



State of California—Health and Human Services Agency  
Department of Health Care Services



GAVIN NEWSOM  
GOVERNOR

August 26, 2020

To: Tribal Chairpersons, Designees of Indian Health Programs,  
and Urban Indian Organizations

Subject: Notice of Proposed Change to the Medi-Cal Program

The purpose of this letter is to provide information regarding a proposed change to the Department of Health Care Services' (DHCS) Medi-Cal Program that will be submitted to the Centers for Medicare and Medicaid Services (CMS). DHCS is forwarding this information for your review and comment.

DHCS is required to seek advice from designees of Indian Health Programs and Urban Indian Organizations on Medi-Cal matters having a direct effect on Indians, Indian Health Programs or Urban Indian Organizations per the American Recovery and Reinvestment Act of 2009 (ARRA). DHCS must solicit the advice of designees prior to submission to CMS of any State Plan Amendment (SPA), waiver requests or modifications, or proposals for demonstration projects in the Medi-Cal program.

Please see the enclosed summary for a detailed description of this DHCS proposal.

**QUESTIONS AND COMMENTS:**

Indian Health Programs and Urban Indian Organizations may also submit written comments or questions concerning this proposal within 30 days from the receipt of notice. Comments may be sent by email to [Andrea.Zubiate@dhcs.ca.gov](mailto:Andrea.Zubiate@dhcs.ca.gov) or by mail to the address below:

**Contact Information**

Department of Health Care Services  
Primary, Rural, and Indian Health Division  
1500 Capitol Avenue, Suite 72.338  
MS 850  
PO Box 997413  
Sacramento, CA 95899-7413

Tribal Chairpersons, Designees of Indian Health Programs,  
and Urban Indian Organizations

Page 2

August 26, 2020

In addition to this notice, DHCS plans to cover this SPA in the next quarterly Medi-Cal Indian Health webinar. Please note that Indian Health Programs and Urban Indian Organizations may also request a consultation on this proposal at any time as needed.

Sincerely,

Original Signed By

Sandra "Sam" Willburn, Chief  
Primary, Rural, and Indian Health Division  
Department of Health Care Services

Enclosure



**Department of Health Care Services (DHCS)  
Tribal and Designees of Indian Health Programs Notice**

**PURPOSE**

The purpose of this State Plan Amendment (SPA) is to seek necessary federal approvals to establish the Tribal Federally Qualified Health Centers (FQHC) provider type in Medi-Cal.

**BACKGROUND**

In response to Centers for Medicare and Medicaid Services (CMS) [Frequently Asked Questions released January 18, 2017](#), DHCS is proposing changes to the State Plan to establish a Medi-Cal Tribal FQHC provider type. The proposed SPA was developed through meetings, and solicitation of written feedback with Tribes and designees of Indian Health Programs.

**SUMMARY OF PROPOSED CHANGES**

DHCS is proposing to create a Tribal FQHC provider type in the Medi-Cal Program. The Tribal FQHC provider type will include the same scope of services and providers currently authorized in the Indian Health Services Memorandum of Agreement (IHS/MOA) state plan section, [Supplement 6, Attachment 4.19-B](#). Thus, IHS/MOA billable providers and associated services will also be allowed for Tribal FQHCs. Additionally, the Tribal FQHC provider type will expand allowable types of billable providers, service locations, and will modify allowable visit combinations. Reimbursement for Tribal FQHCs will be at the Indian Health Services All Inclusive Rate (AIR) currently paid to IHS/MOA providers using an Alternative Payment Methodology (APM). The proposed effective date of this SPA is January 1, 2021.

Specifically, the SPA proposes to establish the Tribal FQHC provider type in the Medi-Cal Program as described below:

- 1. Adopt existing services and providers as currently allowed in the IHS/MOA section of the DHCS State Plan as listed on pages 1-3 of [Supplement 6, Attachment 4.19-B](#)**
- 2. Expand Billable Providers and Service Locations, and Modify Allowable Visit Combinations**
  - Allow for the reimbursement for up to three visits per day, per beneficiary, in any combination of medical, mental health, dental, and ambulatory visits
  - Allow for the reimbursement of services outside the clinic facility
  - Allow for reimbursement for the following additional billable providers as ambulatory visits:
    - **Chiropractor:** Includes chiropractic services provided by a Doctor of Chiropractic medicine who is licensed and meets standards issued by the State Board of Chiropractic Examiners<sup>1</sup>;

---

<sup>1</sup> As defined by [Business and Professions Code \(BPC\) section 1000](#).

- **Specialist:** Includes medical specialty services provided by a licensed Doctor of Medicine who is certified by the appropriate board in the specialty of medical care provided<sup>2</sup>;
- **Registered Dental Hygienist (RDH):** Includes dental services provided by a RDH (under general supervision) authorized to perform such duties as outlined in their scope of practice by the California Board of Dental Hygiene;<sup>3</sup>
- **Registered Nurse (RN):** Includes nursing services provided in the home by a RN licensed by a state Board of Registered Nurses. The services provided must be within the scope of practice as outlined in the California Nursing Practice Act<sup>4</sup>. The RN must furnish independent and complete face-to-face nursing assessments, interventions, evaluations, and document services provided in the patient's Electronic Health Record. Home visit encounters must be based on a licensed physician or other licensed practitioner generated referral/consult. The licensed physician or other licensed practitioner who supervises those who provide the service(s) to the recipient must assume professional responsibility for the care of the recipient. Repeated or multiple visits to complete what is considered a reasonable and typical office visit are not covered services, unless it's medically necessary.

DHCS recognizes that health practitioners employed by Tribal health programs may be subject to the licensure requirements or regulations under the law of any other state in which they are licensed.<sup>5</sup>

DHCS also recognizes the above services may be provided using telehealth flexibilities.

### 3. **Establish an Alternative Payment Methodology (APM) to reimburse Tribal FQHCs at a IHS All-Inclusive Rate (AIR)**

- In general, FQHCs are paid at rates that are based on the Prospective Payment System (PPS) methodology that requires submittal of cost reports;
- The Tribal FQHCs would not be required to report its costs for the purposes of establishing a PPS rate;
- The PPS rate will be established by reference to the average payments made to similar FQHCs throughout the state. DHCS will certify annually that the AIR is higher than the PPS rate;
- Thus, Tribal FQHCs will be paid using an APM rate;
- The APM rate will be set at the AIR, which is published annually in the Federal Register.

---

<sup>2</sup> As described in [DHCS All Plan Letter 19-004](#).

<sup>3</sup> As defined in the [Dental Hygiene Board of California, Laws and Regulations](#).

<sup>4</sup> As defined in [BPC section 2725](#).

<sup>5</sup> As allowed by [BPC section 719](#).



## **IMPACT TO TRIBAL HEALTH PROGRAMS**

The proposed SPA will allow eligible Tribal Health Programs providing primary care to modify their Medi-Cal provider type to a Tribal FQHC. Tribal FQHC providers will be reimbursed for the same set of services and providers listed in the DHCS State Plan, [Supplement 6, Attachment 4.19-B](#).

Additionally, Tribal FQHCs providers will be reimbursed for:

- a. Up to three visits per day in any combination;
- b. Services provided by additional ambulatory providers; and
- c. Services provided outside the clinic facility.

Tribal FQHCs will receive the AIR for these services claimed through the DHCS fiscal intermediary and the managed care plans (MCPs) as appropriate. DHCS will make required system changes and notify MCPs of the change in reimbursement policies upon receipt of federal approvals.

Tribal health programs that choose to remain IHS/MOA providers will not be impacted by this proposal.

## **IMPACT TO FEDERALLY QUALIFIED HEALTH CENTERS (FQHCs)**

There will be no impact to FQHCs operating under the authority of Title V of Public Law 94-437.

## **IMPACT TO INDIAN MEDI-CAL BENEFICIARIES**

The proposed SPA will increase access to services for American Indian beneficiaries by allowing additional combination of visits and available providers to them by Tribal FQHCs.

## **RESPONSE DATE**

Indian Health Programs and Urban Indian Organizations may also submit written comments or questions concerning this SPA within 30 days from the receipt of notice. Comments may be sent by email to [Andrea.Zubiate@dhcs.ca.gov](mailto:Andrea.Zubiate@dhcs.ca.gov) or by mail to the address below:

## **CONTACT INFORMATION**

Department of Health Care Services  
Primary, Rural, and Indian Health Division  
1500 Capitol Avenue, Suite 72.338  
MS 850  
PO Box 997413  
Sacramento, CA 95899-7413