



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.302.2 NMAC BILLING FOR MEDICAID SERVICES, **8.308.14** NMAC COST SHARING, AND **8.309.4** MAD ADMINISTRATIVE BENEFITS AND LIMITATION OF SERVICES, **8.200.430** RECIPIENT RIGHTS AND RESPONSIBILITIES, AND **8.243.600** WORKING DISABLED INDIVIDUALS (WDI) BENEFIT DESCRIPTION

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
FINAL RULES

V. BACKGROUND SUMMARY

The Human Services Register Vol. 37 No.53 , dated July 28, 2014, issued proposed amendments to New Mexico Administrative Codes (NMAC): **8.302.2** Billing For Medicaid Services, **8.308.14** Cost Sharing, And **8.309.4** MAD Administrative Benefits And Limitation Of Services, **8.200.430** Recipient Rights And Responsibilities, and **8.243.600** Working Disabled Individuals (WDI) Benefit Description.

A public hearing was held on September 2, 2014, to receive public testimony on these proposed rules. The Department received two written comment letters which included comments for all five rules; no public testimony or recorded comments were received.

Summary of Comments:

8.302.2 Billing For Medicaid Services

8.302.2.10.7 G 7(c)

One commenter is concerned there is a conflict between instructions previously provided to the HSD Managed Care Organizations (MCO) and the proposed rule. The commenter requested clarification.

Department Response: The Department did provide to its MCOs instructions based upon the then current 8.302.2 NMAC rule. The proposed rule language would impact services effective

October 1, 2014 forward; therefore, there is no conflict. The concerns the commenter expressed are related to the HSD Centennial Care contracts. If necessary, HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

OTHER: The Department reviewed the rule for ease of readability prior to the final version. It rearranged subsections to simplify which services and categories of eligibility would continue to have co-payment requirements of eligible recipients. It deleted redundant subsections of the rule. No changes were made to the content of the rule itself.

8.308.14 Cost Sharing

No comments received.

OTHER: The Department reviewed the rule for ease of readability prior to the final version. It rearranged subsections to simplify which services and categories of eligibility would continue to have co-payment requirements of eligible recipients or made reference to specific NMAC rules for additional co-payment information. It deleted redundant subsections of the rule. No changes were made to the content of the rule itself.

8.309.4 MAD Administrative Benefits And Limitation Of Services

8.309.4.11

One commenter requested clarification between the language as proposed and the Medicaid Managed Care Services Agreement. The commenter states the limitation of only 14 calendar days step-down care is not in the proposed rule. The commenter asks if this was an oversight by HSD.

Department Response: The Department intentionally did not place a limitation for step-down lower level of care from an acute care hospital stay. The language stands as proposed.

8.309.4.12 S

One commenter is seeking clarification whether MAD transplant services include skin or pancreas in the list of eligible transplants. The commenter states these services are covered per the HSD Medicaid Managed Care Services Agreement.

Department Response: The proposed ABP rule did not amend Section 12 Subsection S of this rule. The sections of the proposed ABP rule where the Department did not amend language continue as it was previously approved. The concerns the commenter expressed are related to the HSD Centennial Care contracts. HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

8.309.4.12 T

One commenter questioned (1) whether routine eye exams (every 36 months) will be a benefit for the Alternative Benefit Plan (ABP) when the Medicaid Managed Care Services Agreement states otherwise; and (2) the proposed rule established limitations to the coverage of glasses and contact lens for the treatment of aphakia that are not in limited in 8.310.2 NMAC.

Department Response:

(1) The proposed ABP rule did not amend Section 12 Subsection T of this rule. The sections of the proposed ABP rule where the Department did not amend language continue as it was previously approved. The concerns the commenter expressed are related to the HSD Centennial Care contracts. If necessary, HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

(2) ABP is a limited benefit package compared to the Medicaid State Plan benefit package detailed in 8.310.2 NMAC. The proposed ABP rule did not amend Section T of this rule. The sections of the proposed ABP rule where the Department did not amend language continue as it was previously approved. The concerns the commenter expressed are related to the HSD Centennial Care contracts. HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

8.309.4.17

One commenter states Electroconvulsive Therapy (ECT) is an ABP covered services as detailed in the Medicaid Managed Care Services Agreement, yet the Department under 8.321.2 NMAC lists it as a noncovered service.

Department Response: The proposed ABP rule did not amend Section 17 of this rule. The sections of the proposed ABP rule where the Department did not amend language continue as it was previously approved. The concerns the commenter expressed are related to the HSD Centennial Care contracts. HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

One commenter states the rule, 8.309.4 NMAC does not specifically exclude coverage of cancer clinical trials, and the Medicaid Managed Care Services Agreement does require these be covered services.

Department Response: The sections of the proposed ABP rule where the Department did not amend language continue as it was previously approved. The sections of the proposed ABP rule where the Department did not amend language continue as it was previously approved. The concerns the commenter expressed are related to the HSD Centennial Care contracts. HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

One commenter stated HSD had provided informal guidance directing MCOs to implement certain copay changes as of 8/1/2014. However, those co-payment changes are addressed in the proposed revisions to the applicable rules to be effective as of 10/1/2014. The commenter believes this is an error, as it would create a two-month period where HSD's informal guidance is inconsistent with the applicable, governing rules. In order to ensure that MCOs are able to administer benefits fully in accordance with HSD's wishes and with applicable law, the commenter recommended the effective date of the rules (at least with respect to the copayment revisions) be 8/1/2014.

Department Response: The Department must comply with State Records and Archives promulgation process. Amending a New Mexico Administrative Code (NMAC) rule cannot be done retroactively. The concerns the commenter expressed are related to the HSD Centennial Care contracts. HSD will provide clarification to its managed care contractors through established routes or in the MCO Policy Manual. The language stands.

8.200.430 Recipient Rights And Responsibilities

No comments received.

OTHER: The Department reviewed the rule for ease of readability prior to the final version. It rearranged subsections to simplify which services and categories of eligibility would continue to have co-payment requirements of eligible recipients or made reference to specific NMAC rules for additional co-payment information. It deleted redundant subsections of the rule. No changes were made to the content of the rule itself.

8.243.600 Working Disabled Individuals (WDI) Benefit Description

No comments received.

OTHER: The Department added two clarifying sentences in this rule under Section 12:

“ONGOING BENEFITS: A re-determination of MAP eligibility is made every 12 months or at such time the MAP eligible recipient begins receiving medicare benefits. Services provided may be subject to cost sharing requirements. Please see 8.302.2 NMAC for more information on any required recipient co-payments.”

Because the Department removed WDI specific co-payment information from the rule and placed the information into another rule (8.302.2 NMAC), for the final version of the WDI rule, a citation on where to locate specific WDI co-payment information. The remaining sections of the rule language stands as proposed.

The language in all other sections of these rules stand as proposed.

VI. RULES

These rules referenced above will be contained in the MAD Eligibility and Provider Program Rule Manuals, available on the HSD website at:

<http://www.hsd.state.nm.us/LookingForInformation/medical-assistance-division-1.aspx>

and

<http://www.hsd.state.nm.us/providers/rules-nm-administrative-code-.aspx>.

If you do not have internet access, a copy of the register and rules may be requested by contacting MAD at 505-827-3118.

VII. EFFECTIVE DATE

The Department will implement these rules effective October 15, 2014.

VIII. PUBLICATION

Publication of these rules approved by:



SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT