



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

MEDICALLY FRAGILE HOME AND COMMUNITY-BASED SERVICES WAIVER

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

PROPOSED REGULATIONS

V. BACKGROUND SUMMARY

New Mexico Human Services Department, Medical Assistance Division (HSD/MAD) proposes amendments to the Medically Fragile Home and Community-Based Services (HCBS) Waiver rules to clarify qualifications of eligible providers, program services and the processes for the development of the plan of care and to include a description of the added covered waiver service, Specialized Medical Equipment and Supplies, and its provider qualifications, in accordance with the federally approved waiver renewal.

HSD/MAD also proposes to rename the covered waiver service psychosocial counseling to behavior support consultation with a modified service definition.

VI. REGULATIONS

These proposed regulation changes will be contained in 8.314.3 NMAC of the Medical Assistance Program Manual. This register and the proposed changes are available on the Medical Assistance Division web site at www.hsd.state.nm.us/mad/register/2010 . If you do not have Internet access, a copy of the regulations may be requested by contacting the Medical Assistance Division at 827-3156.

VII. EFFECTIVE DATE

The Department proposes to implement these regulations effective December 1, 2010.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed regulations will be held at 9:00 a.m. on Thursday, October 14, 2010, in the South Park Conference Room, 2055 S. Pacheco St., Ste. 500-590, Santa Fe, NM.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3156. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

IX. ADDRESS

Interested persons may address written or recorded comments to:

Kathryn Falls, Secretary
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

These comments must be received no later than 5:00 p.m. on October 14, 2010. Written and recorded comments will be given the same consideration as oral comments made at the public hearing. Interested persons may also address comments via electronic mail to: Magdalena.Romero@state.nm.us.

X. PUBLICATIONS

Publication of these regulations approved by:

KATHRYN FALLS, SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 314 LONG TERM CARE SERVICES - WAIVERS
PART 3 MEDICALLY FRAGILE HOME AND COMMUNITY-BASED SERVICES
WAIVER SERVICES

8.314.3.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. See NMSA 1978, Sections 27-2-12 et seq. [~~Repl. Pam. 1994~~].
[1/1/95; 8.314.3.3 NMAC – Rn, 8 NMAC 4.MAD.000.3, 5/1/02; A, 12/1/10]

8.314.3.6 OBJECTIVE: The objective of [~~these regulations~~] this rule is to provide policies for the service portion of the New Mexico medicaid program. These policies describe eligible providers, covered services, noncovered services, utilization review, and provider reimbursement.
[1/1/95, 2/1/95; 8.314.3.6 NMAC - Rn, 8 NMAC 4.MAD.000.6, 5/1/02; A, 12/1/10]

8.314.3.8 MISSION STATEMENT: [~~The mission of the New Mexico medical assistance division (MAD) is to maximize the health status of medicaid eligible individuals by furnishing payment for quality health services at levels comparable to private health plans.~~] To reduce the impact of poverty on people living in New Mexico and to assure low income and individuals with disabilities in New Mexico equal participation in the life of their communities.
[2/1/95; 8.314.3.8 NMAC - Rn, 8 NMAC 4.MAD.002, 5/1/02; A, 12/1/10]

8.314.3.9 MEDICALLY FRAGILE HOME AND COMMUNITY-BASED SERVICES WAIVER: The New Mexico medicaid program (medicaid) pays for medically necessary services furnished to eligible recipients. The term “recipient” hereinafter refers to waiver recipients or their representatives. Where the recipient is a minor or has a cognitive disability, the recipient may be represented by a parent, legal guardian, or other recognized legal representative. To help New Mexico recipients receive services in a cost-effective manner, the New Mexico medical assistance division (MAD) has obtained a waiver of certain federal regulations to provide home and community-based services waiver (HCBSW) programs to recipients as an alternative to institutionalization. [~~See Section 2176 of the Omnibus Budget Reconciliation Act of 1981, codified at 42 CFR 441.300 Subpart G.~~] See 42 CFR 441.300. This section describes the [~~home and community based services waiver~~] HCBSW for the medically fragile, eligible providers, covered waiver services, service limitations, and general reimbursement methodology.
[2/1/95, 4/15/96; 8.314.3.9 NMAC - Rn, 8 NMAC 4.MAD.734, 5/1/02; A, 12/1/10]

8.314.3.10 ELIGIBLE PROVIDERS:

A. Upon approval of New Mexico medical assistance program provider participation agreements by MAD, providers who meet the following requirements are eligible to be reimbursed for furnishing waiver services to recipients:

- (1) standards established by the HCBSW program; and
- (2) provide services to recipients in the same scope, quality and manner as provided to the general public; see 8.302.1.14 NMAC, nondiscrimination.

B. Once enrolled, providers receive a packet of information, including medicaid program policies, billing instructions, utilization review instructions, and other pertinent material from MAD and the department of health (DOH). Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from MAD.

C. **Qualifications of case management agency providers:** Agencies must meet the standards developed for this HCBSW program by the applicable division of the New Mexico [~~department of health~~] DOH. Case management agencies are required to have national accreditation. These accrediting organizations are the commission on accreditation of rehabilitation facilities (CARF), the joint commission or another nationally recognized accrediting authority. Case management assessment activities necessary to establish eligibility are considered administrative costs.

D. **Qualifications of case managers:** Case managers employed by case management agencies must have the skills and abilities necessary to perform case management services for recipients who are medically fragile, as defined by the HCBSW standards for this waiver program. Case managers must be registered nurses, as defined

by the New Mexico state board of nursing and have a minimum of two ~~[(2)]~~ years of supervised experience with the target population in one or more areas of pediatrics, critical care or public health.

E. Qualifications of home health aide service providers:

(1) Home health aide services must be provided by a licensed home health agency, a licensed rural health clinic or a licensed or certified federally qualified health center using only home health aides who have successfully completed a home health aide training program as described in 42 CFR 484.36(a) (1) and (2); or who have successfully completed a home health aide training program described in the New Mexico regulations governing home health agencies, ~~[DOH 91-2 (PHD), Part IV 406.(A) through (D)]~~ 7.28.2.30 NMAC. Additionally, home health aides providing services must be deemed competent through a written examination and meet competency evaluation requirements specified in the 42 CFR 484.36(b) (1), (2) and (3); or meet the requirement for documentation of training or competency evaluation specified in the New Mexico regulations governing home health agencies, ~~[DOH 91-2 (PHD), Part IV 406.(E) and (F)]~~ 7.28.2.30 NMAC.

(2) Supervision: Supervision must be performed by a registered nurse and shall be in accordance with the New Mexico ~~[Nurse] Nursing Practice Act, NMSA 1978, Section 61-3-1 et seq.~~ ~~[Supervision must occur at least once every sixty (60) days in the client's home and be specific to the individualized service plan.]~~ Supervision must occur at least once every 60 days in the recipient's home and be specific to the individual service plan (ISP). All supervisory visits must be documented in the ~~[client's] recipient's~~ file.

(3) The supervision of home health aides is an administrative expense to the provider and is not billable as a direct service.

F. Qualifications of private duty nursing providers:

(1) Private duty nursing services must be provided by a licensed home health agency, a licensed rural health clinic, or a licensed or certified federally qualified health center, using only registered nurses or licensed practical nurses holding a current New Mexico board of nursing license and having a minimum of one year of supervised nursing experience; nursing experience preferably with individuals with developmental disabilities or who are medically fragile.

(2) **Supervision:** Supervision must be performed by a registered nurse and shall be in accordance with the New Mexico Nursing Practice Act. Supervision must be specific to the ~~[Individualized Service Plan]~~ ISP.

(3) The supervision of nurses is an administrative expense to the provider and not billable as a direct service.

G. Qualifications of skilled therapy providers: Skilled therapy services may be provided by a licensed group practice/home health agency that employs licensed occupational therapists, physical therapists, or speech therapists and certified occupational therapy assistants and certified physical therapy assistants in accordance with the New Mexico regulation and licensing department. Physical therapy services must be provided by a physical therapist currently licensed by the state of New Mexico. Occupational therapy services must be provided by an occupational therapist currently licensed by the state of New Mexico, and registered with the American occupational therapy association or be a graduate of a program in occupational therapy approved by the council on medical education of the American occupational therapist association. Speech therapy services must be provided by a speech therapist currently licensed by the state of New Mexico and certified by the national association for speech and hearing. A physical therapy assistant working only under the direction and supervision of a licensed physical therapist, 16.20.6 NMAC, may provide physical therapy services. An occupational therapy assistant working only under the direction and supervision of a licensed occupational therapist, 16.15.3 NMAC, may provide occupational therapy services.

H. Qualifications of [psycho-social counseling] behavior support consultation providers: ~~[Psycho-social counseling services must be provided by a psychiatrist, psychologist/psychoanalyst, or social worker licensed in New Mexico or a counselor with a master's degree in family or guidance and counseling.]~~

(1) Behavior support consultation services must be provided by a psychiatrist; psychologist/psychoanalyst, licensed psychologist associate, licensed psychiatric nurse, social worker or counselor licensed in New Mexico.

(2) Behavior support consultation may be provided through a corporation, partnership or sole proprietor.

(3) Providers of behavior support consultation must have a minimum of one year of experience working with individuals with developmental disabilities or who are medically fragile. All behavior support consultants must maintain current New Mexico licensure with their professional field licensing body.

I. Qualifications of institutional and in-home respite care service providers: ~~[Institutional providers must be an approved New Mexico Medicaid provider of institutional care services and must hold a valid New Mexico institutional license issued by the department of health. Federal regulations prohibit payment for room~~

~~and board services under the waiver. Respite care services are the exception to this statutory prohibition. Under 42 CFR 440.180(g), use of medicaid waiver funds to reimburse room and board as a part of respite care services will be permitted when such services are provided in an institution. When respite care services are provided to an eligible individual by an institution, that individual will not be considered a resident of the institution for purposes of waiver eligibility. In home respite services are provided by a licensed home health care agency, a licensed or certified federally qualified health center, or a licensed rural health clinic.]~~

(1) Institutional respite services may be provided by an institution that is an approved medicaid provider of institutional care services, and:

(a) must hold a valid New Mexico institutional license issued by the New Mexico DOH, to include a licensed hospital, skilled nursing facility, or intermediate care facility for the mentally retarded (ICF/MR), or

(b) be a certified specialized foster care provider, certified by the New Mexico children, youth and families department.

(2) In-home respite services are provided by a licensed home health care agency, a licensed or certified federally qualified health center, or a licensed rural health clinic. The registered nurses (RNs) and licensed practical nurses (LPNs) who work for the home health agency and provide respite services must be licensed by the New Mexico state board of nursing as an RN or LPN. See the New Mexico Nursing Practice Act, NMSA 1978, Section 61-3-1 et seq. and 16.12.1 NMAC. The home health aides who work for the home health agency and provide respite services, must have successfully completed a home health aide training program, as described in 42 CFR 484.36(a)(1) and (2); or have successfully completed a home health aide training program described in the New Mexico regulations governing home health agencies, 7.28.30 NMAC.

J. Qualifications of nutritional counseling providers: Nutritional counseling must be furnished by a licensed dietitian registered by the commission on dietetic registration of the American dietetic association, Nutrition and Dietetics Practice Act NMSA 1978, Section 61-7A-1 et seq.

K. Qualifications of specialized medical equipment and supplies providers: Specialized medical equipment and supplies providers must have a business license for the locale they are in, a tax identification (ID) number for state and federal government, proof of fiscal solvency, proof of use of approved accounting principles, meet bonding required by the New Mexico DOH, and comply with timeliness standards for this service.
[2/1/95, 4/15/96; 8.314.3.10 NMAC – Rn, 8 NMAC 4.MAD.734.1& A, 5/1/02; A, 12/1/10]

8.314.3.12 ELIGIBLE RECIPIENTS:

A. ~~Medicaid recipients who have been diagnosed with a medically fragile condition before reaching [twenty-two (22)] 22 years of age and who require an [intermediate care facility for the mentally retarded (ICF/MR)] ICF/MR level of care (LOC) can be eligible to participate in the medically fragile HCBSW program.~~

B. Eligibility is limited to individuals who in addition to a developmental disability, developmental delay, or are at risk of developmental delay, have a medically fragile condition defined as a chronic physical condition, which results in a prolonged dependency on medical care for which daily skilled (nursing) intervention is medically necessary and is characterized by one or more of the following:

(1) ~~[There is]~~ a life threatening condition characterized by reasonably frequent periods of acute exacerbation which require frequent medical supervision, ~~[and/or]~~ or physician consultation and which in the absence of such supervision or consultation, would require hospitalization;

(2) ~~[The individual requires]~~ a condition requiring frequent, time consuming administration of specialized treatments which are medically necessary; or

(3) ~~[The individual is dependent]~~ dependence on medical technology such that without the technology a reasonable level of health could not be maintained; examples include but are not limited to ventilators, dialysis machines, enteral or parenteral nutrition support and continuous oxygen.

[2/1/95, 4/15/96; 8.314.3.12 NMAC - Rn, 8 NMAC 4.MAD.734.3, 5/1/02; A, 12/1/10]

8.314.3.13 COVERED WAIVER SERVICES: This medicaid waiver covers the following services for a specified number of medically fragile recipients as an alternative to institutionalization. The program is limited by the number of federally authorized unduplicated recipient (UDR) positions and program funding.

A. **Case management services:** Case managers provide a link between recipients and care providers and coordinate the use of community resources needed for that care. At least every other month, the case manager conducts a face-to-face contact with the recipient, and on a monthly basis conducts a telephonic or electronic contact with the recipient. The scope of the case manager's duties includes the following:

~~[(1) Assess the recipient's medical and social needs and functional limitations, using a needs assessment instrument, in cooperation with recipients, primary care givers and families;~~
~~(2) Develop and implement an Individualized Service Plan (ISP);~~
~~(3) Coordinate and monitor the delivery of services;~~
~~(4) Evaluate the effectiveness of services provided under the ISP and revise the plan as necessary;~~
~~(5) Reassess the recipient's need for and use of HCBSW services and arrange for financial eligibility redetermination and level of medical care determination annually or at more frequent intervals as the recipient's condition warrants;~~
~~(6) Mobilize the use of "natural helping" networks, such as family members, church members and friends; and~~
~~(7) Provide the documentation required by the HCBSW program and regular Medicaid for accountability for services and expenditures.]~~

(1) identifying medical, social, educational, family and community support resources;
(2) scheduling and coordinating timely interdisciplinary team (IDT) meetings to develop and modify the ISP annually and as needed by any team member;
(3) documenting contacts with the recipient and providers responsible for delivery of services to the recipient;
(4) verifying eligibility on an annual basis;
(5) ensuring the medically fragile long-term care assessment abstract (LTCAA) is completed and signed by the physician, physician assistant or clinical nurse practitioner (CNP);
(6) submitting the LOC packet including the LTCAA to the third-party assessor (TPA) contractor for prior authorization on a timely basis;
(7) ensuring the waiver review form (MAD 046) is submitted timely, both annually and as needed;
(8) initiating an ongoing monitoring process that provides for evaluation of delivery, effectiveness, appropriateness of services and support provided to the recipient as identified in the ISP;
(9) performing an annual recipient satisfaction survey; and
(10) coordinating services provided through the medically fragile (MF) waiver and other sources (state plan, family infant toddler (FIT), commercial insurance, educational and community).]

B. Home health aide: Home health aide services provide total care or assist a recipient in all activities of daily living. Total care is defined as: the provision of bathing (bed, sponge, tub, or shower), shampooing (sink, tub, or bed), care of nails and skin, oral hygiene, toileting and elimination, safe transfer techniques and ambulation, normal range of motion and positioning, adequate oral nutrition and fluid intake. The home health aide services assist the recipient in a manner that promotes an improved quality of life and a safe environment for the recipient. Home health aide services can be provided outside the recipient's home. Home health aides perform simple procedures such as an extension of therapy services, bowel and bladder care, ostomy site care, personal care, ambulation and exercise, household services essential to health care at home, assistance with medications that are normally self-administered, reporting changes in patient conditions and needs, and completing appropriate records. Home health aides may provide basic non-invasive nursing assistant skills within the scope of their practice.

C. Private duty nursing: Private duty nursing services are covered under the state plan as expanded early and periodic screening, diagnosis and treatment (EPSDT) benefits for waiver recipients under the age of 21. Private duty nursing services are provided to a recipient at home and in the community and include activities, procedures and treatment for a physical condition, physical illness, or chronic disability. Services may include medication management; administration and teaching; aspiration precautions; feeding management such as gastrostomy and jejunostomy; skin care; weight management; urinary catheter management; bowel and bladder care; wound care; health education; health screening; infection control; environmental management for safety; nutrition management; oxygen management; seizure management and precautions; anxiety reduction; staff supervision; and behavior and self-care assistance. DOH requires certain standards to be maintained by the private duty nursing care provider with which it contracts. In carrying out their role for DOH, private duty nursing care agencies must:

- (1) employ only RNs and LPNs licensed in the state of New Mexico;
- (2) assure that all nurses delivering services are culturally sensitive to the needs and preferences of the [individuals] recipients and their families. Based upon the [client's] recipient's individual language needs or preferences, nurses may be requested to communicate in a language other than English;
- (3) inform the case manager immediately of the agency's inability to staff according to the ISP;
- (4) develop and implement an individual nursing plan in conjunction with the [client's] recipient's physician and case manager in a manner that identifies and fulfills the [client's] recipient's specific needs;
- ~~[(5) Immediately inform the case manager of physician ordered changes regarding the client's needs;~~

(6) (5) document all assessments, observations, treatments and nursing interventions;
(7) (6) document and report to the case manager any non-compliance with the ISP; and
(8) (7) document any incidence of [client] recipient harm, medication error, [etc.] or other adverse event in accordance with the New Mexico Nursing Practice Act.

D. **[Physical, occupational and speech therapy services] Skilled therapy services for adults:**
This medicaid waiver covers medically necessary skilled therapy services under the state plan as expanded EPSDT benefits for waiver participants under the age of 21. Waiver services for adults are provided when the limits of EPSDT skilled therapy services are exhausted. Adults access therapy services under the state plan for acute and temporary conditions that are expected to improve significantly in a reasonable and generally predictable period of time. The amount, duration, and goals of skilled therapy services must be included in an ISP. A therapy treatment plan must be developed with the initiation of therapy services and updated at least every six (6) months. The therapy treatment plan includes the following: (1) developmental status of the [recipients] recipient in areas relevant to the service provided; (2) treatment provided, including the frequency and duration; and (3) recommendation for continuing services and documentation [or] of results. Skilled maintenance therapy services specifically include the following:

(1) Physical therapy: Physical therapy services promote gross/fine motor skills, facilitate independent functioning or prevent progressive disabilities. Specific services may include: professional assessment(s), evaluation(s) and monitoring for therapeutic purposes; physical therapy treatments and interventions; training regarding physical therapy activities, use of equipment and technologies or any other aspect of the individual's physical therapy services; designing, modifying or monitoring use of related environmental modifications; designing, modifying, and monitoring use of related activities supportive to the ISP goals and objectives; and consulting or collaborating with other service providers or family members, as directed by the recipient.

(2) Occupational therapy: Occupational therapy services promote fine motor skills, coordination, sensory integration, or facilitate the use of adaptive equipment or other assistive technology. Specific services may include: teaching of daily living skills; development of perceptual motor skills and sensory integrative functioning; design, fabrication, or modification of assistive technology or adaptive devices; provision of assistive technology services; design, fabrication, or applying selected orthotic or prosthetic devices or selecting adaptive equipment; use of specifically designed crafts and exercise to enhance function; training regarding occupational therapy activities; and consulting or collaborating with other service providers or family members, as directed by the recipient.

(3) Speech language therapy: Speech language therapy services preserve abilities for independent function in communication; facilitate oral motor and swallowing function; facilitate use of assistive technology, or prevent progressive disabilities. Specific services may include: identification of communicative or oropharyngeal disorders and delays in the development of communication skills; prevention of communicative or oropharyngeal disorders and delays in the development of communication skills; development of eating or swallowing plans and monitoring their effectiveness; use of specifically designed equipment, tools, and exercises to enhance function; design, fabrication, or modification of assistive technology or adaptive devices; provision of assistive technology services; adaptation of the recipient's environment to meet his/her needs; training regarding speech language therapy activities; and consulting or collaborating with other service providers or family members, as directed by the recipient.

E. **[Psycho-Social Services Counseling:** This medicaid waiver provides services to the medically fragile client, their parents, family members or primary care givers. Psycho-social counseling includes assessment, treatment, evaluation and follow up services to assist the client parents, family members or primary care givers with the development of coping skills related to preserving the family's efforts to maintain the client at home.] Behavior support consultation services: This medicaid waiver provides services to assist the medically fragile recipient, his/her parents, family members or primary care givers. Behavior support consultation includes assessment, treatment, evaluation and follow-up services to assist the recipient, parents, family members or primary care givers with the development of coping skills related to preserving the family's efforts to maintain the recipient at home. Behavior support consultation: (1) informs and guides the recipient's providers with the services and supports as they relate to the recipient's behavior and his/her medically fragile condition; (2) identifies support strategies to ameliorate contributing factors with the intention of enhancing functional capacities, adding to the provider's competency to predict, prevent and respond to interfering behavior and potentially reducing interfering behavior(s); (3) supports effective implementation based on a functional assessment; (4) collaborates with medical and ancillary therapies to promote coherent and coordinated services addressing behavioral issues and to limit the need for psychotherapeutic medications; and (5) monitors and adapts support strategies based on the response of the recipient

and his/her service and support providers. Based on the recipient's ISP, services are delivered in an integrated/natural setting or in a clinical setting.

F. **Institutional and in-home respite care services:** This medicaid waiver covers respite care as outlined in the [individual service plan (ISP)] ISP. ~~[The interdisciplinary team (IDT)]~~ The IDT is responsible for determining the need for respite care. Respite services are provided to recipients unable to care for themselves that are furnished on a short-term basis to allow the primary caregiver a limited leave of absence in order to reduce stress, accommodate caregiver illness, or meet a sudden family crisis or emergency. Respite care is furnished at ~~[home or]~~ home, in a private residence of a respite care provider, in a specialized foster care home, in a hospital or nursing facility (NF) ~~[low NF level of care,]~~ or an ICF/MR meeting the qualifications for provider certification. When respite care services are provided to an eligible individual by an institution, that individual will not be considered a resident of the institution for purposes of waiver eligibility. Respite services include: medical and non-medical health care; personal care bathing; showering; skin care; grooming; oral hygiene; bowel and bladder care; catheter and supra-pubic catheter care; preparing or assisting in preparation of meals and eating; as appropriate, administering enteral feedings; providing home management skills; changing linens; making beds; washing dishes; shopping; errands; calls for maintenance; assisting with enhancing self-help skills; promoting use of appropriate interpersonal communication skills and language; working independently without constant supervision/observation; providing body positioning, ambulation and transfer skills; arranging for transportation to medical or therapy services; assisting in arranging health care needs and follow-up as directed by the primary care giver, physician, and case manager; ensuring the health and safety of the recipient at all times.

G. **Nutritional counseling:** Nutritional counseling is designed to meet the unique food and nutrition requirements of ~~[individuals]~~ recipients with medical fragility and developmental disabilities. Examples of ~~[individuals]~~ recipients who may require nutritional counseling are children or adults with specific illnesses such as failure to thrive, gastroesophageal reflux, dysmotility of the esophagus and stomach etc., or who require specialized formulas, or receive tube feedings or parenteral nutrition. This does not include oral-motor skill development such as that provided by a speech language pathologist. Nutritional counseling services include assessment of the recipient's nutritional needs, regimen development, or revisions of the recipient's nutritional plan, counseling and nutritional intervention and observation and technical assistance related to implementation of the nutritional plan. These services advise and help recipients obtain appropriate nutritional intake by integrating information from the nutritional assessment with information on food, other sources of nutrients, and meal preparation consistent with cultural backgrounds and socioeconomic status. These services can be delivered in the home.

H. **Specialized medical equipment and supplies:** This medicaid waiver provides specialized medical equipment and supplies which include: (1) devices, controls or appliances specified in the plan of care that enable recipients to increase their ability to perform activities of daily living; (2) devices, controls, or appliances that enable the recipient to perceive, control, or communicate with the environment in which they live; (3) items necessary for life support or to address physical conditions along with ancillary supplies and equipment necessary to the proper functioning of such items; (4) such other durable and non-durable medical equipment not available under the state plan that is necessary to address recipient functional limitations; and (5) necessary medical supplies not available under the state plan. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the state plan and exclude those items that are not of direct medical or remedial benefit to the recipient. The costs of maintenance and upkeep of equipment are included in the cost of equipment and supplies. This service does not include nutritional or dietary supplements, disposable diapers, bed pads, or disposable wipes. [2/1/95, 4/15/96; 8.314.3.13 NMAC - Rn, 8 NMAC 4.MAD.734.4 & A, 5-1-02; A, 12/1/10]

8.314.3.14 NON-COVERED SERVICES: Only services listed as covered waiver services are covered under the waiver program. Ancillary services can be available to waiver recipients through the regular medicaid program. These ancillary services are subject to the limitations and coverage restrictions which exist for other medicaid services. See 8.301.3 NMAC, *General Noncovered Services*, for an overview of non-covered services [2/1/95, 4/15/96; 8.314.3.14 NMAC - Rn, 8 NMAC 4.MAD.734.5, 5/1/02; A, 12/1/10]

8.314.3.15 INDIVIDUALIZED SERVICE PLAN: An initial ISP must be developed by a team of professionals in consultation with ~~[recipients]~~ the recipient and others involved in the recipient's care within 90 days of being determined eligible for the MF waiver.

~~[A. The interdisciplinary team must review the treatment plan at least every twelve (12) months or more often if indicated.~~

~~B. The plan of care must contain the following information:~~

~~(1) Statement of the nature of the specific problem and the specific needs of the recipient;~~

~~_____ (2) Description of the functional level of the recipient, including an assessment and evaluation of the following:~~

- ~~_____ (a) Mental status examination;~~
- ~~_____ (b) Intellectual function assessment;~~
- ~~_____ (c) Psychological assessment;~~
- ~~_____ (d) Educational assessment;~~
- ~~_____ (e) Vocational assessment;~~
- ~~_____ (f) Social assessment;~~
- ~~_____ (g) Medication assessment; and~~
- ~~_____ (h) Physical assessment.~~

~~_____ (3) Statement of the least restrictive conditions necessary to achieve the purposes of treatment;~~

~~_____ (4) Description of intermediate and long range goals, with a projected timetable for their attainment and the duration and scope of therapy services;~~

~~_____ (5) Statement and rationale of the treatment plan for achieving these intermediate and long range goals, including provision for review and modification of the plan; and~~

~~_____ (6) Specification of responsibilities for areas of care, description of needs, and orders for medication(s), treatments, restorative and rehabilitative services, activities, therapies, social services, diet, and special procedures recommended for the health and safety of the recipient.]~~

A. The case manager assists the recipient in identifying his/her dreams, goals, preferences and outcomes for service. The case manager obtains information about the recipient's strengths, capacities, needs, preferences, desired outcomes, health status, and risk factors. This information is gained through a review of the LOC assessment; interviews between the case manager and recipient; and the person-centered planning process that takes place between the case manager and recipient to develop the ISP.

B. The ISP addresses: activities of daily living assistance needs, health care needs, equipment needs, relationships in the home and community, personal safety and provider responsibilities.

C. During the pre-planning process, the case manager provides the recipient with information about the MF waiver. The case manager provides information about the range and scope of service choices and options, as well as the rights, risks, and responsibilities associated with the MF waiver. The case manager is responsible for completing the CIA and obtaining other medical assessments needed for the ISP; completing the annual LOC redetermination process; and referring the recipient to HSD for financial eligibility determination annually and as needed.

D. The case manager works with the recipient to identify service providers to participate in the IDT meeting. State approved providers are selected from a list provided by the case manager. The recipient sets the date and time of the IDT meeting. The case manager works with the recipient to plan the IDT meeting and encourages him/her to lead the IDT meeting to the extent possible.

E. The case manager assists the recipient in ensuring that the ISP addresses the recipient's goals, health, safety and risks along with addressing the information or concerns identified through the assessment process. The case manager writes up the ISP as identified in the IDT meeting. Each provider develops care activities and strategies for each outcome, goal, and objective identified at the IDT meeting. The case manager assures the ISP budget is within the capped dollar amount (CDA). Implementation of the ISP begins when provider service plans have been received by the case manager and recipient, and the plan and budget have been approved by the TPA contractor.

F. The case manager ensures for each recipient that:

(1) the planning process addresses the recipient's needs and personal goals in medical supports needed at home for health and wellness;

(2) services selected address the recipient's needs as identified during the assessment process; needs not addressed in the ISP are addressed through resources outside the MF waiver program;

(3) the outcomes of the assessment process for assuring health and safety are considered in the plan;

(4) services do not duplicate or supplant those available to the recipient through the medicaid state plan or other public programs;

(5) services are not duplicated in more than one service code;

(6) the parties responsible for implementing the plan are identified and listed within the document;

(7) the back-up plans are complete; and

(8) the ISP is submitted to and reviewed by the TPA contractor in compliance with the MF waiver service standards.

G. The ISP is updated if personal goals, needs or life circumstances change that may or may not result in a change of the LOC. Revisions may be requested by the recipient. Each member of the IDT may request an IDT meeting to address changes or challenges. The case manager contacts the recipient to initiate revisions to the budget. The case manager initiates the scheduling of IDT meetings and assures the IDT meeting is in compliance with the MF waiver service standards.

H. The case manager is responsible for monitoring the ISP pre-planning and development process. The case management agency conducts internal quality improvement monitoring of service plans. The ISP is monitored monthly via phone, electronically, and face-to-face by the case manager.

I. After the initial ISP, the IDT reviews the ISP at least annually or more often as needed, in order to assess progress toward goal achievement and determine any needed revisions in care.
[2/1/95, 4/15/96; 8.314.3.15 NMAC - Rn, 8 NMAC 4.MAD.734.6, 5/1/01; A, 12/1/10]

8.314.3.16 UTILIZATION REVIEW: All medicaid services, including services covered under this medicaid waiver, are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior ~~Approval~~ Authorization and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior approval and claims processing.

A. **Prior approval:** To be eligible for HCBSW program services, medicaid recipients must require an [intermediate care facility for the mentally retarded] ICF/MR LOC and meet the definition of NM medical fragility as defined in Subsection B of 8.314.3.12 NMAC, eligible recipients. LOC determinations are made by MAD or its designee. The ISP must specify the type, amount and duration of services. Certain procedures or services specified in the ISP can require prior approval from MAD or its designee. Services for which prior approval was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** Prior approval of services does not guarantee that individuals are eligible for medicaid. Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance.

C. **Reconsideration:** Providers who disagree with prior approval request denials or other review decisions can request a re-review and reconsideration. See Section 953 [8.350.2 NMAC], *Reconsideration of Utilization Review Decisions*.
[2/1/95, 4/15/96; 8.314.3.16 NMAC - Rn, 8 NMAC 4.MAD.734.7, 5/1/02; A, 12/1/10]

8.314.3.17 REIMBURSEMENT: Waiver service providers must submit claims for reimbursement ~~[through the administrative services division of the department of health for payment by the MAD claims processing contractor]~~ to the MAD medicaid management information system (MMIS) contractor for processing. Claims must be filed per the billing instructions in the medicaid policy manual. Providers must follow all medicaid billing instructions. See 8.302.2 NMAC, *Billing for Medicaid Services*. Once enrolled, providers receive instructions on documentation, billing, and claims processing. Reimbursement to providers of medicaid waiver services is made at a predetermined reimbursement rate.
[2/1/95, 8.314.3.17 NMAC – Rn, 8 NMAC 4. MAD 734.8, 5/1/02; A, 12/1/10]