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EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES
SCHOOL-BASED SERVICES FOR MAP ELIGIBLE RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE
EFF: 7/1/2022

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, 7/1/2015]

8.320.6.2 SCOPE: The rule applies to the general public.
[8.320.6.2 NMAC - Rp, 8.320.6.2 NMAC, 7/1/2015]

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 Section 27-1-12 et seq NMSA 1978.
[8.320.6.3 NMAC - Rp, 8.320.6.3 NMAC, 7/1/2015]

8.320.6.4 DURATION: Permanent.
[8.320.6.4 NMAC - Rp, 8.320.6.4 NMAC, 7/1/2015]

8.320.6.5 EFFECTIVE DATE: July 1, 2015, unless a later date is cited at the end of a section.
[8.320.6.5 NMAC - Rp, 8.320.6.5 NMAC, 7/1/2015]

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, 7/1/2015]

8.320.6.7 DEFINITIONS: [**RESERVED**]

8.320.6.8 MISSION STATEMENT: To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.
[8.320.6.8 NMAC - Rp, 8.320.6.8 NMAC, 7/1/2015; Repealed, 2/1/2020; A, 7/1/2022]

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 under twenty-one years of age when the services are part of the MAP eligible recipient's (eligible recipient's) individualized education program (IEP) or an individualized family service plan (IFSP), a section 504 accommodation plan pursuant to 34 CFR 104 Subpart D (504 plan), an individual health care plan (IHCP), or are otherwise medically necessary as appropriate for each covered service for treatment (correction, amelioration, or prevention of deterioration) of an identified medical condition.
[8.320.6.9 NMAC - Rp, 8.320.6.9 NMAC, 7/1/2015; A, 7/1/2022]

8.320.6.10 GENERAL PROVIDER INSTRUCTIONS: Health care to New Mexico MAP 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 MAP eligible recipients. 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/MAD 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, 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 provider. Services must be in compliance with the statutes, rules and regulations of his or her practitioner's applicable practice board and act. Providers must be eligible for reimbursement as described in 8.310.3 NMAC.
[8.320.6.10 NMAC - Rp, 8.320.6.10 NMAC, 7/1/2015]

8.320.6.11 ELIGIBLE PROVIDERS:

A. Upon approval of a New Mexico MAD PPA by MAD or its designee, local education agencies (LEAs), regional educational cooperatives (RECs), and other state-funded educational agencies (SFEAs) that meet specified requirements are eligible to be reimbursed for furnishing services to an eligible recipient. The LEA, REC, or other SFEA must enter into a governmental services agreement (GSA) with HSD and abide by the terms and conditions of it.

B. The following individual service providers must be employed by, or under contract to, the LEA, REC, or other SFEA when furnishing treatment and meet other specified qualification criteria:

(1) physical therapists (PT);

(2) physical therapy assistants working under the supervision of a MAD enrolled PT;

(3) occupational therapists (OT);

(4) occupational therapy assistants working under the supervision of a MAD enrolled licensed occupational therapist;

(5) speech and language pathologists (SLP) and clinical fellows;

(6) apprentices in speech-language (ASL) working under the supervision of a MAD enrolled licensed speech therapist; supervision for those providers listed in Paragraphs (1) - (6) above must adhere to the requirements of the practitioner's applicable licensing board;

(7) audiologists;

(8) licensed nutritionists or registered dieticians;

(9) case managers 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;

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

(c) a licensed registered (RN).

(10) psychologists meeting one of the following requirements:

(a) psychologists (Ph.D., Psy.D., or Ed.D.); or

(b) master's level practitioners licensed by the New Mexico psychologist examiners board as psychologist associates or licensed by PED as school psychologists and working under the supervision of a MAD enrolled licensed psychiatrist or a licensed psychologist (Ph.D., Psy.D., or Ed.D.) or a PED level 3 independent school psychologist, as applicable;

(c) supervision of psychologist associates and school psychologists must adhere to the requirements of the practitioner's applicable licensing board.

(11) social work practitioners meeting one of the following requirements:

(a) licensed independent social worker (LISW); or

(b) licensed master social worker (LMSW) or licensed baccalaureate social worker (LBSW) and working under the supervision of a MAD enrolled licensed independent social worker (LISW) or licensed psychologist (Ph.D., Psy.D., Ed.D.) or other supervisor approved by the New Mexico board of social work examiners;

(i) services provided by licensed master social workers (LMSW) and licensed baccalaureate social workers (LBSW) must be within the scope of their practice respectively and supervised and periodically evaluated;

(ii) an eligible recipient receiving services from an LMSW or LBSW must be diagnosed by the practitioner's supervisor; the diagnosis must be documented in the MAP eligible recipient's record with the signature of the supervisor.

(12) licensed counselors or therapists meeting one of the following requirements:

(a) licensed professional clinical mental health counselor (LPCC); or

(b) licensed marriage and family therapist (LMFT); or

(c) licensed mental health counselor (LMHC) or licensed professional mental health counselor (LPC) and working under the supervision of a MAD enrolled licensed psychiatrist, a licensed psychologist (Ph.D., Psy.D., or Ed.D.), licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), or licensed independent social worker (LISW);

(i) supervision of licensed mental health counselors (LMHC) and licensed professional mental health counselors (LPC) must adhere to the requirements of the practitioner's applicable licensing board;

(ii) an eligible recipient receiving services from a LMHC or LPC must be diagnosed by the practitioner's supervisor; the diagnosis must be documented in the eligible recipient's record with the signature of the supervisor.

(d) licensed associate marriage and family therapist (LAMFT); supervision of LAMFTs must adhere to the requirements of the practitioner's applicable licensing board;

(13) licensed psychiatric clinical nurse specialist (CNS);

(14) physicians and psychiatrists licensed by the board of medical examiners; or

(15) registered nurse (RN), licensed practical nurse (LPN) or unlicensed school personnel providing delegated nursing services in accordance with the New Mexico board of nursing under the supervision of a RN. Delegated nursing services must be delivered in accordance with Subsection B of 16.12.2.12 NMAC.

C. For a LEA, REC, or other SFEA that employs a RN or a licensed practical nurse (LPN) not as a case worker, each is under the oversight of the department of health's (DOH) district health officer, as provided by state statue (Section 24-1-4 NMSA 1978). A LPN must work under the supervision of a RN who is a PED licensed school nurse.

D. As applicable, each provider must be licensed by the public education department (PED) when such licensure exists.

E. As applicable, each provider must be licensed by its specific regulation and licensing division (RLD)'s board of practice or by PED.

[8.320.6.11 NMAC - Rp, 8.320.6.11 NMAC, 7/1/2015; A, 2/1/2020; A, 7/1/2022]

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 LEA, REC or other SFEA, who will be responsible for receiving and disbursing all communication, information and guidelines from HSD regarding the MAD school-based services program, 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 a MAP eligible recipient who is currently receiving MAD services or has received MAD school-based services in the past that are or were part of the eligible recipient's IEP, IFSP, 504 plan, IHCP or other care plan. Payment for services billed to MAD that are not substantiated in the eligible recipient's records are subject to recoupment. 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 8.302.2 NMAC.

(2) For services covered under this rule, complete copies of the eligible recipient's IEP, IFSP, 504 plan, IHCP or other care plan with the individualized treatment plan (ITP) portions of the IEP, IFSP, 504 plan, IHCP or other care plan 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 IEP, IFSP, 504 plan, IHCP or other care plan.

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

(a) the IEP, IFSP, 504 plan, IHCP or other care plan with the ITP;

(b) evaluation performed by the provider or the annual and current present level of performance or other determination of medical necessity;

(c) annual PCP notification or documentation of a good faith effort for services provided through an IEP/IFSP;

(d) treatment notes that relate directly to the IEP, IFSP, 504 plan, IHCP or other care plan goals and objectives specific to each MAP 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, or the state medicaid fraud control unit any information required in this rule, including the eligible recipient and employee records, and any information regarding payments claimed by the provider furnishing services. Failure to provide records on request may result in a denial of claims. [8.320.6.12 NMAC - Rp, 8.320.6.12 NMAC, 7/1/2015; A, 7/1/2022]

8.320.6.13 COVERED SERVICES: MAD covers the following services when medically necessary and rendered as part of an eligible recipient's IEP, IFSP, 504 plan, IHCP or other care plan by specified providers in school settings.

A. For services in Subsections A - E of 8.320.6.13 NMAC, a provider must first develop and then update the eligible recipient's present level of performance for each of his or her IEP or IFSP cycles. 504 plans, IHCPs or other care plans should be reviewed annually to establish ongoing medical necessity for services. MAD requires the following elements be included in the provider's treatment notes:

(1) the specific activity provided to the MAP 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 session on the impact on the eligible recipient's exceptionality for each date of service billed.

B. To be reimbursed for a MAD school-based service, all of the requirements in this subsection must be met.

(1) Services must be medically necessary and must meet the needs specified in his or her IEP, IFSP, 504 plan, IHCP or other care plan. The services must be necessary for the treatment of the eligible recipient's specific identified condition.

(2) The ITP portion of the IEP, IFSP, 504 plan, IHCP or other care plan must be developed in conjunction with the appropriate qualified PT, OT, SLP, audiologist, RN, or behavioral health provider listed in 8.320.6.11 NMAC.

(3) The LEA, REC or other SFEA must complete a MAD specified good faith effort to notify the eligible recipient's PCP of the services to be provided under an IEP or IFSP.

(4) Frequency and duration of services billed may not exceed those specified in the eligible recipient's IEP, IFSP, 504 plan, IHCP or other care plan.

(5) Reimbursement is made directly to the LEA, REC, or other SFEA when therapy, licensed nutritionists or registered dieticians, transportation, case manager, or nurse providers furnish services under contract to the LEA, REC, or other SFEA.

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 licensed nutritionist or dietician for an eligible recipient who has been referred for a nutritional need when part of his or her ITP. 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 to receive a covered service from a MAD provider when the service is unavailable in the school setting and when the service is medically necessary and are part of the eligible recipient's IEP or IFSP; see 8.324.7 NMAC. MAD covers transportation to and from the school on the date a medically necessary MAD school-based 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 the ITP portion of his or her IEP or IFSP.

(2) The eligible recipient requires transportation in a vehicle adapted to serve his or her needs that are part of the ITP portion of his or her IEP or IFSP.

(3) Transportation occurs 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 these services are part of the eligible recipient's ITP. Medically at risk refers to an eligible recipient who has a diagnosed physical condition which has high probability of impairing cognitive, emotional, neurological, social, 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.

(a) The assessment of the eligible recipient's medical, social and functional abilities at least every six months, unless more frequent reassessment is indicated by the eligible recipient's condition.

(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.

(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.

(d) Coordination and monitoring of the delivery of services, evaluation of the effectiveness and quality of the services, and revision of the case management plan of care as necessary.

(e) All services must be delivered to be eligible for MAD reimbursement.

(3) An eligible recipient has the freedom to choose a case management service provider. MAD will pay for only *one* case management provider 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 LEA, REC or other SFEA, the LEA, REC or other SFEA must coordinate with the case manager in the development of the eligible recipient's ITP.

G. Nursing: MAD covers certain nursing services required for treatment of a diagnosed medical condition that qualifies an eligible recipient for an IEP , IFSP or IHCP when provided by a licensed RN or LPN. Nursing services require professional nursing expertise and are provided by a licensed RN or a LPN and must be provided in accordance with the New Mexico Nursing Practice Act and must be a covered MAD service. Delegated nursing services which are tasks in accordance with the New Mexico board of nursing that may be delegated by the RN to unlicensed school personnel. Delegated staff may include, but is not limited to, school or contracted staff, such as health assistants, teachers, teacher assistants, therapists, school administrators, administrative staff, cafeteria staff, or personal care aides.

(1) The IHCP should be written by the RN in accordance with the NM DOH school health manual.

(2) Delegated nursing services must be delivered in accordance with Subsection B of 16.12.2.12 NMAC.

H. Behavioral health services: MAD covers counseling, evaluation and therapy required for treatment of an identified behavioral health condition that is part of an eligible recipient's ITP.

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

J. Administrative activities: MAD covers the cost of certain administrative activities that directly support efforts to provide health-related services to a MAP eligible recipient with special education or 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 reimbursable services; and coordinating and monitoring MAD covered medical services.

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

(a) the LEA, REC or other SFEA must complete a MAD PPA to become an approved school-based health services provider;

(b) the LEA, REC or other SFEA must enter into a GSA with HSD and agree to abide by the terms and conditions of the GSA;

(c) the LEA, REC or other SFEA must submit claims for allowable administrative activities in accordance with federal and state regulations, rules and guidelines.

(2) A provider or contractor coordination with the school or contractor or in consultation with principals, school counselors, or teachers are not billable as a service by the provider. The provider must consult with the school to determine if the school will include such activities in its contract with the provider or contractor. The school may not bill MAD separately for these services but can include the costs as administrative costs.

(3) Administrative claiming is subject to compliance reviews and audits conducted by HSD, the state medicaid fraud control unit and the Centers for Medicare and Medicaid Services (CMS). By signing the MAD PPA, the LEA, REC or other SFEA agrees to cooperate fully with HSD, the state 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, 7/1/2015; A, 2/1/2020; A, 7/1/2022]

8.320.6.14 INDIVIDUALIZED TREATMENT PLAN:

A. The ITP must specify:

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

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

B. The plan is developed by the LEA, REC or other SFEA in conjunction with the eligible recipient, his or her family, and applicable service providers.

C. The ITP is a plan of care agreed upon by the eligible recipient, his or her parents or legal guardians, the evaluating therapists, the IEP or IFSP committee, and the eligible recipient's teacher, 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 by the PCP 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 IEP or IFSP.

D. For purposes of non-IEP/IFSP school-based services, the ITP may also be listed in a section 504 accommodation plan pursuant to 34 CFR 104 Subpart D, an individual health care plan, or other plan of care services that are otherwise determined to be medically necessary as appropriate for each covered service.

[8.320.6.14 NMAC - Rp, 8.320.6.14 NMAC, 7/1/2015; A, 7/1/2022]

8.320.6.15 NON-COVERED SERVICES: MAD school-based services billed in school settings are subject to the limitations and coverage restrictions that exist for other MAD services; see 8.301.3 NMAC. MAD does not cover the following services.

A. Services classified as educational.

B. Services to non-MAP eligible individuals.

C. Services billed by a practitioner outside his or her area of expertise.

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 gave prior authorization for the service.

F. Services not identified in the eligible recipient's IEP, IFSP, 504 plan, IHCP or other care plan.

G. Transportation services listed below:

(1) transportation that a MAP 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 the 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 service.

[8.320.6.15 NMAC - Rp, 8.320.6.16 NMAC, 7/1/2015; A, 7/1/2022]

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. All services are subject to UR 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 the service's 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. A provider who disagrees with the denial of a prior authorization request or other review decision can request a reconsideration**.**
[8.320.6.16 NMAC - Rp, 8.320.6.17 NMAC, 7/1/2015]

8.320.6.17 REIMBURSEMENT: Reimbursement to the LEA, REC, or SFEA 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 IEP, IFSP, 504 plan, IHCP or other care plan, 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 LEA, REC, or other SFEA 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 LEA, REC or other SFEA for covered services are made at the MAD fee schedule for the specific service.

B. The LEA, REC or other SFEA will complete an annual cost report utilized to reconcile interim payments with actual costs in accordance with CMS approved methodology. The LEA, REC or other SFEA 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 IEP, IFSP, 504 plan, IHCP or other care plan must only be billed by the school. When the school utilizes a contractor to render the service, the school must submit the claim, not the contractor. It is the responsibility of the school to reimburse the contractor.
[8.320.6.17 NMAC - Rp, 8.320.6.18 NMAC, 7/1/2015; A, 7/1/2022]

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 12/16/1994.

History of Repealed Material:
8.320.6 NMAC, School Based Services for Recipients Under Twenty-One Years of Age, filed 10/16/2002 - Repealed 1-1-2014.
8.320.6 NMAC, School Based Services for Recipients Under Twenty-One Years of Age, filed 12/17/2013 - Repealed 7/1/2015.