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DEPARTMENTAL MEMORANDUM

MAD-MR: 20-10

DATE: JANUARY 6, 2021

TO: MEDICAL ASSISTANCE DIVISION

FROM: NICOLE COMEAUX, DIRECTOR, MEDICAL ASSISTANCE DIVISION 

THROUGH: SHARI ROANHORSE-AGUILAR, EXEMPT SERVICES AND PROGRAMS BUREAU CHIEF, MEDICAL ASSISTANCE DIVISION

BY: LINDA GILLET, BRAIN INJURY PROGRAM MANAGER, EXEMPT SERVICES AND PROGRAMS BUREAU

SUBJECT: BRAIN INJURY SERVICES FUND (BISF) PROGRAM SERVICE COORDINATION INTAKE PACKET - MAD 617 REVISED DECEMBER 2020

GENERAL INFORMATION

This form is for use by the contracted Service Coordination Agencies of the Brain Injury Services Fund for the purpose of completing the intake for approved applicants and receiving signatures on included forms. Changes include:

- Increase from a 90-day program and Independent Living Plan (ILP) to a 6-month program and ILP;
- Replacement of Crisis Interim Services (CIS) with BISF Home and Community Based Services (HCBS);
- Clarification that BISF HCBS is payer of last resort, only with prior authorization and using in-state providers, and services end when budget or service cap is reached;
- Removal of certain physician's order requirements; and
- Clarification of language, minor edits and reformatting, as needed.

FILING INSTRUCTIONS

Please make the following changes to the MAD forms manuals:

INSERT MAD 617 Revised December 2020

DELETE MAD 617 Revised June 2019

Please address any questions concerning these guidelines to Linda Gillet, LindaB.Gillet@state.nm.us or call (505) 827-7218.

Attachment: MAD 617 Revised December 2020

BRAIN INJURY SERVICES FUND PROGRAM



SERVICE COORDINATION INTAKE PACKET



Brain Injury Services Fund (BISF) Program Service Coordination Intake Packet Form Instructions for Service Coordinators

PURPOSE:

The information and forms in this packet are for use by contracted Service Coordination Agencies (SCAs) of the Brain Injury Services Fund (BISF) Program. The information and forms are to be reviewed by Service Coordinators (SCs) with BISF participants following: a) initial eligibility approval, b) approved continuation of services beyond one service year, and c) reactivation of services following any period of service inactivation. Services can only be initiated for participants who have signed the required forms. The forms include the “Participant Acknowledgement of Understanding”, “Participant Rights and Responsibilities”, “Release of Liability” and “Participant’s Grievance and Appeal Rights”.

INSTRUCTIONS:

1. The Service Coordinator will review the Program Description, on pages 3 – 6, with the participant to assist his/her understanding of how the BISF Program works as well as any service limits.
2. The Service Coordinator will review with the participant each of the forms, on pages 7 – 11, and ensure that the participant signs and dates each form. These include:
 - Page 7, “Participant Acknowledgement of Understanding”
 - Page 9, “Participant Rights and Responsibilities”
 - Page 10, “Release of Liability”
 - Page 11, “Participant’s Grievance and Appeal Rights”.
3. Following signature, the Service Coordinator may proceed with needed assessments, development of the Independent Living Plan (ILP), and referrals for services that have been assessed as a need.

ROUTING:

The SCA will keep all signed forms in the participant’s file.

FORM RETENTION:

Permanent

NEW MEXICO BRAIN INJURY SERVICES FUND PROGRAM



Short-Term Brain Injury Services

WHAT IS THE NM BRAIN INJURY SERVICES FUND PROGRAM?

NM BRAIN INJURY SERVICES FUND PROGRAM DESCRIPTION

The New Mexico Brain Injury Services Fund (BISF) Program is also known as the Brain Injury Program. The program can give short-term help to people with brain injury who live in New Mexico. It is for those with a confirmed diagnosis of brain injury and a crisis need that is due to their brain injury. This program is not under Medicaid. Those in Centennial Care Medicaid with full Medicaid benefits can't use the BISF. The program helps those who have no other payer source to help with brain injury-related crisis needs. It is meant to help them live more easily in their homes and communities. Per a 1997 law, a \$5.00 fee is added to traffic tickets. The fees help to pay for the BISF Program. The Human Services Department (HSD) runs the BISF Program. It contracts with certain agencies to offer program services across the state.

THE DEFINITION OF BRAIN INJURY

Brain Injury means an injury to the brain of "traumatic" or "other acquired" origin. A Traumatic Brain Injury (TBI) comes from a blow to the head or is caused by an outside physical force. This could cause an open head injury or a closed head injury. These kinds of injuries disrupt normal brain function. The Brain Injury Association of America defines Acquired Brain Injury (ABI) as an injury to the brain that is not hereditary. It is not congenital or present at birth. It is not degenerative or caused by normal aging. It is not caused by birth trauma. ABIs take place after birth. They include TBI, Shaken Baby Syndrome, and anoxia (lack of oxygen). They include brain injury caused by electrical shock, brain infections, and brain tumors. They include stroke and aneurysm. ABI also includes brain injury caused by near-drowning and exposure to toxic or chemical substances. ABI does not include brain injury caused by habitual substance abuse. A person with a brain injury may not think clearly. They may not remember as well as they did before being injured. A brain injury may change a person's physical functioning. It may change their emotions. It may change the way they behave. These things may be true no matter what caused the injury.

WHO QUALIFIES FOR THE BRAIN INJURY PROGRAM?

Only some residents of New Mexico will qualify, and they must not have Centennial Care Medicaid. To qualify, they must have:

- A confirmed diagnosis of brain injury;
- A crisis caused by their brain injury; and
- No other way to deal with their crisis or pay for needed services.

PAYER OF LAST RESORT

The BISF Program is the **PAYER OF LAST RESORT**. Its funds are only for those who have no other way to pay for brain injury services they need. Other payers with a responsibility to pay must have been used up, including private insurance, Medicare, V.A, Adult Protective Services and other State and Federal or community programs from which the participant chooses to get help. Also, the BISF pays for **ONLY THE SERVICES NEEDED DUE TO A PERSON'S BRAIN INJURY**, as described below. The BISF does not cover payment for services that are higher than those on the Medicaid/Medicare fee schedule. It covers only outpatient services offered within the State of New Mexico from New Mexico providers. The program can pay for services that are needed for a short time. This is until: 1) the participant's crisis ends; 2) the participant meets the service or individual budgetary limit; or 3) other payers have been found.

NOT AN ENTITLEMENT PROGRAM

The Brain Injury Program is **NOT AN ENTITLEMENT** program. Not everyone with a Brain Injury will qualify for services. Some may not get all services they ask for. A BISF Service Coordinator decides which services the person needs, based on the assessment. Help is given until the crisis ends. There may be limits in the Program's funding. In that case, the SC may set the number and frequency of the person's services.

LIMITED FUNDING

Aid is often limited to a certain amount per person per year. The amount is based on needs, as described below. A person may qualify for more than one service, or they may not qualify for any services. Each brain injury is different. And each case is different.

PROGRAM COST

There is no direct cost to the participant. This is true for all BISF Program services.

SERVICES ARE SET BY AN INDEPENDENT LIVING PLAN (ILP) AND "ASSESSMENT",

The BISF Program gives short-term help. It helps those who have a crisis need and no other way to pay. The SC and participant review what the person needs, using the ILP and assessment. The ILP is used to help the participant describe their crisis. It also lists any goals to resolve the crisis. All participants will be given an "assessment". This is to see what they really need because of the brain injury. The SC uses the assessment to decide on the services that will help. All of the help that the BISF Program will give is noted in the person's ILP. The ILP must include a plan for when services end. The participant and the SC both sign the ILP. Services are approved for up to 6 months. They may go on for longer if the crisis does not end. The length of time may be shorter if budget or service limits are reached or another payer source is found.

REQUIREMENT FOR REGULAR REASSESSMENT

The BISF Program helps with crisis needs. The SC will review those needs and progress during each phone or face-to-face visit to see if services on the ILP are still needed. The ILP will be reviewed and updated in full at least once every 6 months. If needed, an assessment will be completed once a year or if the participant's health or crisis gets worse. For the services to go on, the review must show the needs have not been met and the crisis has not ended. Each BISF Program participant needs to do their part. They need to work toward more independence. They do this by working on the goals that are listed in their ILP. Services may be needed beyond one (1) consecutive year. If they are, the SC will send HSD a written request. The request should show why the services are still needed. HSD will review the request and give a decision in writing. The BISF Program strives to meet as many brain injury related crisis needs as it can. There may not be funds that can pay for all services and goods that are needed. Services may not be renewed. This could happen if the person does not work on the goals listed in their ILP.

BRAIN INJURY UNIQUE SERVICES

The BISF Program offers Service Coordination and BISF Home and Community Based Services (HCBS). The BISF Program will only pay for services needed due to a person's Brain Injury. These help a person solve the crisis. The participant can only get help from a BISF Service Coordination Agency that is in the region where the participant lives.

SERVICE COORDINATION is responsible for:

- Seeing if a person can get help from the BISF Program.
- Finding programs that meet a person's needs. This includes helping the person get services from other programs.
- Holding face-to-face meetings or phone calls with the participant each month. These meetings are to check on progress and answer questions. They are also to see if the person has any new needs for help.

- Making an ILP. The ILP lists the person's crises and goals and how goals will be measured. It lists time frames, resources, and equipment needs. It lists service and medical referrals. It has estimates of costs. It lists the person's progress, and the plan for when services end.

BISF HOME AND COMMUNITY BASED SERVICES (HCBS) may be given to help a participant with a brain injury. It is only for those who have a RISK or a CRISIS NEED related to their HEALTH and SAFETY. As payer of last resort, BISF HCBS may be given during the time that other payer sources are being found. This help can also be given when all other resources are used up. ***Before a participant can use a service listed on the ILP, the fiscal agent must set up payment for the service. Only after the fiscal agent approves the service can the participant begin using it.***

BISF HCBS fills in-state outpatient needs only during a crisis. This period for help is up to 6 months. The service period may be less than 6 months, or it may last longer. The help stops when the need stops or the crisis ends or a budget limit is reached. To go on with BISF HCBS, there must be an ongoing need due to the brain injury. Need for services or equipment must be documented. All services and goods must be listed in the person's ILP before BISF HCBS can be given. A person with a brain injury may or may not get all of the services they want. The BISF Program will do its best to make every effort to provide an approved service or good. But this is not promised. There are many factors involved. These include eligibility or current funding. It may depend on if a service is available in a certain area or if service providers are in the area. There may be other reasons. In all cases, the funds are used only to resolve a crisis.

The services provided are based on needs identified in the assessment. They may include one or more of those listed below. These can be described in greater detail by the Service Coordinator.

- Assistive Technology
- Durable Medical Equipment
- Environmental Modifications
- Home Health Aide, Homemaker/Companion, Respite
- Initial or Emergency Housing Costs
- Nursing Care
- Nutritional Consultation
- Physician Copays
- Prescribed medication copays for brain injury symptoms
- Professional Life Skills Coaching / Organizer Services
- Retrofit Automobile
- Therapies (traditional or alternative)
- Transportation (public or private)

NEW MEXICO BRAIN INJURY SERVICES FUND PROGRAM



Short-Term Brain Injury Services Participant Acknowledgment of Understanding

I have read the three (3) page document called “**WHAT IS THE NM BRAIN INJURY SERVICES FUND (BISF) PROGRAM?**” Or it was read to me. My Service Coordinator (SC) has answered all of my questions. By signing this document, I acknowledge that:

- I know how the BISF Program works. I know what it can and cannot provide.
- I know that the BISF Program is not health insurance and it is not Medicaid.
- I know that I cannot receive help from the BISF Program if I am enrolled in Medicaid Centennial Care. If I am approved for Medicaid of any kind, I must let my BISF Service Coordinator know right away.
- I know that the BISF Program is a short-term crisis program. It is meant to meet my brain injury-related crisis needs. The help I get may depend on funding or availability of the service.
- I know that the help I get will be based on the “assessment” review done by the SC.
- I know that all the help I need due to my Brain Injury will be listed in my Independent Living Plan (ILP). These include those that are within the scope of the Program service. The ILP will be signed by me and my SC. My ILP must also list a discharge or transition plan for when services end.
- If approved for Service Coordination or BISF Home and Community Based Services, the services and help I get will be based upon my ILP. The ILP is good for up to 6 months.
- I know if I refuse any services or other help that my SC suggests to end my crisis, my SC will list them in the ILP. The ILP will have a note that I didn’t want the service or help. I know that this may be used in any decisions made through the grievance or appeal process. And it may be used in any decision to continue my services.
- Throughout the 6 month ILP, the SC will see if my crisis needs have ended or if I need more help.
- I know that my services may go on for more than 6 months. This can go on for up to one (1) consecutive calendar year from the date my help began. The SC will give HSD reasons in writing.
- I know that I can get a copy of the BISF Program rules from HSD. These are listed on their website: <https://www.hsd.state.nm.us/LookingForInformation/overview-1.aspx>. I can also ask my SC for a copy of the regulations. The Program rules can give more information on how the Program works.

By signing below, I, or my legal guardian, acknowledge that I/we understand the information reviewed with the SC.

Printed Name of Participant

Signature of Participant, Parent, or Legal Guardian

Date

Signature of Service Coordinator

Date

NEW MEXICO BRAIN INJURY SERVICES FUND PROGRAM



Short-Term Brain Injury Services Participant Rights and Responsibilities

All persons with brain injury have the same legal rights granted to all under the United States Constitution, the New Mexico State Constitution, and federal and state laws.

As an approved BISF participant, I have a right to:

1. Get services the SC lists that I need if the program can pay. This is true no matter my race, religion, color, national origin, gender, age, handicap, marital status, or sexual orientation.
2. Be treated with consideration, respect, and compassion. There is respect for my personal dignity and individuality. It includes my right to privacy in addressing personal needs.
3. Freedom from verbal, physical, or sexual abuse. I should not face emotional or psychological abuse. I should not face financial abuse. And I should not face exploitation of myself or my personal property.
4. Use my native language with other people. This means provider employees. It should apply when I must get or give any type of information. It should apply when I get treatment, care, services, etc.
5. Have any extra help that has been noted that I need in my Neuropsychological Evaluation. I should also get the help that my doctor or psychologist say I need in their letters.
6. Have my records, communications and personal information kept private.
7. Be fully informed about any changes in my services. I should also have my choice of providers for any approved services.
8. Play an active part in planning and using my ILP.
9. Be fully informed about the specific services that will be given to me as listed in my ILP.
10. Refuse any services. I should be told about what this might lead to. I should be told my services may end.
11. Continuity of care and service.
12. See my services records and make copies.
13. Convey grievances, suggest changes and communicate in confidence. I should be able to do this without anything bad happening. I should be able to do this without fear that my services will go away. I have a right to have my grievances resolved through the contracted BISF provider. The process used to resolve my complaints should be adapted to my brain injury needs. It should aim to resolve my complaint quickly. I also have a right to file an appeal with HSD. This is if my grievance is not resolved to my satisfaction.
14. Choose and/or change service provider agencies. This is if program choice is available.

As a BISF participant, I have a responsibility to...

1. Follow BISF rules and other requirements.
2. Help build and use my ILPs. I should keep a signed copy of each ILP.
3. Take an active part in the BISF Program. I will do this by working on the goals that are listed in my ILP.
4. Comply with my ILP.
5. Make an effort to regain and increase my independence.
6. Treat service provider employees, including my Service Coordinator and all those involved in my care with dignity, respect and consideration. They have a right to not face verbal, physical, sexual and psychological abuse. This includes any providers of my services. This includes subcontracted providers that are paid through the BISF.
7. Consider the rights of caregiver and providers. They have a right to a safe and hospitable workplace.
8. Stay in touch with my SC and other service providers.
9. Tell my SC about changes in my status. This includes my medical, financial, and personal status. It also includes my living arrangements.
10. Tell my Service Coordinator of any Brain Injury-related medical changes or if re-injury occurs.
11. Tell my SC about changes in treatment and medications. That is as they pertain to my brain injury.
12. Tell my SC as soon as possible about any services that were scheduled but not delivered.
13. Tell my SC if I have to cancel an appointment. This must be done at least 24 hours before the set appointment.
14. Tell my SC, if I have concerns about abuse, neglect and/or exploitation.
15. Tell my SC about any problems or complaints in a timely manner.

I have read the *PARTICIPANT RIGHTS AND RESPONSIBILITIES*. Or they were read to me. I know and agree to my rights and responsibilities, as a BISF Program participant. I have been told about what may happen if I do not do my part and follow rules, including the end of my services.

Printed Name of Participant: _____

Signature of Participant, Parent, or Legal Guardian

Date

Signature of Service Coordinator

Date

NEW MEXICO BRAIN INJURY SERVICES FUND PROGRAM



Release of Liability

Participant's Printed Name _____

Social Security Number of Participant _____ - _____ - _____

For Brain Injury Services to be granted to me by the New Mexico Human Services Department and contracted providers of Service Coordination and BISF Home and Community Based Services, I, _____ (print name), do hereby release HSD from any liability. I also release those contracted to give brain injury services. This covers liabilities that exist now. It includes those that arise in the future. This is for services given on my behalf. It also covers efforts made on my behalf.

I agree to hold HSD harmless from any and all claims. I also agree to hold harmless from any and all claims those under contract with HSD to provide Brain Injury Services. That means claims that could be due to brain injury-related services. It also holds for other efforts made on my behalf.

I mean for this to be binding upon my executors and administrators. It applies to my heirs, devisees, assigns, and personal representatives.

Signature of Participant

_____/_____/_____
Date

Signature of Parent or Legal Guardian
(Required if applicant is under 18 years of age
or has a court appointed legal guardian.)

_____/_____/_____
Date

NEW MEXICO BRAIN INJURY SERVICES FUND PROGRAM



***Short-Term Brain Injury Services
Participants' Grievance and Appeal Rights***

1. If you have a **grievance**, related to your Brain Injury Services Fund (BISF) services, please follow the Grievance Procedure. This was given to you and explained to you by your Service Coordination Agency during intake. The agency wants to hear your concerns. It will do its best to work with you to reach a good outcome.
2. If you are not satisfied with the outcome of your formal grievance through the provider agency, you may file an **appeal**. This is filed using the HSD form. Ask your SC for the form. Fill in the form. Sign it and send it to the HSD Brain Injury Program Manager. The Brain Injury Program Manager will review your appeal. Please include the written grievance response from the provider agency. Also include documents or other evidence that you may have. The Brain Injury Program Manager will respond in writing to your appeal within thirty (30) days.

➤ Please send all documentation regarding your appeal to the address below:

Linda Gillet, Ph.D.
Brain Injury Program Manager
Human Services Department
MAD/ESPB
PO Box 2348
Santa Fe, NM 87504-2348

Or email signed and scanned appeal to: LindaB.Gillet@state.nm.us

3. Do you have questions about either the grievance or appeal process? You can ask your SC to help you.

By signing below, you acknowledge that you understand the above statements, regarding your Grievance and Appeals rights.

Participant's Printed Name

Signature of Participant, Parent, or Legal Guardian

Date

Service Coordinator's Signature

Date