



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT
NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT
8.320.6 NMAC SCHOOL-BASED SERVICES FOR
MAP ELIGIBLE RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE.

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED RULES

V. BACKGROUND SUMMARY

The Human Services Department (the Department) through the Medical Assistance Division is proposing to repeal and replace 8.320.6 NMAC School-Based Services for MAP Eligible Recipients Under Twenty-One Years of Age. The Department is taking this action instead of amending sections due to the number of changes to standardize language, update terminology, and to bring sections of the rule under one section for structural organization. A major change to the proposed rule is new language that will change the current payment methodology to a cost reporting methodology that includes interim payments, a quarterly random moment time study, and annual cost settlement report. HSD is proposing to change the current payment methodology to the Centers for Medicare and Medicaid Services (CMS) “*CMS preferred*” cost reporting methodology which ensures MAD school-based service providers are reimbursed the actual costs of providing IEP or IFSP-related direct medical services. Other significant changes to the rule are in a colored font for ease of comparison.

8.320.6 NMAC Highlights:

Section 11 Eligible Providers and Practitioners

HSD is proposing to move what was Section 15 into Section 11 to bring all provider and practitioner requirements into one location.

HSD is proposing amendments in the language Section 11 Subsection B to update terminology and practitioner requirements.

(1) Section 12 Subsection B Provider Responsibilities

HSD is proposing to delete language that requires a Local Education Agency (LEA), Regional Educational Cooperative (REC), and another State-Funded Educational Agency (SFEA) provider to have the eligible recipient's overall medical practitioner (1) submit an annual authorization recommending MAD school-based services and (2) that practitioner's involvement in the development of and approving of the eligible recipient's Individual Treatment Plan (ITP) portion of an eligible recipient's Individual Education Plan (IEP) or the Individual Family Service Plan (IFSP). Historically, providers have experienced difficulties with these practitioners not submitting an authorization of services and/or not attending the eligible recipient's IEP or IFSP which caused delays in the delivery of an eligible recipient's MAD school-based services. HSD is proposing new language to require providers to demonstrate they made 'good faith efforts' to engage these practitioners, yet allow services to be rendered based on the professional assessments and recommendations of the eligible recipient's specific therapists (i.e. speech, physical or behavioral health). MAD encourages an eligible recipient's physical and behavioral health providers to coordinate services to support integrated service planning and also recognizes the challenges providers encounter related to this issue.

(2) Section 13 Covered Services

Subsection B

HSD is proposing new language to require the provider to include all practitioners that will be rendering services or contributing information in the development of the eligible recipient's ITP and IEP or IFSP.

Subsection H

HSD is proposing new language to clarify school-based services may be rendered via telemedicine when the service complies with 8.310.2 NMAC telemedicine requirements.

Subsection I

HSD is proposing language to clarify that a 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) Section 8.320.6.17 Reimbursement

HSD is proposing to move what was Section 18 into Section 17 for structural purposes. HSD is proposing new language that will change the current payment methodology to a cost reporting methodology that includes interim payments, a quarterly random moment time study, and annual cost settlement report. HSD is proposing to change the current payment methodology to the CMS "*CMS preferred*" cost reporting methodology that ensures MAD school-based service providers are reimbursed the actual costs of providing IEP or IFSP-related direct medical services.

(4) Throughout the rule

HSD is proposing language to clarify MAD does not reimburse a practitioner that is either an employee of the provider or is contracted by the provider directly for rendering MAD school-based services that are included in the ITP portion of an eligible recipient's IEP or IFSP. Only those services stated in the eligible recipient's ITP will be eligible for reimbursement.

The provider is the entity responsible for submitting all MAD school-based claims and to receive reimbursement from MAD. The provider is then responsible for reimbursing its employee or contractor directly.

HSD is proposing language to strengthen the requirements that a practitioner must act within his or her scope of practice and licensure.

HSD is proposing clarifying language of what it considers to be the MAD school-based services provider and what who MAD considers to be a practitioner rendering a MAD school-based service. In part, the intent of the language is to clarify who can render services and who can be reimbursed for services.

VI. RULES

The proposed rule will be contained in 8.320.6 NMAC. This register and the proposed changes are available on the HSD website at:

<http://www.hsd.state.nm.us/LookingForInformation/registers.aspx>.

or at:

<http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>.

If you do not have internet access, a copy of the proposed rule may be requested by contacting the Medical Assistance Division at 505-827-7743.

VII. EFFECTIVE DATE

The Department proposes to implement this rule effective July 1, 2015.

VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held in Hearing Room One, Toney Anaya Building, 2550 Cerrillos Road Santa Fe, NM on June 1, 2015, 10 a.m. Mountain Daylight Time (MDT).

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Medical Assistance Division toll free at 1-888-997-2583 and ask for extension 7-7743. In Santa Fe call 827-7743. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by MAD upon request by providing copies directly to a requestor or by making them available on the HSD website or at a location within the county of the requestor.

IX. ADDRESS

Interested persons may address written comments to:

Human Services Department
Office of the Secretary
ATTN: Medical Assistance Division Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at 505 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us Written mail, electronic mail and recorded comments must be received no later than June 1, 2015, 5 p.m. MDT. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

X. PUBLICATIONS

Publication of this register and rule are approved by:

A handwritten signature in black ink, appearing to read 'Brent Earnest', is written over a horizontal line.

BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT