizations
- Provide information through all the methods outlined above
- Consider input from Tribes and designees
- Provide responses to Tribal and designee feedback
- Organize meetings for follow up discussion
- Regularly evaluate advisory process and amend as necessary

➢ **Designees/Tribes**

- Participate in meetings and quarterly webinars
- Provide comments/input/advice

While the process described by this SPA provides increased ability to solve problems; it may not result in resolution of all issues. Therefore, it is understood that it is the right of each of the parties to elevate an issue of importance to any decision-making authority of another party, including, where appropriate, that party's executive office.

(Tribal Consultation Requirements Continued)

SPA 10-018 Development Process

Tribes and designees of Indian health programs and Urban Indian Organizations have been involved in the discussions during the development of this advisory process SPA. The discussions occurred during meetings held on September 29, 2009; December 15, 2009; January 7, 2010; January 29, 2010; March 10, 2010; April 23, 2010; July 21, 2010; November 22, 2010; and, November 30, 2010. These meetings included, but were not limited to; joint meetings of Indian Health Clinic Directors/Tribal Leaders, DHCS American Indian Health Policy Advisory Panel teleconferences, Annual California Area Office (CAO) IHS Tribal Leaders meeting, CAO IHS Tribal Advisory Council meetings, and IHS Program Directors meetings.

DHCS hosted two webinars on November 22, 2010 for Indian Health Program designees and Tribal Chairpersons to provide information and get feedback on the Medi-Cal Indian Health Program advisory process. Additionally, a notice of the proposed SPA was emailed and mailed to Indian health program designees and Tribes for feedback. Invitations for feedback and attendance at meeting s were distributed to all Indian Health Clinic representatives and tribal chairs.

Finally, the draft SPA was also circulated to a representative sample of Tribal Chairpersons and designees followed by telephone contact for comments. The sample was selected by region and I/T/U type. It included representatives from Southern, Central, and Northern California. It included (7) Tribal/ Urban Indian health programs and (2) Indian health organizations representing (18) member Indian health programs and (33) Tribes throughout the State. This sample was not vetted with Tribal Chairpersons or designees, but yielded feedback that resulted in changes to the proposed SPA including the 60 day notice for Tribal meetings and the annual renewal of Indian health program designees rather than biannual renewal.

Feedback from the webinars, presentations, telephone calls, and the meetings described above was used to develop SPA 10-018.

ENCLOSURE

Revised Pages for:

CALIFORNIA MEDICAID STATE PLAN

Under Transmittal of

STATE PLAN AMENDMENT (SPA)

12-002 *

All new pages will have this SPA* number identified as the new TN No., so it will not be repeated for each new insert pages.

Remove Page(s)	**Insert Page (s)**
Section 1.4, pages 9-9.3 (TN 10-018)	Section 1.4, pages 9-9.3