DISABILITY RIGHTS NEW MEXICO
3916 Juan Tabo Blvd., NE • Albuquerque, New Mexico 87111
TEL: (505) 256-3100 • FAX: (505) 256-3184
State-wide Toll Free 1-800-432-4682
WEBSITE: www.drnm.org • EMAIL: info@drnm.org
Gary Housepian, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

December 11, 2025

New Mexico Health Care Authority
P.O. Box 2348
Santa Fe, NM 87504

Submitted by electronic mail to stakeholdercomment@manatt.com on December 11, 2025.

Dear HCA and Manatt Representatives:

Disability Rights New Mexico (DRNM) is the state's designated Protection and Advocacy system for individuals with disabilities. Our mission is to protect, promote, and expand the rights of New Mexicans with disabilities so that they are able to live, work, and participate fully in their communities. We work with many individuals with significant mental illness, substance use disorder (SUD), and brain injury, and we regularly see how gaps in the current Medicaid system undermine their stability and independence.

DRNM strongly supports the Health Care Authority's (HCA) exploration of a new Medicaid Home and Community-Based Waiver (HCBS) tailored to this population. DRNM applauds the HCA for initiating this overdue and critically important conversation. The lack of a dedicated HCBS waiver for this population has created long-standing gaps in care, stability, and community integration. New Mexico's behavioral health system needs state level leadership and coordination to meet the needs of our communities and to unite a fractured system. DRNM considers itself a deeply invested stakeholder, and we respectfully request ongoing opportunities to participate in waiver design, rule development, and implementation.

Olmstead Compliance and Community Integration

The Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101–12134, and the Supreme Court's landmark decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999), require states to provide services to people with disabilities in the most integrated settings appropriate. The federal integration mandate, codified at 28 C.F.R. § 35.130(d), prohibits unnecessary institutionalization and compels states to offer community-based alternatives.

A Behavioral Health HCBS Waiver would strengthen New Mexico's ability to meet these legal obligations by:

- Providing alternatives to institutional settings;

- Expanding community-based supports;
- Reducing avoidable placement in hospitals, residential treatment facilities, or correctional settings; and by
- Supporting autonomy, dignity, and self-determination.

The federal HCBS regulations at 42 C.F.R. §§ 441.300–441.310 emphasize person-centered planning, community integration, and participant protections. A Waiver built around these principles aligns with both federal law and New Mexico's civil rights obligations for people with disabilities.

New Mexico's creation and maintenance of a Developmental Disabilities Waiver and its self-directed sister, Mi Via, has been a decades-long progression towards meeting our state's obligation to serve people with disabilities directly in their communities. The Medically Fragile Waiver has also pushed us significantly towards this goal of integration. However, individuals with serious mental illness, substance use disorders, and brain injury have struggled to access community-based programs and NM's behavioral health system has been siloed and difficult to navigate. The proposed Behavioral Health Waiver would go a long way towards closing this gap and bring New Mexico into even greater compliance with its *Olmstead* obligation. It is perhaps the final, crucial link that could break thousands of New Mexicans with behavior-related disabilities out of an endless cycle of institutionalization, homelessness, and incarceration.

Gaps in the Current System

The current Medicaid structure does not fully meet the needs of individuals with serious behavior-related disabilities. Case management, housing supports, supported employment, peer support, and brain-injury-specific services remain limited, difficult to access, or unavailable altogether. None of New Mexico's existing Waivers were created with this population in mind, and many people with mental illness, SUD, or brain injury do not qualify for other programs such as the Developmental Disabilities, Mi Via, or Medically Fragile Waivers. Regrettably, behavioral health needs do not qualify Medicaid participants for the Community Benefits program, and participant access to the one Community Benefits service available to meet behavioral health needs is exceedingly rare and insufficient.

We also would like to emphasize that federal funding shifts during the past year have destabilized programs that historically supported individuals with mental illness. When services disappear or become inconsistent, people fall through the cracks. DRNM serves individuals who bounce repeatedly between emergency departments, for-profit psychiatric hospitals, jail, shelters, and homelessness. Many of these clients do not require institutional care, but lack basic supports such as case management, supported employment, and help securing stable housing. A dedicated HCBS Waiver would directly address these needs and support long-term recovery and independence.

DRNM's "Wish List" for Such a Waiver

As HCA moves forward, we encourage the designing of a comprehensive and flexible waiver that reflects the diversity of needs within this population. We encourage you to consider that the hallmark of the disability rights movement has always been the concept of ***self-determination***: the idea that individuals with disabilities should be granted control of their own lives in all areas, including their living situations, medical or mental health treatment (or refraining from such treatment), employment, finances, and relationships. To that end, we urge that the proposed Waiver should incorporate meaningful person-centered planning and robust options for self-direction, thus ensuring that participants have real control over their own services and supports. Not only does this honor the civil rights of members of our community, but it is also an approach that is evidence-based and effective in creating healthier populations.

Such autonomy could be achieved in part by offering a full spectrum of care, including:

- **Intensive case management** and **care coordination**;
- A vigorously updated **referral system and resource hub** available to participants, caregivers, providers, and other stakeholders.
- **Crisis intervention** and **short-term stabilization**;
- **Peer mentoring** and **support**;
- **Psychosocial rehabilitation**;
- **Life skills training;**
- **Family support;**
- **Supported employment** and **habilitative supports**;
- **Supported housing** and **habilitative supports**;
- A robust, well-monitored, **non-emergency medical transportation system** that connects participants safely and timely from home to treatment services and vital community supports;
- **Brain-injury specific services**, including cognitive rehabilitation, structured day programs with access to ongoing neuropsychology treatment, and caregiver training;
- **Community-based detox facilities**;

In addition to these services, we urge HCA to consider the need for clear information made available to participants about grievances and appeals, consistent with federal due process requirements (42 C.F.R. § 431.200 et seq.). Ongoing monitoring and transparent reporting will be essential to the success of this Waiver. Additionally, the state will need to ensure that the

Waiver is truly viable statewide by working closely with partners to ensure that provider capacity and workforce development is being expanded and strengthened. We have learned from the DD, Mi Via, and Medically Fragile Waivers the dangers inherent in offering these services without a fully available, equitable, and capable provider network. These issues are especially significant in rural, tribal, and frontier communities. Workforce development must be robust and include training, certification support, adequate reimbursement rates, and recruitment efforts that support stability and quality of care.

The Road Ahead

New Mexico has a real opportunity to fill a long-standing gap in its behavioral health system and honor its obligations under federal law. A dedicated HCBS Waiver for individuals with mental illness, SUD, and brain injury would improve outcomes, reduce reliance on crisis and institutional settings, and promote independence and civil rights.

DRNM strongly supports moving forward, and we appreciate the chance to provide input. We look forward to partnering with HCA on next steps and on the significant work that lies ahead.

Sincerely,

Katie Gordon

Katie Gordon
Director of Communications & Outreach
Disability Rights New Mexico