

Letter of Direction #84

Date: July 12, 2022

To: Centennial Care 2.0 Managed Care Organizations

From: Nicole Comeaux, Director, Medical Assistance Division

Subject: MCO Compliance with Healthy Workplaces Act

Title: Paid Sick Leave

The purpose of this Letter of Direction (LOD) is to reinforce previous guidance provided to the Managed Care Organizations (MCOs) to raise reimbursement rates for providers impacted by the Healthy Workplaces Act, Section 50-17-1 to 50-17-12 NMSA 1978 (being Laws 2021, Chapter 131, Section 1, as amended), which states all employees are entitled to earned sick leave beginning on July 1, 2022.

Effective July 1, 2022 HSD will updated the MCOs' capitation rates accordingly to include funding for providers that may be impacted by the Healthy Workplaces Act. As this is a cost increase to some providers, MCOs are to work closely with providers to adjust contracts and reimbursement rates to account for earned sick leave.

HSD is not directing the MCOs to broadly increase all provider contracts by the same percentage increase as the Department understands that each provider may be impacted by the Healthy Workplaces Act differently. The renegotiation of provider contracts by MCOs for impacted providers may result in different reimbursement changes by provider.

The Healthy Workplaces Act entitles employees to accrue up to 64 hours of earned sick leave a year at a minimum rate of one hour of earned sick leave for every thirty hours worked. Employers may choose to provide a more generous paid sick leave policy. The MCOs should refer to the New Mexico Legislature website at [Legislation - New Mexico Legislature \(nmlegis.gov\)](https://www.nmlegis.gov) for final information about earned sick leave compensation requirements for employers in New Mexico.

The MCOs are reminded of the current contract language in sections 1.4 and 7.33 of the Medicaid Managed Care Services Agreement:

- 1.4 The Parties understand and agree that references to specific statutes, regulations, dates and other matters of a similar nature refer to currently existing and known statutes, regulations and dates. The Parties understand and agree that such existing statutes, rules, regulations and dates may change after execution of this Agreement, and that new enactments, adoptions, amendments, substitutions, replacements, successors or the like shall be given full force and effect and shall govern this Agreement in the spirit in which this Agreement is made.
- 7.33 Penalties for Violation of Law
The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation.

Here is the link to the current Medicaid Fee Schedule [Fee for Service | New Mexico Human Services Department \(state.nm.us\)](https://www.hhs.state.nm.us/Programs/Medicaid/FeeSchedule)

This rate adjustment is part of the MCOs' normal course of business and therefore the MCOs may implement changes in accordance with their regular provider contracting processes. These rate adjustments must be effective on, or retroactive to July 1, 2022. This includes negotiations with providers that have multi-site and/or multi-branch locations, or whose headquarters are located outside of New Mexico. The MCOs must provide an update on July 1, 2022 and every two weeks thereafter, on progress of this implementation to their HSD/MAD contract manager, including reporting the number of provider contracts (for any applicable provider) that have been renegotiated in accordance with this direction.