



Anchorage

3601 C Street, Suite 902
Anchorage, Alaska 99503-5923
Main: 907.269.7800
Fax: 907.269.0060

Juneau

350 Main Street, Suite 404
Juneau, Alaska 99801
Main: 907.465.3030
Fax: 907.465.3068

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The following information represents a record of state responses to tribal comments on a state plan amendment (SPA) reflecting the reorganization of the Department of Health and Social Services (DHSS) into two Departments, the Department of Health (DoH; the new single state agency for Medicaid) and the Department of Family and Community Services (DFCS), in compliance with Executive Order #121.

Tribal Comment #1 – ANHB Recommends Amending the Medicaid State Plan Tribal Consultation Policy

Based on our understanding of the proposed SPA described in the Dear Tribal Leader Letter dated April 11, 2022, ANHB recommends that the Medicaid State Plan Tribal Consultation Policy (TCP), found in Section 1.4 of the Medicaid State Plan, page 9, be updated to accurately identify the DoH as the MSA and to include the new DFCS as appropriate to address the issues related to Medicaid service delivery for which the new DFCS will be responsible, including but not limited to behavioral health crisis care, behavioral health inpatient care, child welfare services covered by Medicaid, and long-term services and supports delivered by relevant divisions.

State Response – The state intends to incrementally replace state plan references to DHSS with DoH. With the approval of CMS, the state will update this information over time as it opens sections of the plan for revision. Per CMS guidance, this SPA includes language reflecting that references to DHSS in the plan, should now be read as referring to DoH.

The divisions comprising the new DFCS are not *Medicaid administration agencies* and are not involved in the federally mandated Medicaid tribal consultation processes. While the department believes it understands the position expressed here by ANHB, Medicaid service delivery does not fall under the Medicaid tribal consultation policy parameters. The existing policy ensures consultation on Medicaid and CHIP program changes likely to directly affect specified groups, as described in the excerpt below.

Amendments to the State Plan, waivers, or demonstrations are considered to have direct affects (sic) on American Indians or Alaska Natives (AI/AN), tribal health programs or IHS if the changes *impact eligibility determinations, reduce payment rates, change payment methodologies, reduce covered services, or change provider qualifications/requirement*. Proposals for new demonstrations or waivers will also be included in consultation.¹ (emphasis added)

The larger DHSS (non-Medicaid) tribal consultation policy, drafted in collaboration with tribes and signed on October 26, 2018, is the current and correct pathway for addressing concerns outside the established parameters of Medicaid tribal consultation.^{2 3} While it appears that tribes have not yet requested a

¹ Alaska Medicaid State Plan Section 1.4, *Tribal Consultation Policy*, January 1, 2012; retrieved June 8, 2022
[extension://efaidnbmnnnibpcajpcglclefindmkaj/https://dhss.alaska.gov/Commissioner/Documents/medicaidstateplan/PDF_SP/MSP/Sec_1-4.pdf](https://efaidnbmnnnibpcajpcglclefindmkaj/https://dhss.alaska.gov/Commissioner/Documents/medicaidstateplan/PDF_SP/MSP/Sec_1-4.pdf)

² Department of Health and Social Services, *Tribal Consultation Policy*, October 26, 2018; retrieved June 8, 2022,
<https://dhss.alaska.gov/Commissioner/Pages/TribalConsult/default.aspx>

³ Department of Health and Social Services, *Tribal Consultation; DHSS Tribal Programs* (website), retrieved June 9, 2022,
<https://dhss.alaska.gov/Commissioner/Pages/TribalConsult/programs.aspx>

consultation under the 2018 agreement, it is the appropriate venue for discussing issues such as those addressed in ANHB's comments above.

Further, as discussed during the in-person (Zoom) consultation meeting, the administration commits to employing tribal transition liaisons, intended to supplement the existing division-level tribal liaisons, in the two new departments.

Tribal Comment #2 – Involvement of Both Commissioners in ANHB Mega and Medicaid Task Force Meetings

Due to the use of quarterly and regular Tribal meetings as an identified part of the Medicaid State Plan TCP (see page 9(i), TCP section 2.2), ANHB recommends that the commissioners from both DoH and DFCS and their teams remain committed to attending the ANHB Mega Meetings as part of the open dialogue and working relationship we maintain with DHSS on a number of issues. We further recommend that both DoH and DFCS attend and have a role in the Tribal-State Medicaid Task Force meetings due to the cross-cutting issues that often come up, particularly for behavioral health care.

State Response – The Medicaid administrative divisions that comprise the DoH will continue participating in the Medicaid Task Force and the ANHB Mega Meetings.

As Commissioner Crum stated during the in-person (Zoom) consultation meeting, the department team appreciates tribes raising the issue of DCFS participation and believes the DCFS commissioner will continue participating in these meetings.

Tribal Comment #3 – Department Tribal Consultation Policies

Finally, ANHB recommends that both new Departments adopt independent and written tribal consultation policies and consult with Tribes in the development of the policies, in addition to the Medicaid State Plan TCP. We recommend as a model the DHSS Departmental Consultation Policy adopted in 2018, which should be inherited by DoH and the adoption of a mirror policy to DFCS.

State Response – While the DHSS (non-Medicaid) consultation policy is outside the scope of this consultation, that the department team appreciates the value of this recommendation and remains invested in ongoing collaboration with tribal entities on issues outside of Medicaid.

As Deputy Commissioner Wall stated during the in-person (Zoom) consultation meeting, the state remains committed to consultation and partnering with the tribes. Additionally, Deputy Commissioner Wall indicated that the existing DHSS consultation policy might require review and revision to meet current and future tribal and state needs.

The state team looks forward to continuing its partnership with tribal entities.