



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT
NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT
MEDICATION ASSISTED TREATMENT FOR OPIOID ADDICTION

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED RULES

V. BACKGROUND SUMMARY

The Human Services Department, Medical Assistance Division (HSD/MAD), is proposing a new rule for the coverage of medication assisted treatment for opioid addiction. The Department proposes this rule to govern provider participation, service coverage and limitations, and reimbursement.

The anticipated annual increase in expenditures is \$1,800,000.00 in combined state and federal funds. The proposed reimbursement amount is \$13.30 per visit using code H0020, "alcohol and/or drug services; methadone administration and/or service". A more detailed explanation of reimbursement is available on the HSD/MAD website at <http://www.hsd.state.nm.us/mad/PFeeSchedule.html>. The document is entitled, "Proposed Reimbursement for Medication Assisted Treatment for Opioid Addiction".

VI. RULES

This proposed new rule refers to MAD 8.325.11 NMAC, *Medication Assisted Treatment of Opioid Addiction*, of the Medical Assistance Program Policy Manual. This register and the attached proposed rule are available on the Medical Assistance Division web site at www.hsd.state.nm.us/mad/register/2012.html. Internet access, a copy of the rules may be requested by contacting the Medical Assistance Division at 505-827-3157.

VII. EFFECTIVE DATE

The Department proposes to implement these rules effective September 1, 2012.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed rules will be held at 1:30 p.m. on August 6, 2012 in the South Park Conference Room, 2055 S. Pacheco, Ste. 500-590, Santa Fe.

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 827-3157. 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:

Sidonie Squier, 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 August 6, 2012. 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: Barbara.watkins@state.nm.us .

X. PUBLICATION

Publication of these rules approved by:

SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

INDEX

8.325.11 MEDICATION ASSISTED TREATMENT FOR OPIOID ADDICTION

8.325.11.1 ISSUING AGENCY1

8.325.11.2 SCOPE1

8.325.11.3 STATUTORY AUTHORITY.....1

8.325.11.4 DURATION.....1

8.325.11.5 EFFECTIVE DATE.....1

8.325.11.6 OBJECTIVE1

8.325.11.7 DEFINITIONS.....1

8.325.11.8 MISSION STATEMENT1

8.325.11.9 MEDICATION ASSISTED TREATMENT FOR OPIOID ADDICTION.....1

8.325.11.10 ELIGIBLE PROVIDERS1

8.325.11.11 PROVIDER RESPONSIBILITIES2

8.325.11.12 ELIGIBLE RECIPIENTS2

8.325.11.13 COVERED SERVICES2

8.325.11.14 NONCOVERED SERVICES3

8.325.11.15 PRIOR AUTHORIZATION3

8.325.11.16 REIMBURSEMENT3

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TITLE 8 SOCIAL SERVICES
CHAPTER 325 SPECIALTY SERVICES
PART 11 MEDICATION ASSISTED TREATMENT FOR OPIOID ADDICTION

8.325.11.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.325.11.1 NMAC - N, 9-1-12]

8.325.11.2 SCOPE: The rule applies to the general public.
[8.325.11.2 NMAC - N, 9-1-12]

8.325.11.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.325.11.3 NMAC - N, 9-1-12]

8.325.11.4 DURATION: Permanent
[8.325.11.4 NMAC - N, 9-1-12]

8.325.11.5 EFFECTIVE DATE: September 1, 2012, unless a later date is cited at the end of a section.
[8.325.11.5 NMAC - N, 9-1-12]

8.325.11.6 OBJECTIVE: The objective of this rule is to provide instructions for the service portion of the New Mexico medical assistance division programs.
[8.325.11.6 NMAC - N, 9-1-12]

8.325.11.7 DEFINITIONS: [RESERVED]

8.325.11.8 MISSION STATEMENT: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.325.11.8 NMAC - N, 9-1-12]

8.325.11.9 MEDICATION ASSISTED TREATMENT FOR OPIOID ADDICTION (MAT): The New Mexico medical assistance division (MAD) provides coverage for medication assisted treatment for opioid addiction to eligible recipients through an opioid treatment center as defined in 42 CFR part 8, *Certification of Opioid Treatment Programs*.
[8.325.11.9 NMAC - N, 9-1-12]

8.325.11.10 ELIGIBLE PROVIDERS:

A. Health care to New Mexico MAD eligible recipients is furnished by a variety of providers and provider groups. The reimbursement for these services is administered by MAD. Upon approval of a New Mexico MAD provider participation agreement or a MAD EHR incentive payment agreement by MAD or its designee, licensed practitioners, facilities and other providers of services that meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider must be approved before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review instructions, and other pertinent materials. When approved, a provider receives instruction on how to access these documents. It is the provider's responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider must contact HSD or its authorized agents to obtain answers to questions related to the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD provider participation agreement and all applicable statutes, regulations, and executive orders. MAD or its selected claims processing contractor issues payments to a provider using electronic funds transfer (EFT) only.

B. Opioid treatment centers are public or private facilities operating a federally certified program to dispense methadone, or other narcotic replacement or narcotic agonist drug items, as part of a detoxification treatment or maintenance treatments as defined in 42 CFR part 8, *Certification of Opioid Treatment Programs*.

C. Services must be provided within the scope of the practice and licensure for each provider and must be in compliance with the statutes, rules and regulations of the applicable practice and with the MAD program policy manual.

[8.325.11.10 NMAC - N, 9-1-12]

8. 325.11.11 PROVIDER RESPONSIBILITIES:

A. A provider who furnishes services to a medicaid or other health care programs eligible recipient must comply with all federal and state laws, regulations, and executive orders relevant to the provision of services as specified in the MAD provider participation agreement. A provider also must conform to MAD program rules and instructions as specified in the provider rules manual and its appendices, and program directions and billing instructions, as updated. A provider is also responsible for following coding manual guidelines and CMS correct coding initiatives, including not improperly unbundling or upcoding services.

B. A provider must verify that an individual is eligible for a specific health care program administered by the HSD and its authorized agents, and must verify the eligible recipient's enrollment status at the time services are furnished. A provider must determine if an eligible recipient has other health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an eligible recipient.

C. The provider must maintain documentation supporting the medical necessity of MAT services in the eligible recipient's medical record per the requirements in 42 CFR Part 8, *Certification of Opioid Treatment Programs*.

[8.325.11.11 NMAC - N, 9-1-12]

8. 310.16.12 ELIGIBLE RECIPIENTS: MAT services are provided to eligible recipients who have full New Mexico medicaid benefits and eligible recipients receiving pregnancy related benefits.

A. The provider must ensure through its internal policies and procedures that an eligible recipient is treated for opioid dependency treatment only after the provider's physician determines and documents that:

(1) the eligible recipient meets the definition of opioid dependence using generally accepted medical criteria such as those contained in the diagnostic and statistical manual for mental disorders (DSM-IV-TR or subsequent editions);

(2) the eligible recipient has received a physical examination as required by Subsection D of 7.32.8.19 NMAC;

(3) if the eligible recipient is requesting maintenance treatment, then the eligible recipient must have been addicted for at least 12 months prior to starting MAT services, unless the eligible recipient receives a waiver of this requirement from the provider's physician because the eligible recipient:

(a) was released from a penal institution within the last six months;

(b) is pregnant, as confirmed by the program physician;

(c) was treated for opioid dependence within the last 24 months; and

(d) meets any other requirements specified in 7.328 NMAC regarding waivers, consent, and waiting periods.

B. The provider must ensure that an eligible recipient 19 years of age or older requesting long-term or short-term opioid withdrawal treatment who has had two or more unsuccessful opioid treatment withdrawal treatment episodes within a 12-month period be assessed by the provider's medical director to determine if other forms of treatment may be more appropriate.

[8.325.11.12 NMAC - N, 9-1-12]

8. 325.11.13 COVERED SERVICES: MAT services use a drug or biological that is recognized in the treatment of substance use disorder and provided as a component of a comprehensive treatment program. MAT is also a benefit as a conjunctive treatment regimen for eligible recipients who are addicted to substances that can be abused and who meet the DSM-IV-TR criteria for a substance use disorder.

A. Covered MAT opioid treatment center services are limited to the program physician assessment, counseling, and the provision, administration, or dispensing of methadone or other narcotic replacement or narcotic agonist drug items as part of a detoxification treatment or maintenance treatments as defined in 42 CFR part 8, *Certification of Opioid Treatment Program*.

B. MAT services are limited to one drug administration or dispensing per day and only when there has been a face-to-face encounter with the eligible recipient.
 [8.325.11.13 NMAC - N, 9-1-12]

8. 325.11.14 NON-COVERED SERVICES: MAT services are subject to the limitations and coverage restrictions that exist for other MAD services. See 8.301.3 NMAC, *General Noncovered Services*.
 [8.325.11.14 NMAC - N, 9-1-11]

8. 325.11.15 PRIOR AUTHORIZATION: All MAD services 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 and Utilization Review*. The provider must contact HSD or its authorized agents to request utilization review instructions. It is the provider's responsibility to access these instructions or ask for paper copies to be provided, to understand the information provided, to comply with the requirements, and to obtain answers to questions not covered by these materials. When services are billed to and paid by a coordinated services contractor authorized by HSD, the provider must follow that contractor's instructions for authorization of services.

A. **Prior authorization:** Certain procedures or services may require prior authorization from MAD or its designee. Contact lenses, either the original prescription or replacement, require prior authorization. Services for which prior authorization was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** The prior authorization of a service does not guarantee that an individual is eligible for medicaid or other health care programs. A provider must verify that an individual is eligible for a specific program at the time the service is furnished and must determine if the eligible recipient has other health insurance.

C. **Reconsideration:** A provider who disagrees with a prior authorization denial or another review decision may request a reconsideration of the decision. See 8.350.2 NMAC *Reconsideration of Utilization Review Decisions*.
 [8.325.11.15 NMAC - N, 9-1-12]

8. 325.11.16 REIMBURSEMENT:

A. A MAT provider, except an IHS or 638 facility, must submit claims for reimbursement on the CMS 1500 claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services*. Once enrolled, a provider receives directions on how to access instructions on documentation, billing, and claims processing and laboratory or testing performed by the facility and specimen collection. Reimbursement to a provider for covered services is made at the lesser of the following:

- (1) The provider's billed charge; or
- (2) The MAD fee schedule for the specific service or procedure.

B. The provider's billed charge must be their usual and customary charge for services.

C. "Usual and customary charge" refers to the amount which the individual provider charges the general public in the majority of cases for a specific procedure or service.

D. MAT specific reimbursement instructions:

- (1) the reimbursement rate for administration or dispensing includes the cost of methadone, administering methadone or other narcotic replacement or agonist drug items, and counseling required by 42 CFR part 8.12 (f) and any laboratory tests or services and any specimen collection performed within the center;
- (2) if a narcotic replacement or agonist drug item other than methadone is administered or dispensed, additional reimbursement will be made for the specific drug item;

- (3) MAT reimbursement is limited to one administration or dispensing per date of service regardless of the number of abused substances being treated;

- (4) therapy other than the counseling required by 42 CFR part 8.12 (f) may be billed separately when rendered by a MAD approved independently licensed provider that meets 8.310.8 NMAC *Behavioral Health Professional Services*, requirements;

- (5) an eligible recipient's medical evaluation and management service may be reimbursed additionally when rendered by a MAD approved medical provider that meets 8.310.2 NMAC *Medical Services Providers*, requirements;

- (6) laboratory services that are required under MAT provided by a certified laboratory facility are reimbursable when billed by the offsite laboratory; and

- (7) Claims billed for MAT must include the eligible recipient's substance use disorder diagnosis.

MAD-MR:

**SPECIALTY SERVICES
MEDICATION ASSISTED TREATMENT FOR OPIOID ADDICTION**

EFF: Proposed

[8.325.11.16 NMAC - N, 9-1-12]