



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

8.302.1 NMAC, MEDICAID GENERAL PROVIDER POLICIES, GENERAL PROVIDER POLICIES

8.310.3 NMAC, HEALTH CARE PROFESSIONAL SERVICES, PROFESSIONAL PROVIDERS, SERVICES AND REIMBURSEMENT

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

FINAL RULES

V. BACKGROUND SUMMARY

The New Mexico Human Services Register Volume 45, Register 15, dated July 21, 2022, issued the proposed New Mexico Administrative Code (NMAC) rules 8.302.1, *Medicaid General Provider Policies, General Provider Policies* and 8.310.3, *Health Care Professional Services, Professional Providers, Services and Reimbursement*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: July 21, 2022

Hearing Date: August 26, 2022

Adoption Date: January 1, 2023

Technical Citations: American Rescue Plan 2021 Section 9812

A public hearing was held on August 26, 2022, to receive public comments and testimony on these proposed rules. The Human Services Department (the Department) received one written comment and one oral comment.

Comment: Licensed midwives currently provide care above and beyond the limited postpartum care covered by Medicaid and most insurers are not reimbursed. The commenter requested that these rules include reimbursement for licensed midwives and home birth midwives for up to one year postpartum including lactation services.

Department: HSD appreciates the request. The intent with this rule change was not to change reimbursement but to update outdated midwifery policy. The definition of the global codes did not change with the extension of postpartum.

The reimbursement for midwife maternity services is based on one global fee, which includes prenatal care, delivery and postnatal care by a certified midwife or a licensed midwife for maternity services

Comment: The commenter stated these rules represent an opportunity to address maternal mental health through midwifery care as a form of comprehensive maternal health care, by midwives who are appropriately credentialed to provide wraparound services. The commenter requests that these rules include reimbursement for maternal mental health screenings by licensed midwives and Certified Professional Midwives (CPMs) up to one year postpartum.

Department: HSD appreciates the recommendations and will review Behavioral Health Screening codes.

Comment: The commenter stated the rate of reimbursement for CPMs as “Licensed Midwives” has not increased since Medicaid began reimbursing for their prenatal and postpartum services. This static global fee is not a living wage and is lower than what CPMs are reimbursed for the same work. The request is that pay equity be addressed in these rules and within this enhanced benefit process. The commenter further requests that the rate be increased as the extension of care happens and that this rate increase reflect a living sustainable viable wage.

The comments state that many New Mexico Midwives are not able to afford to take Medicaid patients and can only afford to care for self-pay patients, providing a barrier to high quality perinatal and postpartum care to a large population of pregnancies in New Mexico. Certified Professional Midwife is the title listed on the National registry, however in New Mexico Medicaid identifies CPMs as “Licensed Midwives” and pays them at a lower rate, averaging less than minimum wage.

The comments state that Licensed Midwives and CPMs in New Mexico experience low and unreliable reimbursement from Medicaid, including frequent denial of payment and recoups, and as a result suffer from high rates of burnout. Likewise, they often need to enroll in Medicaid and SNAP for their own families, unless they have an additional source of income. This can be intentionally resolved by Medicaid within this unique and potentially progressive benefit enhancement and expansion period, thus ensuring that the spirit of these rules and their related benefits, result in a sustainable midwifery workforce in New Mexico.

The comments state that an increase in Medicaid reimbursement is necessary to sustain the Midwifery profession in New Mexico and to provide a service to our pregnant and postpartum

clients in this benefit expansion period. The request is that pay equity among “Licensed Midwives” and CNMs be incorporated into these rules.

Department: HSD is in the process of a comprehensive rate review including Medicaid rates for Maternal Health Services. The report can be found on the HSD website under “Comprehensive Rate Review-2022.” Phase 1 includes most professional service types in addition to Federally Qualified Health Centers and rural health centers. This will capture the home and community-based and primary care services as well as maternal and child health care services rendered by practitioners.

Comment: The commenter requests that these rules include access to CPM care for uninsured communities, including undocumented communities. Given that there are programs available to provide care for this population, how can CPM care be incorporated into these expanded Medicaid benefits and incorporated into these rules to provide reimbursable access to this care that improves health outcomes for communities of color?

Department: HSD appreciates the request. The intent was not to change reimbursement but to update the outdated midwife policy and will review further.

Comment: The commenter concludes by asking the Department to explain the difference between Medicaid, straight Medicaid, pregnancy-related Medicaid and family planning Medicaid and will all these benefits be covered per these proposed rules?

Department: Generally, Medicaid services for recipients are either covered under a fee-for-service or a managed care delivery model. Depending on the category of eligibility some individuals receive the full Medicaid benefit package while others qualify for more limited benefits. The Department refers the commenter to the New Mexico Administrative Code (NMAC) program rules found on the HSD website for what Medicaid benefits are covered. The intent of this rule change was to remove the limitation on pregnancy-related Medicaid and update outdated midwife policy.

Comment: The commenter asks for clarification if these enhanced benefits will cover the newborn screen, vitamin K injections, Hepatitis B injections, Rhogam injections, erythromycin eye ointment and other necessary postpartum treatments at an equal pay rate for both Licensed Midwives and CPMs.

Department: The intent with this rule change was not to change reimbursement but to update the outdated midwifery policy. Newborn Preventive Evaluation can be billed for postnatal care. Vitamin K injections, Hepatitis B injections are completed during the first Early Periodic Screening, Diagnostic and Treatment (EPSDT) visit.

VI. RULE

These amendments will be contained in 8.302.1 and 8.310.3 NMAC. The final register and rule language is available on the HSD website at:

<https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/providers/rules-nm-administrative-code/>. If you do not have

internet access, a copy of the final register and rules may be requested by contacting the Medical Assistance Division at (505) 827-1337.

VII. EFFECTIVE DATE

These rules will have an effective date of January 1, 2023.

VIII. PUBLICATION

Publication of these rules approved by:

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David R. Scrase, M.D.

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DAVID R. SCRASE, M.D., SECRETARY
HUMAN SERVICES DEPARTMENT