QUALIS HEALTH
advancing healthcare • improving health

PO Box 20910
Albuquerque, NM 87514-0910
www.qualishealth.org

Office: 505.217.7680
Toll Free: 866.962.2180

Third Party Assessor

Date
Full Name
Address
City, State Zip

90 Days – REMINDER NOTICE

Re: How to Keep Getting Medicaid

Dear First Name Last Name:

This letter is about your Medicaid benefits. Please read it carefully.

Why We Sent You this Letter:

You get Medicaid from a home and community-based waiver program. To keep getting Medicaid from this program, you must have a new Level of Care (LOC) review. Qualis Health is the Medicaid contractor that reviews the LOC. The LOC must be updated every year. If you do not renew your LOC, you cannot get Medicaid from the waiver program.

What You Need to Do:

If your waiver program case manager did not contact you to start working on your LOC forms, please contact your case manager right away.

Deadline to Fill Out Your LOC Forms:

Your current LOC ends on **(end date).** You must fill out new LOC forms before this date. Your case manager will help you with the steps to fill out the LOC forms. Then, your case manager will send the forms to Qualis Health before your LOC ends. Qualis Health will look at the forms to see if you can still get Medicaid from the waiver program.

If you have any questions about the LOC forms or how to renew your LOC, call Qualis Health toll-free at (866) 962-2180.

Sincerely,
Qualis Health Third Party Assessor

cc: Waiver Program Case Management Agency

SI USTED NECESITA ESTA NOTICIA EN ESPAÑOL, POR FAVOR LLAME A ESTE NUMERO (505) 217-7680 o (866) 962-2180

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45 Days – FINAL NOTICE

Re: How to Keep Getting Medicaid

Dear First Name Last Name:

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a. responding to the TPA Contractor within specified timelines when the Long-Term Care Assessment Abstract packet is returned for corrections or additional information;
b. submitting complete packets, between 45 and 30 calendar days prior to the LOC expiration date for annual redeterminations;
c. seeking assistance from the DDSD Regional Office related to any barriers to timely submission; and
d. facilitating re-admission to the DD Waiver for people who have been hospitalized or who have received care in another institutional setting for more than three calendar days (upon the third midnight), which includes collaborating with the MCO Care Coordinator to resolve any problems with coordinating a safe discharge.

3. Obtaining assessments from DD Waiver Provider Agencies within the specified required timelines.
4. Meeting with the person and guardian, prior to the ISP meeting, to review the current assessment information.
5. Leading the DCP as described in Chapter 3.1 Decisions about Health Care or Other Treatment: Decision Consultation and Team Justification Process to determine appropriate action.

8.2.4 *Linking*

CMs are required to know the available resources within the community of the person and to link people and families to the identified resources that will assist in achievement of the person's vision. CM requirements include:

1. talking with the person about his/her wishes and preferences to create a foundation toward providing advocacy on his or her behalf;
2. collaborating with the assigned MCO Care Coordinator to assure access to needed healthcare services, medications, medical equipment and healthcare supplies;
3. communicating with the IDT, especially with the person, guardian, healthcare decision makers and family members as appropriate, to proactively plan for health outcomes and supports needed and desired by the person;
4. effectively using their case management agency's list of generic community resources for the person to:
    a. assist IDT members in exploring publicly funded programs, community resources available to all citizens and natural supports within the person's community; and
    b. facilitate discussion of all paid and unpaid resources including options for supports from non-waiver-related programs and non-disability specific options.

State of New Mexico
Human Services Department
Human Services Register

HUMAN SERVICES DEPARTMENT

I. DEPARTMENT
HUMAN SERVICES DEPARTMENT

II. SUBJECT
8.314.5 NMAC, DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES WAIVER

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED RULE

V. BACKGROUND SUMMARY

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend NMAC policy: *8.314.5 NMAC, Developmental Disabilities Home and Community-Based Services Waiver.*

On June 21, 2017, the Department received approval from the Centers for Medicare and Medicaid Services (CMS) for a renewal of the 1915 (c) Home and Community-Based Services (HCBS) Developmental Disabilities Waiver, with an effective date of July 1, 2016. The program rule, 8.314.5 NMAC, is being amended to align services and definitions with the approved Waiver renewal and the CMS HCBS Settings Final Rule.

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: August 14, 2018
Hearing Date: September 13, 2018
Adoption Date: Proposed as December 1, 2018
Technical Citations: 42 CFR 438 subparts A through J

The Department proposes the following amendments to the rule:

Section 7
Definition language was updated throughout this section: clarification that activities of daily living include bathing, dressing, transferring, toileting, mobility and eating; description and clarification of person centered planning process; and removal of the definition for the Supports Intensity Scale.

Section 8
The language in this section has been removed.

Section 9
This section was updated to align with the CMS HCBS Settings Final Rule. Language has been added clarifying the recipient's right to privacy, dignity and respect and that the Developmental Disabilities Waiver (DDW) services must be provided in a setting that: is integrated in and facilitates full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid Home and Community-Based services; maximizes independence in making life choices; is chosen by the individual (in consultation with the guardian if applicable) from among residential and day options, including non-disability specific settings; ensures the right to privacy, dignity, respect and freedom from coercion and restraint; optimizes individual initiative, autonomy and independence in making life choices; provides an opportunity to seek competitive employment; provides individuals an option to choose a private unit in a residential setting; and facilitates choice of services and who provides them.

Section 10
Subsection C - Clarifying language was added to provider agency oversight and supervision of subcontractors and employees.
Subsection D - Clarifying language was added to the qualifications for case management provider agencies.
Subsection F - Clarifying language was added to qualifications of adult nursing provider agencies.
Subsection H - Clarifying language was added detailing when direct support staff personnel employed by or subcontracting with the provider agency must be approved through a home study; requirement for supported living agencies to supervise specific nurse functions.
Subsection T - Inclusion of LCSW, LMFT and LISW under qualifications for licensed behavioral health practitioners that can be employed by preliminary risk screening and consultation (PRSC) related to inappropriate sexual behavior agencies.
Subsection U - Clarifying language added to qualifications of socialization and sexual education providers.

Section 11
This section was updated with language on conflict of interest, including the requirements for provider agencies and case management agencies to mitigate real or perceived conflicts of interest. This language is consistent with the DDW service standards.

beyond what is authorized in their current ISP/budget level or to allow individual exceptions to the DDW service standards.

Subsection C (1) - Clarifying language was added to the functions required under case management services including the addition of health care coordination and activities that support the person-centered planning process such as: supporting informed choice and participant self-advocacy; allowing participants to lead their own meetings, program and plan development; increasing an individual's experiences with other paid, unpaid, publicly-funded and community support options; increasing self-determination; demonstrating that the approved budget is not replacing other natural or non-disability specific resources available; and documenting efforts demonstrating choice of non-waiver and non-disability specific options in the Individual Support Plan (ISP), Intermediate Disciplinary Team (IDT) meeting minutes or companion documents when an individual has only DDW funded supports.

Subsection C (4) - Language was added to clarify that for all medically necessary therapy services accessed under the state plan by eligible recipients under 21 years of age, the services under the waiver are services not otherwise covered under the state plan, and consistent with waiver objectives to support the recipient to remain in the community and prevent institutionalization.

Subsection C (5) - Clarifying language was added noting that Living Support services are available up to 24 hours per day; the section on Family Living service was reformatted.

Subsection C (6) - Clarifying language was added for Customized Community Supports settings.

Subsection C (7) - This section was updated with additional language describing the services available through the various Community Integrated Employment models.

Section 17

This section was updated with the addition of language on the person-centered planning process and requirements as it pertains to the development of the ISP. Language on the SIS process was deleted.

Section 20

This section was updated with clarifying language on agency review conferences and the fair hearing process; language on the denial of services through H authorization was replaced with exception authorization process.

VI. REGULATIONS

This proposed rule will be contained in 8.314.5 NMAC, Developmental Disabilities Home and Community-Based Services Waiver. The register and proposed rule language are available on the HSD website at: http://www.hsd.state.nm.us/LookingForInformation/registers.aspx and 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 register and rule may be requested by contacting MAD at 505-827-6252.

VII. EFFECTIVE DATE

The Department proposes to implement this rule effective December 1, 2018.

Subsection C - Language was added detailing conflict of interest requirements and prohibitions for DDW providers with regard to guardians, family members and spouses of eligible recipients.

Subsection D - Language was added detailing conflict of interest requirements and prohibitions for case management agency owners and individually employed or contracted case managers with regard to: relation by blood or affinity to the eligible recipient or to any paid caregiver of the eligible recipient; material financial interest in any entity that is paid to provide DDW or Mi Via services; making financial or health related decisions for eligible recipients on their caseload; relation by blood or affinity to any DDW service provider for eligible recipients on their caseload; and holding caseloads with DDW and Mi Via eligible recipients.

Language was added detailing conflict of interest requirements and prohibitions for case management provider agencies with regard to being a provider agency for any other DDW service and providing guardianship services to an eligible recipient receiving case management services from that same agency.

Language was added detailing conflict of interest requirements and prohibitions for a case manager or director of a case management provider agency with regard to serving on the board of directors of any DDW provider agency and training staff of DDW provider agencies.

Language was added outlining requirements for case management provider agencies to disclose familial relationships between employees/subcontract case managers and providers of other DDW services.

Section 12

This section was updated with language that notes the eligibility criteria for DDW services are found in 8.290.400 NMAC.

Section 13

This section was updated to remove all language related to the Recipient Standardized Assessment and Supports Intensity Scale (SIS).

Section 14

Subsection A - Supplemental Dental was removed as a covered service for eligible recipients ages birth to 18 years as this service is covered under the Early Periodic Screening Diagnosis and Treatment (EPSDT) program under the state plan.

Subsection C - Preliminary risk screening and consultation was added to the list of service options that are allowed outside of the Annual Resource Allotment (ARA) for eligible recipients ages birth to 18 years.

Section 15

Subsection A - This section was updated with the removal of SIS language. Language was added on the use of Proposed Budget Levels (PBL) and corresponding suggested budget dollar amount based on the type of living care arrangement, assumptions about types and amounts of services, intensity of staffing needs, and support needs in each level.

Subsection B - The H Authorization language was removed and replaced with the Exception Authorization Process. Clarifying language was added to outline the requirements and process for the Exception Authorization Process. This process allows DDW individuals who have extenuating circumstances, including extreme complex clinical needs, to receive services

VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held in the Rio Grande Conference room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on September 13, 2018 from 11 a.m. to 12 p.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 MAD in Santa Fe at (505) 827-6252. 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 MAD website or at a location within the county of the requestor.

IX. ADDRESS

Interested persons may address written or recorded 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 5 p.m. MDT on September 14, 2018. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

X. PUBLICATIONS

Publication of this rule approved by:

BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT