

**EARLY AND PERIODIC SCREENING, DIAGNOSIS AND
TREATMENT (EPSDT) SERVICES
SCHOOL-BASED SERVICES FOR MAP ELIGIBLE RECIPIENTS
UNDER TWENTY-ONE YEARS OF AGE
Tribal Consultation Version 10.15.2013**

**TITLE 8 SOCIAL SERVICES
CHAPTER 320 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT)
SERVICES:
PART 6 SCHOOL-BASED SERVICES FOR MAP ELIGIBLE RECIPIENTS UNDER
TWENTY-ONE YEARS OF AGE**

8.320.6.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.320.6.1 NMAC - N, 1-1-14]

8.320.6.2 SCOPE: The rule applies to the general public.
[8.320.6.2 NMAC - N, 1-1-14]

8.320.6.3 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.
[8.320.6.3 NMAC - N, 1-1-14]

8.320.6.4 DURATION: Permanent.
[8.320.6.4 NMAC - N, 1-1-14]

8.320.6.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.320.6.5 NMAC - N, 1-1-14]

8.320.6.6 OBJECTIVE: The objective of these rules is to provide instruction for the service portion of the New Mexico medical assistance division's (MAD) medical assistance programs (MAP).
[8.320.6.6 NMAC - N, 1-1-14]

8.320.6.7 DEFINITIONS: [RESERVED]

8.320.6.8 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.
[8.320.6.8 NMAC - N, 1-1-14]

8.320.6.9 SCHOOL-BASED SERVICES FOR RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE: MAD pays for medically necessary services for a MAP eligible recipient under twenty-one years of age when the services are part of the MAP eligible recipient's individualized education program (IEP) or an individualized family service plan (IFSP) for treatment (correction, amelioration, or prevention of deterioration) of an identified medical condition.
[8.320.6.9 NMAC - N, 1-1-14]

8.320.6.10 GENERAL PROVIDER INSTRUCTIONS: Health care to New Mexico MAP 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 PPA or an electronic health record (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 MAD covered services to MAP 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 website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD/MAD or its authorized agents, including program rules, billing instructions, utilization review (UR) 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

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covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD PPA and all applicable statutes, regulations, rules, and executive orders. MAD or its selected claims processing contractor issues payment to a provider using the electronic funds transfer (EFT) only. Providers must supply necessary information in order for payment to be made.

B. Services must be provided within the scope of the practice and licensure for each agency, each rendering provider within that agency or each individual provider. Services must be in compliance with the statutes, rules and regulations of his or her practitioner's applicable practice board and act. Providers must be eligible for reimbursement as described in 8.310.3 NMAC.
[8.320.6.10 NMAC - N, 1-1-14]

8.320.6.11 ELIGIBLE PROVIDERS:

A. Upon approval of a New Mexico MAD provider participation agreement (PPA) by MAD or its designee, local education agencies (LEAs), regional educational cooperatives (RECs), and other state-funded educational agencies (SFEAs) that meet specified requirements are eligible to be reimbursed for furnishing services to an MAP eligible recipient. The LEA, REC, or other SFEA must enter into a governmental services agreement (GSA) with HSD and abide by the terms and conditions of it.

B. The following individual service providers must be employed by, or under contract to, the LEA, REC, or other SFEA when furnishing treatment and meet other specified qualification criteria:

- (1) physical therapists (PT);
- (2) physical therapy assistants working under the supervision of a MAD enrolled PT;
- (3) occupational therapists (OT);
- (4) occupational therapy assistants working under the supervision of a MAD enrolled licensed occupational therapist;
- (5) speech and language pathologists (SLP) and clinical fellows;
- (6) apprentices in speech-language (ASL) working under the supervision of a MAD enrolled licensed speech therapist;
- (7) audiologists;
- (8) licensed nutritionists or registered dieticians;
- (9) case managers meeting one of the following requirements:
 - (a) bachelor's degree in social work, counseling, psychology, nursing or a related health or social services field from an accredited institution;
 - (b) one year experience serving medically-at-risk children or adolescents; or
 - (c) a licensed registered (RN);
- (10) For the a LEA, REC, and other SFEA that employs a RN or a licensed practical nurse (LPN) not as a case worker, each is under the oversight of the department of health's (DOH) district health officer, as provided by state statute (NMSA 1978, Section 24-1-4). A LPN must work under the supervision of a RN who is a PED licensed school nurse.

C. As applicable, each provider must be licensed by the public education department (PED) when such licensure exists.

D. As applicable, each provider must be licensed by its specific regulation and licensing division (RLD)'s board of practice or by PED.
[8.320.6.11 NMAC - N, 1-1-14]

8.320.6.12 PROVIDER RESPONSIBILITIES:

A. General responsibilities:

(1) A provider who furnishes services to a MAP eligible recipient must comply with all terms and conditions of his or her MAD PPA and the MAD New Mexico administrative code (NMAC) rules.

(2) A provider must verify that an individual is a MAP eligible recipient at the time services are billed.

(3) A provider must appoint a program liaison and backup alternate for each LEA, REC or other SFEA, who will be responsible for receiving and disbursing all communication, information and guidelines from HSD regarding the MAD school-based services program, including information on, but not limited to, direct services and administrative claiming.

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B. Documentation requirements:

(1) A provider must maintain all records necessary to fully disclose the nature, quality, amount and medical necessity of services billed to a MAP eligible recipient who is currently receiving MAD services or have received MAD services in the past. Payment for services billed to MAD that are not substantiated in the MAP eligible recipient's records are subject to recoupment. Documentation must be retained for at least six years from the date of creation or until ongoing audit issues are resolved, whichever is longer; see 8.302.2 NMAC.

(2) For services covered under this rule, complete copies of the MAP eligible recipient's IEP or IFSP with the individualized treatment plan (ITP) portions of the IEP or IFSP signed by the primary care provider (PCP) must be maintained as part of the required records.

(3) Documents in the MAP eligible recipient's file must include:

- (a) the IEP with the ITP or the IFSP with the ITP; and
- (b) evaluation performed by the provider or the annual and current present level of

performance;

- (c) annual PCP authorization

(d) treatment notes that relate directly to the IEP or IFSP goals and objectives specific to each MAP eligible recipient; and

- (e) billing information recorded in units of time; see 8.302.2 NMAC.

C. Record availability: The provider must upon request promptly furnish to HSD, the secretary of the department of health and human services, or the state medicaid fraud control unit any information required in this rule, including the MAP eligible recipient and employee records, and any information regarding payments claimed by the provider furnishing services. Failure to provide records on request may result in a denial of claims. [8.320.6.12 NMAC - N, 1-1-14]

8.320.6.13 COVERED SERVICES: MAD covers the following services when medically necessary and billed by specified providers in school settings.

A. For services in this Section Subsections A-E of this rule, a provider must first develop and then update the MAP eligible recipient's present level of performance for each of his or her IEP or IFSP cycles. MAD requires the following elements be included in the provider's treatment notes:

- (1) the specific activity provided to the MAP eligible recipient for each date of service billed;
- (2) a description of the level of engagement and the ability of the MAP eligible recipient for each

date of service billed; and

- (3) the outcomes of session on the impact on the MAP eligible recipient's exceptionality for each date of service billed.

B. To be reimbursed for a MAD service, all of the requirements in this subsection of this rule must be met.

(1) Services must be medically necessary, must be ordered or authorized by the MAP eligible recipient's PCP, and must meet the needs specified in his or her IEP or IFSP. The services must be necessary for the treatment of the MAP eligible recipient's specific identified condition.

(2) The ITP portion of the IEP or IFSP must be signed by the MAP eligible recipient's PCP and be developed in conjunction with the appropriate qualified PT, OT, SLP, audiologist, or a RN.

(3) Services require prior authorization by the PCP. The requirement for prior authorization is met when the PCP signs the ITP portion of the IEP or IFSP and services are performed in accordance with the IEP or IFSP that has been signed by the PCP. If the PCP signature cannot be obtained to meet the prior authorization requirement, the service will require prior authorization by MAD or its designee.

(4) Frequency and duration of services billed may not exceed those specified in the MAP eligible recipient's IEP or IFSP.

(5) Reimbursement is made directly to the LEA, REC, or other SFEA when therapy, licensed nutritionists or registered dieticians, transportation, case manager, or nurse providers furnishes services under contract to the LEA, REC, or other SFEA.

A. **Therapy services:** MAD covers physical, occupational, audiological and speech evaluations, and therapy required for treatment of an identified medical condition.

B. **Nutritional assessment and counseling:** MAD covers nutritional assessment and counseling when billed by a licensed nutritionist or dietician for a MAP eligible recipient who has been referred for a nutritional

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need when part of his or her ITP. A nutritional assessment consists of an evaluation of the nutritional needs of the MAP eligible recipient based upon appropriate biochemical, anthropometric, physical, and dietary data, including a recommendation for appropriate nutritional intake.

C. **Transportation services:** MAD covers transportation services for a MAP eligible recipient who must travel from his or her school to receive a covered service from a MAD provider when the service is unavailable in the school setting and when the service is medically necessary and is identified in the MAP eligible recipient's IEP or IFSP; see 8.324.7 NMAC. MAD covers transportation to and from the school on the date a medically necessary service is billed in the school setting for a MAP eligible recipient who has a disability.

(1) Medical services are billed on the specific day on which transportation is billed and are specified in the ITP portion of his or her IEP or IFSP.

(2) The MAP eligible recipient requires transportation in a vehicle adapted to serve his or her needs.

(3) Transportation occurs in a modified school bus for disabled students.

D. **Case management:** MAD covers case management services billed in school settings to a MAP eligible recipient who is medically at risk. MAD pays for services billed by a single case management service provider during a given time period. Medically at risk refers to MAP eligible recipient who has a diagnosed physical condition which has high probability of impairing cognitive, emotional, neurological, social, or physical development.

(1) The service is developed in conjunction with a qualified case manager.

(2) MAD covers the following case management services.

(a) The assessment of the MAP eligible recipient's medical, social and functional abilities at least every six (6) months, unless more frequent reassessment is indicated by the MAP eligible recipient's condition.

(b) The development and implementation of a comprehensive case management plan of care that helps the MAP eligible recipient retain or achieve the maximum degree of independence.

(c) The mobilization of the use of natural helping networks, such as family members, church members, community organizations, support groups, friends, and the school, if the MAP eligible recipient is able to attend.

(d) Coordination and monitoring of the delivery of services, evaluation of the effectiveness and quality of the services, and revision of the case management plan of care as necessary.

(e) All services must be delivered to be eligible for MAD reimbursement.

(3) A MAP eligible recipient has the freedom to choose a case management service provider. MAD will pay for only *one* case management provider to furnish services to a MAP eligible recipient at any given time period. If a MAP eligible recipient has a case manager or chooses to use a case manager who is not employed or under contract to the LEA, REC or other SFEA, the LEA, REC or other SFEA must coordinate with the case manager in the development of the MAP eligible recipient's ITP.

E. **Nursing:** MAD covers certain nursing services required for treatment of a diagnosed medical condition that qualifies a MAP eligible recipient for an IEP or IFSP when provided by a licensed RN or LPN. Nursing services require professional nursing expertise and are provided by a licensed RN or a LPN and must be provided in accordance with the New Mexico Nursing Practice Act and must be a covered MAD service.

F. **Administrative activities:** MAD covers the cost of certain administrative activities that directly support efforts to provide health-related services to a MAP eligible recipient with special education and health care needs. These administrative activities include, but are not limited to, providing information about MAD services and how to access them; facilitating the eligibility determination process; assisting in obtaining transportation and translation services when necessary to receive health care services; making referrals for MAD reimbursable services; and coordinating and monitoring MAD covered medical services.

(1) Payment for an allowable administrative activity is contingent upon the following:

(a) the LEA, REC or other SFEA must complete a MAD PPA to become an approved school-based health services provider;

(b) the LEA, REC or other SFEA must enter into a governmental services agreement (GSA) with HSD and agree to abide by the terms and conditions of the GSA;

(c) the LEA, REC or other SFEA must submit claims for allowable administrative activities in accordance with federal and state regulations, rules and guidelines; the centers for medicare and medicaid services (CMS) Medicaid School-Based Administrative Claiming Guide, May 2003, or its successor; and the New Mexico Medicaid Guide for School-Based Services, November 2004, or its successor.

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(2) Administrative claiming is subject to compliance reviews and audits conducted by HSD, the state medicaid fraud control unit and CMS. By signing the MAD PPA, the LEA, REC or other SFEA agrees to cooperate fully with HSD, the state medicaid fraud control unit and CMS in the performance of all reviews and audits and further agrees to comply with all review and audit requirements.

[8.320.6.13 NMAC - N, 1-1-14]

8.320.6.14 INDIVIDUALIZED TREATMENT PLAN:

A. The ITP must specify:

- (1) the MAP eligible recipient's objectives and goals;
- (2) the duration, the frequency of the service for the MAP eligible recipient.

B. The plan is developed by the LEA, REC or other SFEA in conjunction with the MAP eligible recipient, his or her family, and applicable service providers. The ITP portion of the IEP or IFSP must be reviewed and signed at least annually by the MAP eligible recipient's PCP to meet requirements for prior authorization of services provided to the MAP eligible recipient. If this review and PCP signature are not performed annually or when there is a change to the current IEP or IFSP, the service will require prior authorization by MAD or its designee.

C. The ITP is a plan of care agreed upon by the MAP eligible recipient, his or her parents or legal guardians, the evaluating therapists, the IEP or IFSP committee, and the MAP eligible recipient's teacher, all of whom are included in the IEP or IFSP. The ITP utilizes the MAP eligible recipient's health history, medical and educational evaluations and recommendations by the PCP and other medical providers, as applicable. If medical needs are identified in the IEP or IFSP, the medical portion of the IEP or IFSP is the MAP eligible recipient's ITP. The ITP must be incorporated into the IEP or IFSP. See 8.321.2 NMAC for behavioral health services.

[8.320.6.14 NMAC - N, 1-1-14]

8.320.6.15 NONCOVERED SERVICES: Services billed in school settings are subject to the limitations and coverage restrictions that exist for other MAD services; see 8.301.3 NMAC. MAD does not cover the following services.

- A. Services classified as educational.
- B. Services to non-MAP eligible individuals.
- C. Services billed by a practitioner outside his or her area of expertise.
- D. Vocational training that is related solely to specific employment opportunities, work skills or work settings.
- E. Services that duplicate services billed outside the school setting unless determined to be medically necessary and MAD or its designee prior authorized the service.
- F. Services not identified in the MAP eligible recipient's IEP or IFSP.
- G. Services not authorized by the MAP eligible recipient's PCP unless otherwise approved by MAD or its designee.
- H. Transportation services listed below:
 - (1) transportation that a MAP eligible recipient would otherwise receive in the course of him or her attending school;
 - (2) transportation for a MAP eligible recipient with special education needs under the Individuals with Disabilities Education Act (IDEA) who rides the regular school bus to and from school with non-disabled children; and
 - (3) transportation of a minor aged child, such as a sibling of the MAP eligible recipient who is simply accompanying the MAP eligible recipient to a MAD service.

[8.320.6.15 NMAC - N, 1-1-14]

8.302.6.16 PRIOR AUTHORIZATION AND UTILIZATION REVIEW: Certain procedures or services identified in the UR instructions may require prior authorization from MAD or its designee. Services for which prior authorization was obtained remain subject to UR at any point in the payment process. All services are subject to UR 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. When services are billed to and paid by a coordinated services contractor authorized by HSD, the provider must follow that contractor's instructions

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for authorization of services. A specific service may have additional prior authorization requirements listed in the service’s prior authorization section. The prior authorization of a service does not guarantee that an individual is eligible for a MAD service. A provider must verify that an individual is eligible for a specific MAD service at the time the service is furnished and must determine if the MAP eligible recipient has other health insurance. A provider who disagrees with the denial of a prior authorization request or other review decision can request a reconsideration.

[8.320.6.16 NMAC - N, 1-1-14]

8.320.6.17 REIMBURSEMENT: Reimbursement to the LEA, REC, or SFEA is not contingent upon billing a third party payer first when the MAP eligible recipient has other insurance. MAD is generally the payer of last resort. However, if medical services are included in the MAP eligible recipient’s IEP or IFSP, and an exception is created under 42 USE 1396b(c), 20 USC 1412(a)(12) and 34 CFR 300.142., and the services are covered by MAD, then MAD is authorized to pay for such services. The LEA, REC, or other SFEA must submit claims for reimbursement on the 837P electronic format or its successor unless written permission from MAD to bill on paper. Reimbursement to the LEA, REC or other SFEA for covered services billed by individual practitioners is made at the MAD fee schedule for the specific service.

[8.320.6.17 NMAC - N, 1-1-14]

HISTORY OF 8.320.6 NMAC:

Pre NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives.

MAD-747 School Based Services For Recipients Under Twenty-one Years of Age, 12-16-94.

History of Repealed Material:

8.320.6 NMAC, School Based Services for Recipients Under Twenty-One Years of Age, xx-xx-xx - Repealed effective, 1-1-14.