

TITLE 8 SOCIAL SERVICES
CHAPTER 301 MEDICAID GENERAL BENEFIT DESCRIPTION
PART 3 GENERAL NONCOVERED SERVICES

8.301.3.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[1-1-95; 8.301.3.1 NMAC - Rn, 8 NMAC 4.MAD.000.1, 3-1-06; A, 5-14-10]

8.301.3.2 SCOPE: The rule applies to the general public.
[1-1-95; 8.301.3.2 NMAC - Rn, 8 NMAC 4.MAD.000.2, 3-1-06]

8.301.3.3 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, Sections 27-2-12 et seq.
[1-1-95; 8.301.3.3 NMAC - Rn, 8 NMAC 4.MAD.000.3, 3-1-06; A, 5-14-10; A, 3-1-11]

8.301.3.4 DURATION: Permanent
[1-1-95; 8.301.3.4 NMAC - Rn, 8 NMAC 4.MAD.000.4, 3-1-06]

8.301.3.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.
[1-1-95, 2-1-95; 8.301.3.5 NMAC - Rn, 8 NMAC 4.MAD.000.5 & A, 3-1-06]

8.301.3.6 OBJECTIVE: The objective of this rule is to provide instruction for the service portion of the New Mexico medical assistance program.
[1-1-95, 2-1-95; 8.301.3.6 NMAC - Rn, 8 NMAC 4.MAD.000.6, 3-1-06; A, 5-14-10]

8.301.3.7 DEFINITIONS: [RESERVED]

8.301.3.8 MISSION STATEMENT: 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; 8.301.3.8 NMAC - Rn, 8 NMAC 4.MAD.002, 3-1-06; A, 5-14-10; A, 3-1-11]

8.301.3.9 GENERAL NONCOVERED SERVICES: The medical assistance division (MAD) does not cover certain procedures, services, or miscellaneous items. See specific provider or service sections for additional information on service coverage and limitations. A provider cannot turn an account over to collections or to any other factor intending to collect from the eligible recipient or their personal representative. See 8.302.2.11 NMAC, *billing and claims filing limitations*. A provider cannot bill an eligible recipient or their personal representative for the copying of the eligible recipient's records, but must provide copies of the records to other providers upon request.
[2-1-95; 8.301.3.9 NMAC - Rn, 8 NMAC 4.MAD.602 & A, 3-1-06; A, 5-14-10; A, 3-1-11]

8.301.3.10 APPOINTMENT, INTEREST AND CARRYING CHARGES: MAD does not cover penalties on payments for broken or missed appointments, costs of waiting time, or interest or carrying charges on accounts. A provider may not bill an eligible recipient or their personal representative for the penalties associated with missed or broken appointments, with the exception of recipient eligibility categories of CHIP or WDI who may be charged up to \$5 for a missed appointment.
[2-1-95; 3-1-99; 8.301.3.10 NMAC - Rn, 8 NMAC 4.MAD.602.1 & A, 3-1-06; A, 5-14-10]

8.301.3.11 CONTRACT SERVICES: Services furnished by contractors, organizations, or individuals who are not the billing provider must meet specific criteria for coverage as stated in MAD or its designee's rules. See 8.302.2 NMAC, *Billing for Medicaid Services*.
[2-1-95; 8.301.3.11 NMAC - Rn, 8 NMAC 4.MAD.602.2 & A, 3-1-06; A, 5-14-10]

8.301.3.12 COSMETIC SERVICES AND SURGERIES: MAD does not cover cosmetic items or services that are prescribed or used for aesthetic purposes. This includes items for aging skin, for hair loss, and personal care

items such as non-prescription lotions, shampoos, soaps or sunscreens. MAD does not cover cosmetic surgeries performed for aesthetic purposes. “Cosmetic surgery” is defined as procedures performed to improve the appearance of physical features that may or may not improve the functional ability of the area of concern. MAD covers only surgeries that meet specific criteria and are approved as medically necessary reconstructive surgeries. [2-1-95; 8.301.3.12 NMAC - Rn, 8 NMAC 4.MAD.602.3 & A, 3-1-06; A, 5-14-10]

8.301.3.13 DENTAL SERVICES: MAD does not cover dental services that are performed for aesthetic or cosmetic purposes. MAD covers orthodontic services only for an eligible recipient less than 21 years of age and only when specific criteria are met. See 8.310.7 NMAC, *Dental Services*. [2-1-95; 8.301.3.13 NMAC - Rn, 8 NMAC 4.MAD.602.4 & A, 3-1-06; A, 5-14-10]

8.301.3.14 DIAGNOSTIC IMAGING AND THERAPEUTIC RADIOLOGY SERVICES: MAD does not cover separate charges for kits, films, or supplies. All necessary materials and minor services are included in the service or procedure charge. See 8.324.3 NMAC, *Diagnostic Imaging and Therapeutic Radiology Services* [MAD.752]. [2-1-95; 8.301.3.14 NMAC - Rn, 8 NMAC 4.MAD.602.5, 3-1-06; A, 5-14-10]

8.301.3.15 DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES: MAD does not cover durable medical equipment or medical supplies that do not meet the definition of durable medical equipment as described in 8.324.5.12 NMAC, *covered durable medical equipment and medical supplies*. The following criteria are applied to each request as part of the determination of non-coverage:

- A. items that do not primarily serve a therapeutic purpose or are generally used for comfort or convenience purposes;
- B. environment-control equipment that is not primarily medical in nature;
- C. institutional equipment that is not appropriate for home use;
- D. items that are not generally accepted by the medical profession as being therapeutically effective or are determined by medicare regulations to be ineffective or unnecessary;
- E. items that are hygienic in nature;
- F. hospital or physician diagnostic items;
- G. instruments or devices manufactured for use by physicians;
- H. exercise equipment not primarily medical in nature or for the sole purpose of muscle strengthening or muscle stimulation without a medically necessary purpose;
- I. support exercise equipment primarily for institutional use;
- J. items that are not reasonable or necessary for monitoring the pulse of homebound eligible recipients with or without cardiac pacemakers;
- K. items that are used to improve appearance or for comfort purposes;
- L. items that are precautionary in nature except those needed to prevent urgent or emergent events;

and

M. a provider or medical supplier that routinely supplies an item to an eligible recipient must document that the order for additional supplies was requested by the recipient or their personal representative and the provider or supplier must confirm that the eligible recipient does not have an excess of a 15 calendar day supply of the item before releasing the next supply to the eligible recipient; see 8.324.5 NMAC, *Durable Medical Equipment and Medical Supplies*.

[2-1-95; 8.301.3.15 NMAC - Rn, 8 NMAC 4.MAD.602.6 & A, 3-1-06; A, 5-14-10]

8.301.3.16 EDUCATIONAL OR VOCATIONAL SERVICES: MAD does not cover literature, booklets, and other educational materials. Dietary counseling is covered only for an eligible recipient less than 21 years of age, as part of the early and periodic screening, diagnosis and treatment (EPSDT) program and for pregnant women. MAD does not cover formal educational or vocational training services, unless those services are included as active treatment services for an eligible recipient in intermediate care facilities for the mentally retarded or for an eligible recipient less than 21 years of age receiving inpatient psychiatric services. See 42 CFR 441.13(b). “Formal educational services” relate to training in traditional academic subjects. Vocational training services relate to organized programs directly related to the preparation of eligible recipients for paid or unpaid employment. [2-1-95; 8.301.3.16 NMAC - Rn, 8 NMAC 4.MAD.602.7 & A, 3-1-06; A, 5-14-10]

8.301.3.17 EXPERIMENTAL OR INVESTIGATIONAL SERVICES: MAD does not cover procedures, technologies or therapies that are considered experimental or investigational. See 8.325.6 NMAC, *Experimental or Investigational Procedures, Technologies or Therapies*.

[2-1-95; 8.301.3.17 NMAC - Rn, 8 NMAC 4.MAD.602.8, 3-1-06; A, 5-14-10]

8.301.3.18 FOOT CARE: MAD does not cover certain routine foot care services. For detailed description of covered and non-covered services, see 8.310.11 NMAC, *Podiatry Services*.

[2-1-95; 8.301.3.18 NMAC - Rn, 8 NMAC 4.MAD.602.9 & A, 3-1-06; A, 5-14-10]

8.301.3.19 HAIR OR NAIL ANALYSIS: MAD does not cover hair or nail analysis.

[2-1-95; 8.301.3.19 NMAC - Rn, 8 NMAC 4.MAD.602.10, 3-1-06; A, 5-14-10]

8.301.3.20 LABORATORY SERVICES: MAD does not cover laboratory specimen handling, mailing, or collection fees. Specimen collection is covered only if the specimen is drawn by venipuncture, arterial stick, or collected by urethral catheterization from an eligible recipient who is not a resident of a nursing facility or hospital. See 8.324.2 NMAC, *Laboratory Services* [MAD.751].

[2-1-95; 8.301.3.20 NMAC - Rn, 8 NMAC 4.MAD.602.11, 3-1-06; A, 5-14-10]

8.301.3.21 PHARMACY SERVICES: MAD does not cover methadone used in drug treatment programs. MAD does not cover drug items that are classified as ineffective by the food and drug administration (FDA) and antitubercular drug items that are available from the public health department. In addition, MAD does not cover personal care items or pharmacy items used for cosmetic purposes only. Transportation to pharmacies is not a benefit of the program when other options are available. See also 8.324.4 NMAC, *Pharmacy Services*.

[2-1-95; 8.301.3.21 NMAC - Rn, 8 NMAC 4.MAD.602.12 & A, 3-1-06; A, 5-14-10]

8.301.3.22 POSTMORTEM EXAMINATIONS: MAD does not cover postmortem examinations.

[2-1-95; 8.301.3.22 NMAC - Rn, 8 NMAC 4.MAD.602.13, 3-1-06; A, 5-14-10]

8.301.3.23 PREGNANCY TERMINATION PROCEDURES: MAD does not cover elective pregnancy termination procedures. For detailed description of covered and non-covered services, see 8.325.7 NMAC, *Pregnancy Termination Procedures*.

[2-1-95; 8.301.3.23 NMAC - Rn, 8 NMAC 4.MAD.602.14 & A, 3-1-06; A, 5-14-10]

8.301.3.24 PREPARATIONS DISPENSED FOR HOME USE: MAD does not cover oral, topical, otic, or ophthalmic preparations dispensed to an eligible recipient by physicians, clinics, nurse practitioners, physician assistants, or optometrists for home use or self administration unless authorized by MAD to assure the availability of medications.

[2-1-95; 8.301.3.24 NMAC - Rn, 8 NMAC 4.MAD.602.15 & A, 3-1-06; A, 5-14-10]

8.301.3.25 PROVIDER INELIGIBILITY: A provider must be eligible for participation as a MAD approved provider at the time services are furnished. MAD does not cover services performed during a time period when the provider or facility did not meet required licensing or certification requirement, or when the providers' participation is not approved by MAD.

[2-1-95; 8.301.3.25 NMAC - Rn, 8 NMAC 4.MAD.602.16 & A, 3-1-06; A, 5-14-10]

8.301.3.26 REPRODUCTIVE HEALTH SERVICES: MAD does not cover certain reproductive health services. See 8.325.3 NMAC, *Reproductive Health Services* [MAD-762]

[2-1-95; 8.301.3.26 NMAC - Rn, 8 NMAC 4.MAD.602.17, 3-1-06; A, 5-14-10]

8.301.3.27 TELEPHONE SERVICES: MAD does not cover any telephone consultations between the eligible recipient and their provider. MAD does pay for telehealth services as described in 8.310.13 NMAC, *Telehealth Services*.

[2-1-95; 3-1-99; 8.301.3.27 NMAC - Rn, 8 NMAC 4.MAD.602.18 & A, 3-1-06; A, 5-14-10]

8.301.3.28 ROUTINE PHYSICAL EXAMINATIONS: MAD only covers routine examinations for an eligible recipient residing in a nursing facility or intermediate care facility for the mentally retarded. Physical

examinations, screenings, and treatment are available to an eligible recipient less than 21 years of age through the tot to teen healthcheck screen, New Mexico's EPSDT screening program.
[2-1-95; 8.301.3.28 NMAC - Rn, 8 NMAC 4.MAD.602.19 & A, 3-1-06; A, 5-14-10]

8.301.3.29 SCREENING SERVICES: MAD does not cover screening services that are not used to make a diagnosis, such as chromosome screening, hypertension screening, diabetic screening, general health panels, executive profiles, paternity testing, or premarital screens. MAD covers screening services for an eligible recipient less than 21 years of age through the tot to teen healthcheck program. MAD covers screening services ordered by a provider for cancer detection, such as pap smears and mammograms.
[2-1-95; 8.301.3.29 NMAC - Rn, 8 NMAC 4.MAD.602.20 & A, 3-1-06; A, 5-14-10]

8.301.3.30 SERVICES NOT COVERED BY MEDICARE: MAD does not cover services, procedures, or devices that are not covered by medicare due to their determination that the service is not medically necessary or that the service is experimental or not effective.
[2-1-95; 8.301.3.30 NMAC - Rn, 8 NMAC 4.MAD.602.21 & A, 3-1-06; A, 5-14-10]

8.301.3.31 BARIATRIC SURGERY SERVICES: MAD does not reimburse for bariatric surgery or other weight reduction surgeries or procedures.
[2-1-95; 8.301.3.31 NMAC - Rn, 8 NMAC 4.MAD.602.22 & A, 3-1-06; Repealed, 5-14-10; 8.301.3.31 NMAC - N, 5-14-10; A, 3-1-11]

8.301.3.32 SERVICES AND TESTS WHICH ARE NOT ROUTINELY WARRANTED DUE TO THE ELIGIBLE RECIPIENT'S AGE: MAD does not reimburse for routine screening, tests, or services which are not medically necessary due to the age of the eligible recipient:

- A. **Papanicolaou** test (pap smear) for women under age 21 unless prior history or risk factors make the test medically warranted; and
 - B. prostate specific antigen (PSA) test for men under age 40 unless prior history or risk factors make the test medically warranted.
- [8.301.3.32 NMAC - N, 3-1-11]

8.301.3.33 SERVICES FOR SURROGATE MOTHERS: MAD does not pay for services for pregnancy, complications encountered during pregnancy related conditions, prenatal care and post partum care, or delivery for services to a surrogate mother for which an agreement or contract between the surrogate mother and another party exists.
[8.301.3.33 NMAC - N, 3-1-11]

HISTORY OF 8.301.3 NMAC: [RESERVED]