

TITLE 8 SOCIAL SERVICES
CHAPTER 320 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES
PART 6 SCHOOL-BASED SERVICES FOR MAP ELIGIBLE RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE

8.320.6.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.320.6.1 NMAC - Rp, 8.320.6.1 NMAC, 1-1-14; Rp, 8.320.1 NMAC, xx-xx-15]

8.320.6.2 SCOPE: The rule applies to the general public.
[8.320.6.2 NMAC - Rp, 8.320.6.2 NMAC, 1-1-14; Rp, 8.320.6.2 NMAC, xx-xx-15]

8.320.6.3 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, Section 27-1-12 et seq.
[8.320.6.3 NMAC - Rp, 8.320.6.3 NMAC, 1-1-14; Rp, 8.320.6.3 NMAC, xx-xx-15]

8.320.6.4 DURATION: Permanent.
[8.320.6.4 NMAC - Rp, 8.320.6.4 NMAC, 1-1-14; Rp, 8.320.6.4 NMAC, xx-xx-15]

8.320.6.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.320.6.5 NMAC - Rp, 8.320.6.5 NMAC, 1-1-14; Rp, 8.320.6.5 NMAC, xx-xx-15]

8.320.6.6 OBJECTIVE: The objective of these rules is to provide instruction for the service portion of the New Mexico medical assistance division's (MAD) medical assistance programs (MAP).
[8.320.6.6 NMAC - Rp, 8.320.6.6 NMAC, 1-1-14; Rp, 8.320.6.6 NMAC, xx-xx-15]

8.320.6.7 DEFINITIONS:

A. Practitioner for this rule is an individual or a provider group who is rendering MAD school-based services to an eligible recipient and is either under contract with local education agency (LEA), regional educational cooperative (REC), and another state-funded educational agency (SFEA) or is an employee of the LEA, REC or a SFEA. Each practitioner must be enrolled with MAD.

B. Provider for this rule is a LEA, REC, or SFEA.
[8.320.6.7 NMAC; N, xx-xx-15]

8.320.6.8 MISSION STATEMENT: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.320.6.8 NMAC - Rp, 8.320.6.8 NMAC, 1-1-14; Rp, 8.320.6.8 NMAC, xx-xx-15]

8.320.6.9 SCHOOL-BASED SERVICES FOR RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE: MAD pays for medically necessary services for a MAP eligible recipient (**eligible recipient**) under twenty-one years of age when the services are part of the eligible recipient's **individualized treatment plan (ITP)** of his or her individualized education program (IEP) or an individualized family service plan (IFSP) for treatment (correction, amelioration, or prevention of deterioration) of an identified medical condition.
[8.320.6.9 NMAC - Rp, 8.320.6.9 NMAC, 1-1-14; Rp, 8.320.6.9 NMAC, xx-xx-15]

8.320.6.10 GENERAL PROVIDER INSTRUCTIONS: Health care to New Mexico eligible recipients is furnished by a variety of providers and provider groups. The reimbursement for these services is administered by MAD. Upon approval of a **provider participation agreement (PPA)** by MAD or its designee, licensed practitioners, facilities and other providers of services that meet applicable requirements are eligible to be reimbursed for furnishing MAD covered services to a eligible recipient. A **provider** must be approved before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review (UR) instructions, and other pertinent materials. When approved, a provider receives instruction on how to access these documents, it is the provider's responsibility to access these instructions, to understand the information provided and to comply

with the requirements. The provider must contact HSD or its authorized agents to obtain answers to questions related to the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD PPA and all applicable statutes, regulations, rules, **supplements** and executive orders. MAD or its selected claims processing contractor issues payment to a provider using the electronic funds transfer (EFT) only. Providers must supply necessary information in order for payment to be made. Services must be provided within the scope of the practice and licensure for each agency, each rendering provider within that agency and each individual **practitioner**. Services must be in compliance with the statutes, rules and regulations of his or her practitioner's applicable practice board and act. Providers and **practitioners** must be eligible for reimbursement as described in 8.310.3 NMAC.

[8.320.6.10 NMAC - N, 1-1-14; Rp, 8.320.6.4.10 NMAC, xx-xx-15]

8.320.6.11 ELIGIBLE PROVIDERS AND PRACTITIONERS:

A. Upon approval of a New Mexico MAD PPA by MAD or its designee, **the provider** that meets specified requirements is eligible to be reimbursed for furnishing services to **an eligible recipient**. The **provider** must enter into a governmental services agreement (GSA) with HSD and abide by the terms and conditions of it.

B. **The providers are the entities that directly submit claims for reimbursement on behalf of the following provider employees or provider contracted practitioners when the practitioner is rendering MAD school-based services to an eligible recipient and is acting within the scope of his or her practice board and licensure (to include the New Mexico Public Education Department (PED) licensure as applicable), and meet other specified qualification criteria;**

(1) **physical therapist (PT) licensed by the New Mexico regulation and licensing department (RLD);**

(2) **physical therapy assistant licensed by RLD working under the supervision of a MAD enrolled PT;**

(3) **occupational therapist (OT) licensed by RLD;**

(4) **occupational therapy assistant licensed by RLD working under the supervision of a MAD enrolled licensed occupational therapist;**

(5) **speech and language pathologist (SLP) and clinical fellows licensed by RLD;**

(6) **apprentice in speech-language (ASL) licensed by RLD working under the supervision of a MAD enrolled SLP;**

(7) **supervision for those practitioners listed in paragraphs 1- 6 above must adhere to the RLD requirements of supervision of the practitioner.**

(8) **audiologist licensed by RLD;**

(9) **licensed nutritionist or registered dietician licensed by RLD;**

(10) **case manager meeting one of the following requirements:**

(a) **bachelor's degree in social work, counseling, psychology, nursing or a related health or social services field from an accredited institution; and**

(b) **one year experience serving medically-at-risk children or adolescents; or**

(c) **a registered nurse (RN) licensed by the New Mexico board of nursing;**

(11) **a psychologist licensed by RLD;**

(12) **a psychologist associates licensed by RLD and supervised a RLD licensed psychologist;**

(13) **a PED licensed level 3 school psychologist;**

(14) **a PED licensed level 2 school psychologist;**

(15) **a PED licensed level 1 school psychologist supervised by a PED licensed level 3 school psychologist;**

(16) **a social work practitioner licensed by RLD and acting within the scope of his or her practice board and licensure who meets one of the following requirements:**

(a) **an independent social worker (LISW) or a clinical social worker (LCSW); or**

(b) **a master social worker (LMSW) or baccalaureate social worker (LBSW) and**

whose work is supervised by a MAD enrolled independently licensed behavioral health practitioner meeting the LMSW and LBSW RLD supervision requirements; when a LMSW or LBSW is rendering services to an eligible recipient, the eligible recipient must have been diagnosed by an independently licensed behavioral health practitioner; the diagnosis must be documented in the eligible recipient's record signed by the independently licensed behavioral health practitioner acting within the scope of his or her practice board and licensure;

(17) **a MAD behavioral health practitioner licensed by RLD and acting within the scope of his or her practice board and licensure includes a:**

(a) professional clinical mental health counselor (LPCC); or
(b) marriage and family therapist (LMFT); or
(c) mental health counselor (LMHC) whose work is supervised by a MAD enrolled independently licensed behavioral health practitioner meeting LMHC RLD supervision requirements; when a LMHC is rendering services to an eligible recipient, the eligible recipient must have been diagnosed by an independently licensed behavioral health practitioner; the diagnosis must be documented in the eligible recipient's record signed by the independently licensed behavioral health practitioner acting within the scope of his or her practice board and licensure;

(18) a psychiatric clinical nurse specialist (CNS) licensed by the New Mexico board of nursing and acting within the scope of his or her practice board and licensure;

(19) a physician and psychiatrist licensed by the New Mexico board of medical examiners and acting within the scope of his or her practice board and licensure.

C. For a provider that employs a RN or a licensed practical nurse (LPN) licensed by the board of nursing who is not rendering services as a case worker, the RN and LPN is under the oversight of the department of health (DOH) as provided by New Mexico state statute (NMSA 1978, Section 24-1-4). A LPN must work under the supervision of a RN who is a PED licensed school nurse.

[8.320.6.11 NMAC - Rp, 8.320.6.10 NMAC, 1-1-14; Rp, 8.320.6.11 NMAC, xx-xx-15]

8.320.6.12 PROVIDER RESPONSIBILITIES:

A. General responsibilities:

(1) A provider who furnishes services to an eligible recipient must comply with all terms and conditions of his or her MAD PPA and the MAD New Mexico administrative code (NMAC) rules.

(2) A provider must verify that an individual is an eligible recipient at the time services are billed.

(3) A provider must appoint a program liaison and backup alternate for each provider, who will be responsible for receiving and disbursing all communication, information and guidelines from HSD regarding MAD school-based services, including information on, but not limited to, direct services and administrative claiming.

B. Documentation requirements:

(1) A provider must maintain all records necessary to fully disclose the nature, quality, amount and medical necessity of services billed to an eligible recipient who is currently receiving MAD school-based services or has received MAD school-based services in the past that are or were part of the eligible recipient's ITP and IEP or IFSP. Payment for services billed to MAD that are not substantiated in the eligible recipient's record are subject to recoupment from the provider. Documentation must be retained for at least six years from the date of payment or until ongoing audit issues are resolved, whichever is longer; see 8.302.1 and 8.302.2 NMAC.

(2) For services covered under this rule, complete copies of the eligible recipient's ITP and IEP or IFSP must be maintained as part of the required records. Those records must clearly indicate that the MAD school-based service is a part of the eligible recipient's ITP.

(3) Documents in the eligible recipient's file must include:

(a) the ITP and IEP or IFSP;

(b) the evaluation performed by the practitioner or the annual and current present level of performance;

(c) the provider's good faith effort to locate and send the eligible recipient's overall medical practitioner the approved ITP;

(d) treatment notes that relate directly to the ITP and IEP or IFSP goals and objectives specific to each eligible recipient; and

(e) billing information recorded in units of time; see 8.302.2 NMAC.

C. **Record availability:** The provider must upon request promptly furnish to HSD, the secretary of the federal department of health and human services (HHS), or the New Mexico attorney general's (AG) medicaid fraud control unit any information required in this rule, including the eligible recipient and practitioner's records, and any information regarding payments claimed by the practitioner furnishing services. Failure to provide records on request may result in a denial of claims and possible recoupment of paid claims.

[8.320.6.12 NMAC - Rp, 8.320.6.11 NMAC, 1-1-14; Rp, 8.320.6.12 NMAC, xx-xx-15]

8.320.6.13 COVERED SERVICES: MAD covers the following services when medically necessary and rendered as part of an eligible recipient's ITP and IEP or IFSP by specified practitioners in school settings.

A. For services in **Section 13** Subsections A through E of this rule, a **practitioner** must first develop and then update the eligible recipient's present level of performance for each of his or her IEP or IFSP cycles. MAD requires the following elements be included in the practitioner's treatment notes:

- (1) the specific activity provided to the eligible recipient for each date of service billed;
- (2) a description of the level of engagement and the ability of the eligible recipient for each date of service billed; and
- (3) the outcomes of **each** session that impact the eligible recipient's exceptionality for each date of service billed.

B. To be reimbursed for a MAD **school-based** service:

- (1) services must be medically necessary (**see 8.302.1 NMAC**) and must meet the needs specified in his or her **ITP and IEP or IFSP**. The services must be necessary for the treatment of the eligible recipient's specific identified condition; **and**
- (2) the ITP portion of the IEP or IFSP must be developed in conjunction with the appropriate qualified **practitioners listed in Section 11 of this rule; and**
- (3) frequency and duration of services billed may not exceed those specified in the eligible recipient's **ITP and IEP or IFSP; and**
- (4) reimbursement is made directly to the **provider for all MAD school-based services.**

C. **Therapy services:** MAD covers physical, occupational, audiological and speech evaluations, and therapy required for treatment of an identified medical condition **that is part of an eligible recipient's ITP.**

D. **Nutritional assessment and counseling:** MAD covers nutritional assessment and counseling when **rendered** by a nutritionist or dietician to **an** eligible recipient who has been referred for a nutritional need when part of **his or her ITP and IEP or IFSP**. A nutritional assessment consists of an evaluation of the nutritional needs of the eligible recipient based upon appropriate biochemical, anthropometric, physical, and dietary data, including a recommendation for appropriate nutritional intake.

E. **Transportation services:** MAD covers transportation services for **an** eligible recipient who must travel **from his or her school a when the service is unavailable in the eligible recipient's school setting to a MAD approved practitioner in order to receive a covered service that is part of his or her ITP and IEP or IFSP; see 8.324.7 NMAC.** MAD covers transportation to and from the school on the date **the approved** service is rendered in the school setting for **an** eligible recipient who has a disability.

- (1) **MAD school-based** services are billed on the specific day on which transportation is **rendered** and are **part of eligible recipient's ITP and IEP or IFSP.**
- (2) The eligible recipient requires transportation in a vehicle adapted to serve his or her needs **that is part of the eligible recipient's ITP and IEP or IFSP.**
- (3) Transportation **must** occur in a modified school bus for disabled students.

F. **Case management:** MAD covers **school-based** case management services rendered in school settings to an eligible recipient who is medically at risk **when this service is part of the eligible recipient's ITP and IEP or IFSP.** Medically at risk refers to an eligible recipient who has a diagnosed **medical** condition which has high probability of impairing cognitive, emotional, neurological, social, **behavioral,** or physical development.

- (1) The service is developed in conjunction with a qualified case manager.
- (2) MAD covers the following **school-based** case management services **and all services must be delivered to be eligible for MAD reimbursement:**
 - (a) the assessment of the eligible recipient's medical, social, **behavioral** and functional abilities at least every six months, unless more frequent reassessment is indicated by the eligible recipient's condition; and
 - (b) the development and implementation of a comprehensive case management plan of care that helps the eligible recipient retain or achieve the maximum degree of independence; and
 - (c) the mobilization of the use of natural helping networks, such as family members, church members, community organizations, support groups, friends, and the school, if the eligible recipient is able to attend; and
 - (d) **coordinating** and monitoring of the delivery of services, **evaluating** the effectiveness and quality of the services, and **revising** the case management plan of care as necessary.

(3) **An** eligible recipient has the freedom to choose a case management service **practitioner (individual or provider group).** MAD will pay for only **one** case management **practitioner** to furnish services to an eligible recipient at any given time period. If **an** eligible recipient has a case manager or chooses to use a case manager who is not employed or under contract to the **provider;** the **provider** must coordinate with that case manager in the development of the eligible recipient's **ITP and IEP or IFSP.**

G. **Nursing:** MAD covers certain nursing services required for treatment of a diagnosed **medical** condition that qualifies **the** eligible recipient for **an ITP and IEP** or IFSP when provided by a RN or LPN. Nursing services require professional nursing expertise and must be a covered MAD service.

H. **Telemedicine services:** MAD covers school-based services provided via telemedicine; see 8.310.2 NMAC.

I. **Administrative activities:** MAD covers the cost of certain administrative activities that directly support efforts to provide health-related services to an eligible recipient with special education and health care needs. These administrative activities include, but are not limited to, providing information about MAD services and how to access them; facilitating the eligibility determination process; assisting in obtaining transportation and translation services when necessary to receive health care services; making referrals for MAD **covered** services; and coordinating and monitoring MAD **school-based** covered services.

(1) Payment to **the provider** for an allowable administrative activity is contingent upon the following:

(a) the **provider** must complete a MAD PPA to become an approved school-based health services provider **and enroll all employees and contractors rendering the MAD school-based services;**

(b) the **provider** must enter into a **GSA** with HSD and agree to abide by the terms and conditions of the GSA;

(c) the **provider** must submit claims for allowable administrative activities in accordance with federal and state regulations, rules and guidelines.

(2) **The practitioner must consult with the provider to determine if practitioner's coordination on behalf of the eligible recipient with the school or contractor, or the practitioner's consultation with principals, school counselors, or teachers is a billable service under the provider's administrative costs. The provider may not bill MAD separately for these services.**

(3) Administrative claiming is subject to compliance reviews and audits conducted by HSD, the **AG's** medicaid fraud control unit and **the centers for medicare and medicaid services (CMS)**. By signing the MAD PPA, the **provider** agrees to cooperate fully with HSD, the **AG's** medicaid fraud control unit and CMS in the performance of all reviews and audits and further agrees to comply with all review and audit requirements. [8.320.6.13 NMAC - Rp, 8.320.6.13 NMAC, 1-1-14; Rp, 8.320.6.13 NMAC, xx-xx-15]

8.320.6.14 **INDIVIDUALIZED TREATMENT PLAN:**

A. The ITP must specify:

(1) the eligible recipient's **individualized** objectives and goals; and

(2) the duration, the frequency of the **MAD covered** service for the eligible recipient.

B. The ITP is a plan of **care that is developed** and agreed upon by the eligible recipient, his or her parents or legal guardians, the evaluating practitioners, the IEP or IFSP committee, and the eligible recipient's teachers, all of whom are included in the IEP or IFSP. The ITP utilizes the eligible recipient's health history, medical and educational evaluations, and recommendations **from the eligible recipient's overall health practitioner** and other medical providers, as applicable. If medical needs are identified in the IEP or IFSP, the medical portion of the IEP or IFSP is the eligible recipient's ITP. The ITP must be incorporated into the **eligible recipient's** IEP or IFSP

[8.320.6.14 NMAC - Rp, 8.320.6.14 NMAC, 1-1-14; Rp, 8.320.6.14 NMAC, xx-xx-15]

8.320.6.15 **NONCOVERED SERVICES:** **MAD school-based services** billed in school settings are subject to the limitations and coverage restrictions that exist for other MAD services; see applicable NMAC rules. Specifically for the MAD school-based program, MAD does not cover the following services.

A. Services classified as educational.

B. Services to non-eligible individual.

C. Services billed by a practitioner **acting outside the scope of his or her practice board and licensure.**

D. Vocational training that is related solely to specific employment opportunities, work skills or work settings.

E. Services that duplicate services billed outside the school setting unless determined to be medically necessary and MAD or its designee **has approved the services through** a prior authorization.

F. Services not identified in the eligible recipient's IEP or IFSP.

G. Transportation services listed below:

(1) transportation that the eligible recipient would otherwise receive in the course of attending school;

(2) transportation for the eligible recipient with special education needs under the Individuals with Disabilities Education Act (IDEA) who rides a regular school bus to and from school with non-disabled children; and

(3) transportation of a minor aged child, such as a sibling of the eligible recipient who is simply accompanying the eligible recipient to a MAD covered service.

[8.320.6.16 NMAC - Rp, 8.320.6.15 NMAC, 1-1-14; Rp, 8.320.6.15 NMAC, xx-xx-15]

8.320.6.16 PRIOR AUTHORIZATION AND UTILIZATION REVIEW: Certain procedures or services identified in the UR instructions may require prior authorization from MAD or its designee. Services for which prior authorization was obtained remain subject to UR at any point in the payment process for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. When services are billed to and paid by a coordinated services contractor authorized by HSD, the **provider** must follow that contractor's instructions for authorization of services. A specific service may have additional prior authorization requirements listed in **that service's NMAC rule under the prior** authorization section. The prior authorization of a service does not guarantee that an individual is eligible for a MAD service. A **provider** must verify that an individual is eligible for a specific MAD service at the time the service is furnished and must determine if the eligible recipient has other health insurance. **The provider** or practitioner who disagrees with the denial of a prior authorization request or other review decision can request a reconsideration.

[8.320.6.17 NMAC - Rp, 8.320.6.16 NMAC, 1-1-14; Rp, 8.320.6.16 NMAC, xx-xx-15]

8.320.6.17 REIMBURSEMENT: Reimbursement to the **provider** is not contingent upon billing a third party payer first when the eligible recipient has other insurance. MAD is generally the payer of last resort. However, if medical services are included in the eligible recipient's **ITP and IEP or IFSP**, and an exception is created under 42 USE 1396b(c), 20 USC 1412(a)(12) and 34 CFR 300.142., and the services are otherwise covered by MAD, then MAD is authorized to pay for such services. The **provider** must submit claims for reimbursement on the 837P electronic format or its successor unless it received written permission from MAD to bill on paper.

A. **Interim payment** to the **provider** for covered services is made at the MAD fee schedule for the specific service.

B. **The provider will complete an annual cost report utilized to reconcile interim payments with actual costs in accordance with CMS approved methodology. The provider must participate in the CMS approved quarterly random moment time study (RMTS).**

C. **A MAD school-based service that is in the eligible recipient's ITP and IEP or IFSP must only be billed by the provider, not its employees. When the provider utilizes a contracted practitioner to render the service, the provider must submit the claim, not the contracted practitioner. It is the responsibility of the provider to reimburse the contracted practitioner.**

[8.320.6.18 NMAC - Rp, 8.320.6.17 NMAC, 1-1-14; Rp, 8.320.6.17 NMAC, xx-xx-15]

HISTORY OF 8.320.6 NMAC:

Pre NMAC History: The material in this part was derived from that previously filed with the State Records Center: MAD-747, School Based Services for Recipients Under Twenty-one Years of Age, filed 12-16-94.

History of Repealed Material:

8.320.6 NMAC, School Based Services for Recipients Under Twenty-One Years of Age, filed 10-16-02 - Repealed effective 1-1-14.