



State of New Mexico
Medical Assistance Program Manual
Supplement



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TO: ALL HOME HEALTH AGENCIES PARTICIPATING IN THE NEW MEXICO
MEDICAID PROGRAM

FROM: JULIE B. WEINBERG, DIRECTOR, MEDICAL ASSISTANCE DIVISION

**SUBJECTS: NEW REQUIREMENTS FOR THE FEE-FOR-SERVICE HOME
HEALTH PROGRAM**

Recently, the Centers for Medicare and Medicaid Services (CMS) asked the New Mexico Medicaid program to update its state plan in order to reflect new requirements and language affecting the home health program.

HOMEBOUND REQUIREMENT:

Currently New Mexico requires that, to be eligible for all home health services, the recipient must be determined to be “physically unable or has great difficulty leaving the home to obtain necessary medical care and treatment (i.e., is essentially homebound) or that the medical need for care at home is more appropriate and cost-effective and will prevent or delay institutionalization.”

It is important to note that, unlike Medicare, Medicaid does not require that a person be “confined to the home” (“homebound”) as a condition for receipt of home health services. Under Medicaid, a state cannot limit medically necessary home health services based on criteria that an individual must be homebound. Medicaid only requires that an individual be determined to need home health nursing services; home health aide services; medical supplies, equipment, and appliances; or therapies. Accordingly, we are revising the state plan to remove the implied homebound requirement.

FACE TO FACE ENCOUNTER:

Section 6407 of the Affordable Care Act requires that physicians document the existence of a face-to-face encounter (including through the use of telehealth) for certification of eligibility for home health services with the Medicaid eligible individual prior to ordering the provision of the services. The certifying physician is required to document that he or she, or a non-physician practitioner working with the physician, has seen the patient. The encounter must occur within the 90 days prior to the start of care, or within the 30 days after the start of care. This face-to-

face encounter may be conducted by the physician, by a nurse practitioner or clinical nurse specialist working in collaboration with the physician in accordance with State law, by a certified nurse-midwife as authorized by State law, or by a physician assistant under the supervision of the physician.

In addition, the Affordable Care Act requires that the physician document the existence of a face-to-face encounter (including through the use of telehealth) with the Medicaid eligible individual prior to ordering medical supplies, equipment or appliances. The timing of this face-to-face encounter must take place within the 6-month period preceding the written order for the supplies, equipment or appliances. This face-to-face encounter may also be conducted by any of the individuals referenced above, with the exception of certified nurse-midwives. This provision in the law was effective January 10, 2011. Accordingly, we are revising the state plan to reflect this new requirement. To find out more about the face to face encounter requirement, please visit the Centers for Medicare and Medicaid Services' Home Health Agency website at <https://www.cms.gov/center/hha.asp>.

OTHER CLARIFICATIONS:

We are also adding new statements to the state plan which simply clarify that “the State furnishes home health services provided to recipients at their place of residence, on their physician’s orders as part of a written plan of care that the physician reviews in accordance with the requirements of 42 CFR 440.70” and also that “the State provides nursing services, as defined in the State’s Nurse Practice Act, on a part-time or intermittent basis by a home health agency that is a public or private agency or organization, or part of an agency or organization, that meets the requirements for participation in Medicare, including the capitalization requirements under 42 CFR 489.28. If there is no agency in the area, a registered nurse who meets the requirements in 42 CFR 440.70(1)(i) –(iv) provides the part-time or intermittent nursing services.”

If you have questions regarding the above information, you may contact the Benefits Bureau at (505) 827-3171.

We appreciate your participation in the Medicaid program.