State of New Mexico
Human Services Department
Human Services Register

I. DEPARTMENT
NEW MEXICO HUMAN SERVICES DEPARTMENT

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

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED REGULATIONS

V. BACKGROUND SUMMARY

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing the following amendments to 8.314.5 NMAC, *Developmental Disabilities Home and Community-Based Services Waiver,* and to 8.290.400 NMAC, *Medicaid Eligibility for Home and Community-Based Services Waiver(Categories 090, 091, 092, 093, 094,095 and 096), Recipient Policies,* and 8.290.600 NMAC*, Benefit Description:*

1. Update the mission statement of the NM Human Services Department;
2. Add updated language describing the resource allocation process; to conform to the Development Disabilities Waiver (DDW) renewal as approved by the Centers for Medicare and Medicaid Services (CMS), effective July 1, 2011;
3. Add updated language describing DDW services and the qualifications of providers for services; to conform to the DDW renewal as approved by CMS, effective July 1, 2011;
4. Replace definitions of mental retardation/intellectual disability, specific-related condition with updated language which excludes Asperger Syndrome; to conform to the DDW renewal as approved by CMS, effective July 1, 2011;
5. Add language to include the supports intensity scale (SIS) assessment results into the individual service plan (ISP) process;
6. Add language to address eligible recipient's rights to a hearing and continuation of benefits;
7. Add language clarifying level of care requirements for Home and Community-Based Waiver services;

8. Replace the reference to the Disabled and Elderly (D&E) waiver with the current Coordination of Long-Term Services (CoLTS) waiver as approved by CMS August 1, 2008;
9. Add language to increase time for eligibility determination; and
10. Add language clarifying non-provision of waiver services.

In keeping with the report and recommendations of the Small Business-Friendly Task Force published April 1, 2011, the proposed rules for the DDW program are not more stringent than federal regulations.

VI. REGULATIONS

These proposed regulation changes will be contained in 8.314.5 NMAC, 8.290.400 NMAC and 8.290.600 NMAC of the Medical Assistance Program Policy and Eligibility Manuals. This register is available on the Medical Assistance Division web site at http://www.hsd.state.nm.us/mad/registers/2012.html. The proposed rule changes are attached to the register. If you do not have Internet access, a copy of the regulations may be requested by contacting the Medical Assistance Division at 827-3157.

VII. EFFECTIVE DATE

The Department proposes to implement these regulations effective September 14, 2012.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed regulations will be held at 10:00 a.m. on August 6, 2012, in the Rio Grande Room of the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM 87505

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 Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3156. 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 ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the Medical Assistance Division 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:

Sidonie Squier, Secretary
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

These comments must be received no later than 5:00 p.m. on August 6, 2012. Written and recorded comments will be given the same consideration as oral comments made at the public hearing. Interested persons may also address comments via electronic mail to: Barbara.watkins@state.nm.us..

X. PUBLICATIONS

Publication of these regulations approved by:

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SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 290 MEDICAID ELIGIBILITY - HOME AND COMMUNITY-BASED SERVICES WAIVER (CATEGORIES 090, 091, 092, 093, 094, 095 AND 096)
PART 400 RECIPIENT POLICIES

8.290.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[2/1/95; 8.290.400.1 NMAC - Rn, 8 NMAC 4.WAV.000.1, 5/1/02; A, 9/14/12]

8.290.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. [~~See NMSA 1978 27-2-12 et. seq. (Repl. Pamp. 1991)~~] See NMSA 1978, Section 27-2-12 et seq.
[2/1/95; 8.290.400.3 NMAC - Rn, 8 NMAC 4.WAV.000.3, 5/1/02; A, 9/14/12]

8.290.400.6 OBJECTIVE: The objective of [~~these regulations~~] this rule is to provide eligibility criteria for the medicaid program.
[2/1/95; 8.290.400.6 NMAC - Rn, 8 NMAC 4.WAV.000.6, 5/1/02; A, 11/1/07; A, 9/14/12]

8.290.400.7 DEFINITIONS:

A. **Adaptive behavior:** The effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for their age and cultural group.

B. **Developmental period: T**he time between birth and the 18th birthday.

C. **General intellectual functioning**: The results of one or more individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

[~~A.~~] D. **Individual service plan (ISP):** A treatment plan for [~~a~~] an eligible recipient that includes the eligible recipient's needs, functional level, intermediate and long range goals, statement for achieving the goals and specifies responsibilities for the care needs. The plan determines the services allocated to [~~an individual~~] the eligible recipient within program allowances.

[~~B.~~] E. **Letter of allocation:** Written notice to the applicant that they may proceed with the [~~HCBSW~~] home and community-based services waiver (HCBSW) application process.

[~~C.~~].F. **Level of care:** The level of nursing care needed by [~~an individual~~] the eligible recipient.

[~~D.~~] G. **Prospective:** A period of time starting with the date of application going forward.

[~~E.~~] H. **Restricted coverage:** Medicaid eligibility without long term care services coverage.

I. **Significantly subaverage intellectual functioning**: IQ of 70 or below.

[~~F.~~].J. **Unduplicated recipient positions (UDR):** Space available in a particular HCBSW program.

[~~G.~~] K. **Waiver:** Permission from the centers for medicaid and medicare services (CMS) to cover a particular population or service not ordinarily allowed.
[8.290.400.7 NMAC - N, 11/1/07; A, 9/14/12]

8.290.400.9 HOME AND COMMUNITY-BASED SERVICES WAIVER - Category 090, 091, 092, 093, 094, 095, 096: The human services department (HSD) is the single state agency designated to administer the medicaid program in New Mexico. The department of health (DOH)[~~, the aging and long term services department (ALTSD)~~] and the human services department are charged with developing and implementing home and community-based services waiver (HCBSW) to medicaid applicants/recipients who meet both financial and medical criteria for an institutional (nursing facility (NF) or intermediate care facility for the mentally retarded (ICF/MR)) level of care. Provision of these services under a waiver allows applicants/recipients to receive the care required at home at less cost than in an institution. The services to be furnished under the waiver must be cost-effective. This means the aggregate cost of care must be an amount less than the cost of maintaining individuals in institutions at the appropriate level of care. The types of services for which [~~medicaid~~] MAD eligible recipients are eligible vary based on the individual waiver. See medical assistance division program manual for the standards for individual waiver of covered services and program rules for all waiver services. The following sections contain the eligibility rules for all waiver services.
[2/1/95; 8.290.400.9 NMAC – Rn, 8 NMAC 4.WAV.400 & A, 5/1/02; A/E, 12-1-06; A, 11/1/07; A, 9/14/12]

8.290.400.10 BASIS FOR DEFINING THE GROUP: Eligibility for applicants/recipients who apply for waiver services is determined as if he or she were actually institutionalized, although this requirement has been waived. Entry into some of the waiver programs may be based upon the number of unduplicated eligible recipient positions (UDRs) (i.e., slots). Some waiver categories require [~~individuals~~] eligible recipients to be placed on a central registry. The individual waiver program manager is responsible for notifying ISD when an [~~individual~~] eligible recipient is allocated into a waiver program.

A. **[~~Disabled and elderly (D&E) waiver~~:]** **Coordination of long term-services (CoLTS) waiver:** The [~~disabled and elderly~~] CoLTS waiver, formerly known as the disabled and elderly (D&E) waiver, identified as identified as categories 091 (elderly), 093 (blind) and 094 (disabled) was approved effective July 1983, subject to renewal. To qualify as disabled or blind for the purposes of this waiver, disability or blindness must have been determined to exist by the disability determination contractor (DDC). To qualify as an elderly person for purposes of this waiver, the applicant/recipient must be 65 years of age or older. Applicants/recipients must also meet both the financial and non-financial eligibility requirements and meet the medical level of care for nursing facility services.

~~**[**B. **Developmentally disabled (DD) waiver:** The developmental disabled waiver identified as category 096 was approved effective July 1984, subject to renewal. This waiver is designed to furnish services to applicants/recipients who meet the definition of a developmental disability and mental retardation or specific related condition as determined by the department of health and the DDC in accordance with the approved DD waiver criteria, including the following:~~

~~(1) the individual has a developmental disability, defined as a severe chronic disability, other than mental illness, that:~~

~~(a) is attributable to a mental or physical impairment, including the result of trauma to the brain, or a combination of mental and physical impairments;~~

~~(b) is manifested before the person reaches the age of 22 years;~~

~~(c) is expected to continue indefinitely;~~

~~(d) results in substantial functional limitations in three or more of the following areas of major life activity:~~

~~(i) self-care;~~

~~(ii) receptive and expressive language;~~

~~(iii) learning;~~

~~(iv) mobility;~~

~~(v) self-direction;~~

~~(vi) capacity for independent living; and~~

~~(vii) economic self-sufficiency; and~~

~~(e) reflects the person's need for a combination and sequence of special or interdisciplinary treatment, generic or other support and services that are of lifelong or extended duration and are individually planned and coordinated.~~

~~(2) The individual also has mental retardation or a specific related condition, limited to cerebral palsy, autism (Asperger syndrome), seizure disorders, chromosomal disorders (e.g. downs), syndrome disorders, inborn errors of metabolism, and developmental disorders of brain formation.~~

~~(3) The individual must also require the level of care provided in an intermediate care facility for the mentally retarded (ICF-MR), and meet all other applicable financial and non-financial eligibility requirements.]~~

B. Developmental disabilities (DD) waiver: The developmental disabilities waiver identified as category 096 was approved effective July 1984, subject to renewal. This waiver is designed to furnish services to eligible recipients who meet the definition of a developmental disability and mental retardation/intellectual disability (MR/ID) or a specific related condition as determined by the DOH/DDSD in accordance with the approved DD waiver criteria. Developmental disabilities waiver services are intended for eligible recipients who have developmental disabilities limited to mental retardation/intellectual disability (MR/ID) or a specific related condition as determined by the DOH/DDSD. The developmental disability must reflect the person's need for a combination and sequence of special interdisciplinary or generic treatment or other supports and services that are lifelong or of extended duration and are individually planned and coordinated. The eligible recipient must also require the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR), in accordance with 8.313.2 NMAC, and meet all other applicable financial and non-financial eligibility requirements. An individual is considered to have MR/ID if she/he has significantly sub-average general intellectual functioning existing

concurrently with deficits in adaptive behavior and manifested during the developmental period. An individual is considered to have a specific related condition if she/he has a severe chronic disability, other than mental illness, that meets all of the following conditions: 1) is attributable to cerebral palsy or seizure disorder; or 2) is attributable to autistic disorder (as described in the fourth edition of the diagnostic and statistical manual of mental disorders); or 3) is attributable to chromosomal disorders (e.g. down), syndrome disorders, inborn errors of metabolism, or developmental disorders of the brain formation limited to the following:

(1) **prenatal causes:**

(a) **chromosomal disorders:** autosomes: 4p-, trisomy 4p, trisomy 8, 5p-, 9p-, trisomy 9p, trisomy 9p mosaic, partial trisomy 10q, 13q-, ring 13, trisomy 13 (Patau), 18p-, 18q-, trisomy 18 (Edwards), Ttisomy 20p, G (21,22) monosomy/deletion, trisomy 21 (down), translocation 21 (down), "cat-eye" syndrome; Prader-Willi syndrome (15);

(i) x-linked mental retardation: Allan syndrome; Atkin syndrome; Davis syndrome; Fitzsimmons syndrome; fragile x syndrome; fragile x phenotype (no fragile site); Gareis syndrome; glycerol kinase deficiency; Golabi syndrome; Homes syndrome; Juberg syndrome; Lujan syndrome; Renpenning syndrome; Schimke syndrome; Vasquez syndrome; nonspecific x-linked mental retardation;

(ii) other x chromosome disorders: xo syndrome (Turner); xyy syndrome; xxy syndrome (Klinefelter); xxyy syndrome; xxxy syndrome; xxxx syndrome; xxxxy syndrome; xxxxx syndrome (penta-x);

(b) **syndrome disorders:**

(i) neurocutaneous disorders: ataxia-telangiectasia (Louis-Bar); basal cell nevus syndrome; dyskeratosis congenital; ectodermal dysplasia (hyperhidrotic type); ectromelia ichthyosis syndrome; focal dermal hypoplasia (Goltz); ichthyosis-hypogonadism syndrome, incontinentia pigmenti (Bloch-Sulzberger); Ito syndrome; Klippel-Trenauney syndrome; linear sebaceous nevus syndrome; multiple lentigines syndrome; neurofibromatosis (Type 1); poikiloderma (Rothmund-Thomsen); Pollitt syndrome; Sjogren-Larsen syndrome; Sturge-Weber syndrome; tuberous sclerosis; xeroderma pigmentosum;

(ii) **muscular disorders:** Becker muscular dystrophy; chondrodystrophic myotonia (Schwartz-Jampel); congenital muscular dystrophy; Duchenne muscular dystrophy; myotonic muscular dystrophy;

(iii) **ocular disorders:** Aniridia-Wilm's tumor syndrome; anophthalmia syndrome (x-linked); Leber amaurosis syndrome; Lowe syndrome; microphthalmia-corneal opacity-spasticity syndrome; Norrie syndrome; oculocerebral syndrome with hypopigmentation; retinal degeneration-trichomegaly syndrome; septo-optic dysplasia;

(iv) **craniofacial disorders:** acrocephaly-cleft lip-radial aplasia syndrome; acrocephalosyndactyly;type 1 (Apert); type 2 (Apert); type 3 (Saethre-Chotzen); type 6 (Pfeiffer); Carpenter syndrome with absent digits and cranial defects; Baller-Gerold syndrome; cephalopolysyndactyly (Greig) "cloverleaf-skull" syndrome; craniofacial dysostosis (Crouzon); craniotelencephalic dysplasia; multiple synostosis syndrome;

(v) **skeletal disorders:** acrodysostosis, CHILD syndrome; chondrodysplasia punctata (Conradi-Hunerman type); chondroectodermal dysplasia; Dyggve-Melchior-Clausen syndrome; frontometaphyseal dysplasia; hereditary osteodystrophy (Albright); hyperostosis (Lenz-Majewski); hypochondroplasia; Klippel-Feil syndrome; Nail-patella syndrome; osteopetrosis (Albers-Schonberg); pyknodysostosis; radial aplasia-thrombocytopenia syndrome; radial hypoplasia pancytopenia syndrome (Fanconi); Roberts-SC phocomelia syndrome;

(c) **inborn errors of metabolism:**

(i) **amino acid disorders:** phenylketonuria: phenylalanine hydroxylase (classical, Type 1); dihydropteridine reductase (type 4); dihydrobiopterin synthetase (type 5); histidinemia; gamma-glutamylcysteine synthetase deficiency; hyperlysinemia; lysinuric protein intolerance; hyperprolinemia; hydroxyprolinemia; sulfite oxidase deficiency; iminoglycinuria; branched-chain amino acid disorders: hypervalinemia; hyperleucine-isoleucinemia; maple-syrup urine disease; isovaleric academia, glutaric academia (type 2); 3-hydroxy-3-methylglutaryl CoA lyase deficiency; 3-kethothiolase deficiency;,biotin-dependent disorders: holocarboxylase deficiency; biotinidase deficiency; propionic academia: type A; Type BC; methylmalonic academia: mutase type (mut+); cofactor affinity type (mut-); adenosylcobalamin synthetase type (cbl A); ATP: cobalamin adenosyltransferase type (cbl B), with homocystinuria, type 1 (cbl C), with homocystinuria, type 2 (cbl D); folate-dependent disorders: congenital defect of folate absorption; dihydrofolate reductase deficiency; methylene tetrahydrofolate reductase deficiency; homocystinuria; hypersarcosinemia; non-ketotic hyperglycinemia; hyper-beta-

alaninemia; carnosinase deficiency; homocarnosinase deficiency; Hartnup disease; methionine malabsorption (oasthouse urine disease);

(ii) **carbohydrate disorders:** glycogen storage disorders: type 1, with hypoglycemia (von Gierke); type 2 (Pompe); galactosemia; fructose-1, 6-diphosphatase deficiency; pyruvic acid disorders: pyruvate dehydrogenase complex (Leigh); pyruvate carboxylase deficiency; mannosidosis; fucosidosis; aspartylglucosaminuria;

(iii) **mucopolysaccharide disorders:** alpha-L-iduronidase deficiency: Hurler type; Scheie type, Hurler-Scheie type; iduronate sulfatase deficiency (Hunter type); Heparan N-sulfatase deficiency (Sanfilippo 3A type); N-acetyl-alpha-D-glucosaminidase deficiency (Sanfilippo 3B type); Acetyl CoA; glucosaminide N-acetyltransferase deficiency (Sanfilippo 3C type); N-acetyl-alpha D-glucosaminide 6-sulfatase deficiency (Sanfilippo 3D type); beta-glucuronidase deficiency (Sly type);

(iv) **mucolipid disorders:** alpha-neuraminidase deficiency (type1); N-acetylglucosaminyl phosphotransferase deficiency: I-cell disease (Type 2); Pseudo-Hurler syndrome (type 3); mucolipidosis type 4

(v) **urea cycle disorders:** carbamyl phosphate synthetase deficiency; ornithine transcarbamylase deficiency; argininosuccinic acid synthetase deficiency (citrullinemia); argininosuccinic acid (ASA) lyase deficiency; arginase deficiency (argininemia);

(vi) **nucleic acid disorders:** Lesch-Nyhan syndrome (HGPRTase deficiency); orotic aciduria; xeroderma pigmentosum (group A); DeSanctis-Cacchione syndrome;

(vii) **copper metabolism disorders:** Wilson disease; Menkes disease;

(viii) **mitochondrial disorders:** Kearns-Sayre syndrome; MELAS syndrome; MERRF syndrome; cytochrome c oxidase deficiency; other mitochondrial disorders;

(ix) **peroxisomal disorders:** Zellweger syndrome; adrenoleukodystrophy: neonatal (autosomal recessive); childhood (x-linked); infantile Refsum disease; hyperpipecolic academia; chondrodysplasia punctata (rhizomelic type);

(d) **developmental disorders of brain formation:**

(i) neural tube closure defects: anencephaly; spina bifida; encephalocele;

(ii) brain formation defects: Dandy-Walker malformation; holoprosencephaly; hydrocephalus: aqueductal stenosis; congenital x-linked type; Lissencephaly; pachygyria; polymicrogyria; schizencephaly;

(iii) cellular migration defects: abnormal layering of cortex; colpocephaly; heterotopias of gray matter; cortical microdysgenesis

(iv) intraneuronal defects: dendritic spine abnormalities; microtubule abnormalities;

(v) acquired brain defects: hydranencephaly; porencephaly; and

(vi) primary (idiopathic) microcephaly.

(2) Results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation/intellectual developmental disability and requires treatment or services similar to people with MR/ID;

(3) is manifested before the person reaches age 22 years;

(4) is likely to continue indefinitely and;

(5) results in substantial functional limitations in three or more of the following areas of major life activity:

(a) self-care;

(b) receptive and expressive language;

(c) learning;

(d) mobility;

(e) self-direction;

(f) capacity for independent living; and

(g) economic self-sufficiency.

C. **Medically fragile (MF) waiver:** The medically fragile (MF) waiver identified as category 095 was established effective August, 1984 subject to renewal. [~~To be eligible for the medically fragile waiver, an applicant/recipient~~] Eligible recipients must meet the level of care required for admission to an intermediate care facility for the mentally retarded (ICF/MR), [~~and~~] meet all other applicable financial and non-financial eligibility requirements and must have:

~~[(1) To qualify for the MF waiver an individual must:~~

~~(a) have~~] (1) a developmental disability, developmental delay, or be at risk for developmental delay as determined by the DDC, and

[~~(b) be diagnosed with~~] (2) a diagnosis of a medically fragile condition prior to the age of 22, defined as a chronic physical condition, which results in a prolonged dependency on medical care for which daily skilled (nursing) intervention is medically necessary, and which is characterized by one or more of the following:

[~~(i)~~](a) a life threatening condition characterized by reasonably frequent periods of acute exacerbation, which require frequent medical supervision or physician consultation and which, in the absence of such supervision or consultation, would require hospitalization;

[~~(ii)~~](b) frequent, time-consuming administration of specialized treatments, which are medically necessary;

[~~(iii)~~](c) dependency on medical technology such that without the technology a reasonable level of health could not be maintained; examples include, but are not limited to, ventilators, dialysis machines, enteral or parenteral nutrition support and continuous oxygen; [~~and~~

~~(iv)~~](d) periods of acute exacerbation of a life-threatening condition, the need for extraordinary supervision or observation, frequent or time-consuming administration of specialized treatments, dependency on mechanical (life) support devices, and developmental delay or disability.

D. **Acquired immunodeficiency syndrome (AIDS) and AIDS related condition (ARC) waiver:** The acquired immunodeficiency syndrome (AIDS) and AIDS related condition waiver designated as category 090, was established effective July 1987, subject to renewal. This waiver serves [~~applicants/recipients~~] eligible recipients diagnosed with AIDS/ARC. [~~Applicants/recipients~~] Eligible recipients must require [~~institutional~~] nursing facility level of care and meet all other applicable financial and non-financial eligibility requirements.

E. **Brain injury (BI) [~~under the mi via waiver~~]:** Brain injury services are [~~only available through the mi via waiver, and are~~] designated as category 092. [~~The mi via waiver, administered by the ALTSD, is effective December 1, 2006 and is subject to renewal.~~] To qualify for purposes of this waiver, the ~~applicants/recipient~~] eligible recipient must be under 65 years of age at the time of approval, meet all other applicable financial and non-financial eligibility requirements, require nursing facility level of care and have a brain injury diagnosis, as defined by the state. Brain injury is defined as:

(1) an injury to the brain of traumatic or acquired origin [~~resulting in total or partial functional disability or psychosocial impairment or both. Additional criteria include the following~~] including:

[~~(1) the term applies to~~] open and closed head injuries caused by an insult to the brain from an outside physical force; anoxia, electrical shock, shaken baby syndrome, toxic and chemical substances, near-drowning, infections; tumors, or vascular lesions;

(2) [~~BI may result~~] resulting in either temporary or permanent, partial or total impairments in one or more areas including, but not limited to: cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory perception and motor abilities; psychosocial behavior; physical functions; information processing; and speech resulting in total or partial functional disability or psychosocial impairment or both;

(3) the term "brain injury" does not apply to injuries that are congenital, degenerative, induced by birth trauma or neurological disorders related to the aging process, or chemically caused brain injuries that are a result of habitual substance abuse[~~; the BI participant must have a documented BI diagnosis, as defined by the state; a list of applicable international classification of disease (ICD9) codes (or its successor) can be obtained from ALTSD or HSD/MAD; and~~

~~(4) individuals who require nursing facility level of care~~].

[2/1/95; 3/15/96; 8.290.400.10 NMAC – Rn, 8 NMAC 4.WAV.402 & A, 5/1/02; A/E, 12-1-06; A, 11/1/07; A, 9/14/12]

HISTORY OF 8.290.400 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives:
MAD Rule 898, Transfers Of Assets, 12/29/94.

History of Repealed Material: [RESERVED]

TITLE 8 SOCIAL SERVICES
CHAPTER 290 MEDICAID ELIGIBILITY - HOME AND COMMUNITY-BASED SERVICES WAIVER (CATEGORIES 090, 091, 092, 093, 094, 095 AND 096)
PART 600 BENEFIT DESCRIPTION

8.290.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[2/1/95; 8.290.600.1 NMAC - Rn, 8 NMAC 4.WAV.000.1, 5/1/02; A, 9/14/12]

8.290.600.2 SCOPE: The rule applies to the general public.
[2/1/95; 8.290.600.2 NMAC - Rn, 8 NMAC 4.WAV.000.2, 5/1/02]

8.290.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. [~~See NMSA 1978 Sections 27-2-12 et. seq. (Repl. Pamp. 1991)~~] See NMSA 1978 Section 27-2-12 et seq.
[2/1/95; 8.290.600.3 NMAC - Rn, 8 NMAC 4.WAV.000.3, 5/1/02; A, 9/14/12]

8.290.600.4 DURATION: Permanent
[2/1/95; 8.290.600.4 NMAC - Rn, 8 NMAC 4.WAV.000.4, 5/1/02]

8.290.600.5 EFFECTIVE DATE: February 1, 1995 unless a later date is cited at the end of a section.
[2/1/95; 8.290.600.5 NMAC - Rn, 8 NMAC 4.WAV.600, 5/1/02]

8.290.600.6 OBJECTIVE: The objective of [~~these regulations~~] this rule is to provide eligibility criteria for the [~~medicaid program~~] medical assistance division (MAD) programs.
[2/1/95; 8.290.600.6 NMAC - Rn, 8 NMAC 4.WAV.000.6, 5/1/02; A, 11/1/07; A, 9/14/12]

8.290.600.7 DEFINITIONS: See 8.290.400.7 NMAC.
[8.290.600.7 NMAC - N, 11/1/07]

8.290.600.8 [RESERVED]

8.290.600.9 BENEFIT DESCRIPTION: [~~An applicant/recipient who is eligible for medicaid under any of the waiver categories is~~] Eligible recipients are eligible for specified services available under the particular waiver and ancillary services available under the general medicaid program. See specific program policy sections for covered services.
[2/1/95; 8.290.600.9 NMAC - Rn, 8 NMAC 4.WAV.600, 5/1/02]

8.290.600.10 BENEFIT DETERMINATION: Application for the waiver programs is made using the "application/redetermination of eligibility for medical assistance of aged, blind, and disabled individuals" (form MAD 381). Upon notification by the appropriate program manager that an unduplicated recipient (UDR) is available for waiver services, applicants are registered on the ISD2 system. Applications must be acted upon and notice of approval, denial, or delay sent out within [~~30~~] 45 calendar days from the date of application, or within [~~60~~] 90 calendar days if a disability determination is required from the [DDC]. The [~~applicant/recipient~~] eligible recipients must assist in completing the application, may complete the form himself, or may receive help from a relative, friend, guardian, or other designated representative. To avoid a conflict of interest, a case manager or any other [~~medicaid~~] MAD provider may not complete the application or be a designated representative.

A. **Representatives applying on behalf of individuals:** If a representative makes application on behalf of the [~~applicant/recipient~~] eligible recipient, that representative will continue to be relied upon for information regarding the [~~applicant's/recipient's~~] eligible recipient's circumstances. The ISD worker will send all notices to the [~~applicant/recipient~~] eligible recipient in care of the representative.

B. **Additional forms:** The following forms are also required as part of the application process:

(1) the [~~applicant/recipient~~] eligible recipient or representative must complete and sign the primary freedom of choice of case management agency form at the time of allocation; and

(2) the [~~applicant/recipient~~] eligible recipient or representative must sign the applicant's statement of understanding at the time waiver services are declined or terminated.

C. **Additional information furnished during application:** The ISD worker provides an explanation of the waiver programs, including, but not limited to, income and resource limits and possible alternatives, such as institutionalization. The ISD worker refers potentially eligible [~~applicant/recipient~~] eligible recipient to the social security administration to apply for supplemental security income (SSI) benefits. If a disability decision by the DDC is required, but has not been made, the ISD worker must follow established procedures to refer the case for evaluation.

[2/1/95; 1/1/97; 8.290.600.10 NMAC - Rn, 8 NMAC 4.WAV.620 & A, 5/1/02; A, 11/1/07; A, 9/14/12]

8.290.600.11 INITIAL BENEFITS:

A. The application for home and community-based services waiver is approved when the following factors of eligibility have been met: financial, non-financial, and level of care. An application will be initiated when the ISD worker is notified by the appropriate program manager that a UDR position is available for the registrant (with the exception of the AIDS waiver). After the individualized service plan has been in effect for 30 days or if it can be reasonably anticipated that services will be in effect for 30 days, the application is approved effective the first day of the month of the start date of the individualized service plan, unless income/resources deemed to a minor child from his parents results in the child's ineligibility for the initial month. The eligibility start date is based on the date of application or the start date of the ISP, whichever is later. See 8.290.500.17 NMAC, DEEMING RESOURCES, and 8.290.500.21 NMAC, DEEMED INCOME.

B. **Notice of determination:** Applicants determined to be ineligible for waiver services are notified of the reason for the denial and provided with an explanation of appeal rights.

C. Applicants determined to be eligible for waiver services are notified of the approval.

[2/1/95; 1/1/97; 8.290.600.11 NMAC - Rn, 8 NMAC 4.WAV.623 & A, 5/1/02; A, 11/1/07]

8.290.600.12 ONGOING BENEFITS:

A. **Regular reviews:** A complete redetermination of eligibility must be performed annually by the ISD worker for each open case. The redetermination includes contact with the [~~applicant/recipient~~] eligible recipient or his representative to review financial and non-financial eligibility.

B. **Additional reviews:** Additional reviews are scheduled by the ISD worker depending upon the likelihood that the [~~applicant's/recipient's~~] eligible recipient's income, resources or medical condition will change. The following are examples of frequently encountered changes which affect eligibility:

(1) social security cost-of-living increases;
(2) VA cost-of-living increases;
(3) rental income may be sporadic and require review every three months; and
(4) level of care review.

[2/1/95, 1/1/97; 8.290.600.12 NMAC - Rn, 8 NMAC 4.WAV.624 & A, 5/1/02; A, 11/1/07; A, 9/14/12]

8.290.600.13 RETROACTIVE BENEFITS: Retroactive coverage is not available under any of the waiver programs.

[2/1/95; 8.290.600.13 NMAC - Rn, 8 NMAC 4.WAV.625, 5/1/02]

8.290.600.14 CHANGES IN ELIGIBILITY: If the eligible recipient ceases to meet any of the eligibility criteria, the case is closed following provision of advance notice as appropriate. See 8.200.430.9 NMAC and following subsections for information about notices and hearing rights.

A. **Non-provision of waiver services:** To continue to be eligible for waiver services, an [~~applicant/recipient~~] eligible recipient must be receiving waiver services, early and periodic screening, diagnostic and treatment (EPSDT) benefits or [~~salud~~] managed care services, other than case management, [42 CFR Section 435.217]. Following initial approval, an eligible waiver recipient must be in waiver services within 90 calendar days of the approval. If at any time waiver services are no longer being provided (e.g., a suspension) and are not expected to be provided for 60 consecutive days, the recipient is **ineligible** for the waiver category and the case must be closed after appropriate notice is provided by the ISD worker

B. **Admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF-MR):** If [~~a~~] an eligible waiver recipient enters an acute care hospital, a nursing facility, or an ICF-MR and remains for more than 60 consecutive days, the waiver case must be closed and an application for

institutional care medicaid (ICM) must be processed. The eligible recipient is not required to complete a new application if the periodic review on the waiver case is not due in either the month of entry into the institution or the following month. If the waiver recipient is institutionalized within less than 60 consecutive days and still receives waiver services within that time frame, the waiver case is not closed and an application for [~~institutional care medicaid~~] ICM need not be processed.

C. **Reporting changes in circumstances:** The primary responsibility for reporting changes in the eligible recipient's circumstances rests with the eligible recipient or representative. At the initial eligibility determination and all on-going eligibility redeterminations, the ISD worker must explain the reporting responsibilities requirement to the [~~applicant/recipient~~] eligible recipient or representative and document that such explanation was given. In the event that waiver services cease to be provided, the case manager or the waiver program manager (or designee) must immediately notify the income support division office of that fact by telephone. The telephone call is to be followed by a written notice to the ISD worker.
[2/1/95; 1/1/97; 8.290.600.14 NMAC - Rn, 8 NMAC 4.WAV.630 & A, 5/1/02; A, 11/1/0; 9/14/12]

HISTORY OF 8.290.600 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives:
MAD Rule 898, Transfers Of Assets, 12/29/94.

History of Repealed Material: [RESERVED]

TITLE 8 SOCIAL SERVICES
CHAPTER 314 LONG TERM CARE SERVICES-WAIVERS
PART 5 DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES WAIVER

8.314.5.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.314.5.1 NMAC - Rp, 8.314.5.1 NMAC, 3-1-07; A, 9-14-12]

8.314.5.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. [~~See NMSA 1978 27-2-12 et. seq. (Repl. Pamp. 1991).~~] See NMSA 1978 , Section 27-2-12 et seq. 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.
[8.314.5.3 NMAC - Rp, 8.314.5.3 NMAC, 3-1-07; A, 9-14-12]

8.314.5.6 OBJECTIVE: The objective of [~~these regulations~~] this rule is to govern the service portion of the New Mexico medicaid program. These policies describe eligible providers, covered services, noncovered services, utilization review, and provider reimbursement.
[8.314.5.6 NMAC - Rp, 8.314.5.6 NMAC, 3-1-07; A, 9-14-12]

8.314.5.7 DEFINITIONS: [~~RESERVED~~]

A. **Activities of daily living (ADLs):** Those activities associated with a person's daily functioning.

B. **Adaptive behavior:** The effectiveness or degree with which eligible recipients meet the standards of personal independence and social responsibility expected for their age and cultural group.

C. **Developmental period:** The time between birth and the 18th birthday.

D. **General intellectual functioning:** The results of one or more individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

E. **Individual service plan (ISP):** A treatment plan for an eligible recipient that includes the eligible recipient's needs, functional level, intermediate and long range goals, statement for achieving the goals and specifies responsibilities for the care needs. The plan determines the services allocated to the eligible recipient within program allowances.

F. **Significantly subaverage intellectual functioning:** Intelligence quotient (IQ) of 70 or below.

G. **Supports intensity scale (SIS):** A standardized assessment tool that provides a reliable framework to quantify the support needs of individuals with developmental disabilities.

H. **Waiver:** Permission from the centers for medicaid and medicare services (CMS) to cover a particular population or service not ordinarily allowed.

[8.314.5.7 NMAC - N, 9-14-12]

8.314.5.8 MISSION STATEMENT: [~~The mission of the New Mexico medical assistance division (MAD) is to maximize the health status of HSD/MAD program eligible individuals by furnishing payment for quality health services at levels comparable to private health plans.~~] 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.
[8.314.5.8 NMAC - Rp, 8.314.5.8 NMAC, 3-1-07; A, 9-14-12]

8.314.5.9 DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES WAIVER: [~~To help New Mexicans who have a developmental disability, mental retardation or a specified related condition to receive services in a cost-effective manner, the New Mexico medical assistance division (MAD) has obtained a waiver of certain federal regulations to provide home and community-based services waiver (HCBSW) programs to recipients as an alternative to institutionalization. See Section 2176 of the Omnibus Budget Reconciliation Act of 1981, codified at 42 CFR 441.300 Subpart G. The developmental disabilities waiver (DDW) annual resource allotment (ARA) allows the individual to utilize flexible combinations of services that are of benefit to them up to the maximum of their available ARA. The utilization of an ARA offers the individual more flexibility in choosing and receiving desired services. The ARA is the individual's annual funding resource for DDW services for their individualized service plan (ISP) year with the exception of community living services, environmental modifications, tier III crisis service, and outlier services. Exceptions to the ARAs for additional therapy hours,~~

~~behavior support consultation, or supported employment services are subject to approval by the department of health, developmental disabilities supports division (DOH/DDSD) and in accordance with the DOH/DDSD DDW service definitions and standards. This part describes DDW eligible providers, covered waiver services, service limitations, general reimbursement methodology, and services for recipients determined to have developmental disabilities.~~] To help New Mexicans who have a developmental disability, mental retardation/intellectual disability (MR/ID) or a specified related condition to receive services in a cost-effective manner, the New Mexico medical assistance division (MAD) has obtained a waiver of certain federal regulations to provide home and community-based services waiver (HCBSW) programs to eligible recipients as an alternative to institutionalization.
[8.314.5.9 NMAC - Rp, 8.314.5.9 NMAC, 3-1-07; A, 9-14-12]

8.314.5.10 ELIGIBLE PROVIDERS:

[~~A. Eligible providers must be approved by the DOH/DDSD or its designee and have an approved medicaid provider agreement with MAD. Eligible providers who contract with DOH/DDSD for more than $100,000. must be accredited in accordance with the DOH/DDSD accreditation policy.~~

~~B. Individual providers participate as employees or contractors of agencies, except as otherwise, recognized by this policy. Providers may subcontract only with individuals who are qualified and must follow the general contract provisions for subcontracting. Agencies may not employ or subcontract direct care personnel who are the spouse or parent, if a minor child, of the individual served pursuant to 42 CFR Section 440.167 and CMS state medicaid manual section 4480-D. For professionals governed by various licensing boards (nurses, social workers, counselors, psychologists, physical therapists, physical therapy assistants (PTAs), occupational therapists, certified occupational therapy assistants (COTAs), speech pathologists, clinical fellows, etc.), contact the appropriate licensing body for information regarding the applicable licensure.~~

~~C. Once enrolled, providers receive instruction on how to access medicaid and other medical assistance provider program policies, billing instructions, utilization review instructions, and other pertinent material from MAD and DOH/DDSD. It is the provider's responsibility to access these instructions or ask for paper copies to be provided, to understand the information provided and to comply with the requirements. To be eligible for medical assistance program reimbursement, providers are bound by the provisions of the provider participation agreement.~~]

A. Health care to New Mexico MAD 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 New Mexico MAD provider participation agreement by MAD or its designee, providers of services that meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider must be enrolled before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD/MAD 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 instructions, and other pertinent materials. When enrolled, 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 provider participation agreement and all applicable statutes, regulations, and executive orders. MAD or its selected claims processing contractor issues payments to a provider using electronic funds transfer (EFT) only.

B. Eligible providers must be approved by the department of health/developmental disabilities support division (DOH/DDSD) or its designee and have an approved MAD provider participation agreement (PPA) as a DDW provider.

C. MAD through its designee, DOH/DDSD, follows a subcontractor model for certain DDW services. A provider agency, following the DOH/DDSD model, must ensure the subcontractors or employees meet all required qualifications. Provider agencies must provide oversight of subcontractors and employees to ensure subcontractors or employees meet all required MAD and DOH/DDSD qualifications. There must be oversight of subcontractors and employees by the provider agency to ensure the services are delivered in accordance with the all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW services standards and the MAD rules. An agency may not employ or subcontract the spouse of an eligible recipient or the parent of a minor child receiving services pursuant to federal regulations.

D. **Qualifications of case management agency providers: [**~~Case management providers must meet all qualifications set forth by the DOH/DDSD, DDW definitions and service standards. Case management providers must possess the following qualifications:~~] Case management providers must comply with all accreditation policies

and requirements set forth by the DOH/DDSD, DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Case management providers must ensure that all case managers, whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD and its DDW service standards and the MAD rules. Case management providers must ensure that case managers meet the following qualifications:

(1) one year clinical experience, related to the target population; and

(2) one of the following:

(a) social worker licensure as defined by the NM board of social work examiners; or

(b) registered nurse licensure as defined by the NM board of nursing; or

(c) bachelor's or master's degree in social work, psychology, counseling, nursing, special education, or closely related field;

(3) training requirements as specified by DDSD/DOH; and

(4) have a clear caregiver criminal history screening (CCHS).

[~~E. **Qualifications of personal support service providers:** Personal support service providers must meet all qualifications set forth by the DOH/DDSD, DDW definitions and service standards.~~

~~(1) Personal support service providers must complete a 40 hour personal support service training program and participate in ongoing training at a minimum of 10 hours per year after the first year.~~

~~(2) Personal support providers must be accredited by an agency identified by DOH/DDSD, DDW service standards.~~

~~(3) Personal support service staff must possess a current CPR and first aid certification.~~]

[~~F.~~] E. [~~**Qualifications of respite providers:** Respite providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards. Respite providers must complete a 40 hour training program and participate in ongoing training at a minimum of 10 hours per year, after the first year.~~] **Qualifications of respite provider agencies:** Respite provider agencies must comply with DOH/DDSD accreditation policy and all requirements set forth by the DOH/DDSD service definition, all requirements outlined in the DDW service standards, and the MAD rules. Respite provider agencies must ensure that all direct support personnel, whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD and in its DDW service standards and the MAD. Respite provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;

(2) have and maintain documentation of current CPR and first aid certification; and

(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

[~~G. **Qualifications of private duty nursing providers:** Private duty nursing providers must meet all qualifications set forth by the DOH/DDSD, DDW definitions and service standards. Direct nursing services are provided by individuals who are currently licensed as registered or licensed practical nurses by the New Mexico state board of nursing. Nurses must have a minimum of one year of supervised nursing experience, in accordance with the New Mexico Nursing Practice Act. Eligible agencies must be licensed home health agencies, licensed or certified rural health clinics, community programs or individual contractors.~~]

F. **Qualifications of adult nursing provider agencies:** Adult nursing provider agencies must comply with all requirements set forth by DOH/DDSD, DDW service standards and all applicable state and federal laws. Adult nursing provider agencies must ensure that all nurses, whether subcontractors or employees, meet all qualifications set forth by the DOH/DDSD, and its DDW service standards and MAD rules. Adult nursing provider agencies must ensure that all nurses, whether subcontractors or employees meet all qualifications set forth by the DOH/DSD service definition, all requirements outlined in the DDW service standards and the MAD rules. Direct nursing services are provided by licensed registered or licensed practical nurses by the New Mexico state board of nursing. Nurses must have a minimum of one year of supervised nursing experience, in accordance with the New Mexico Nursing Practice Act and must comply with all aspects of the New Mexico Nursing Practice Act, including requirements regarding delegation of specific nursing functions.

[~~H. **Qualifications of therapy providers:** Physical, occupational, and speech therapists, PTAs and COTAs must meet all qualification criteria in accordance with the DOH/DDSD, DDW service definitions and standards. Physical, occupational and speech therapists, PTAs and speech clinical fellows must possess a therapy license in their respective field, from the New Mexico regulation and licensing department. COTAs must possess an occupational therapy assistant certification from the New Mexico regulation and licensing department.~~]

G. **Qualifications of therapy provider agencies:** Therapy provider agencies must comply with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Therapy provider agencies must ensure that all therapists including physical, occupational, and speech therapists, physical therapy assistants (PTAs) and certified occupational therapy assistants (COTAs) whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD and the MAD rules

and DDW service standards including relevant licensure or certification in their respective discipline from the New Mexico regulation and licensing department.

[~~I. **Qualifications for community living service providers:** There are three types of community living services: Family living, supported living and independent living. Community living providers must meet all qualifications set forth by the DOH/DDSD, DDW definitions and service standards.~~

~~(1) Family living service providers for adults must meet the qualifications for staff required by the DOH/DDSD, DDW service definitions and standards. The direct care provider employed by or subcontracting with the provider agency must be approved through a home study completed prior to provision of services and conducted at subsequent intervals required of the provider agency. All family living sub-contracts must be approved by the DOH/DDSD.~~

~~(2) Supported living service providers must meet the qualifications for residential facility staff in accordance with the DOH/DDSD, DDW service definitions and standards.~~

~~(3) Independent living service providers must meet the qualifications for residential facility staff in accordance with the DOH/DDSD, DDW service definitions and standards.~~]

H. **Qualifications for community living supports provider agencies:** Living supports consist of family living and supported living. Living supports provider agencies must comply with accreditation policy and all requirements set forth by the DOH/DDSD, DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Living supports provider agencies must ensure that all direct support personnel meet all qualifications set forth by DOH/DDSD and its DDW service standards and MAD rules. Living supports provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;

(2) have and maintain documentation of current CPR and first aid certification; and

(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

(a) Family living provider agencies must ensure that all direct support personnel, whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD and its DDW service standards and the MAD rules. The direct support personnel employed by or subcontracting with the provider agency must be approved through a home study completed prior to provision of services and conducted at subsequent intervals required of the provider agency.

(b) Supported living provider agencies must ensure that all direct support personnel meet all qualifications set forth by DOH/DDSD and the MAD rules and its DDW service standards. Supported living provider agencies must employ or subcontract with at least one licensed registered nurse and comply with the New Mexico Nurse Practicing Act.

[~~J. **Qualifications of adult day habilitation providers:** Adult day habilitation service providers must meet all qualifications as set forth by the DOH/DDSD, DDW service definitions and standards.~~]

I. **Qualifications of customized community supports provider agencies:** Customized community supports provider agencies must comply with accreditation policy and all requirements set forth by the DOH/DDSD, DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Customized community supports providers must comply with all provisions of the performance based measure requirements. Customized community supports provider agencies must ensure that all direct support personnel meet all qualifications set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Customized community supports provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;

(2) have and maintain documentation of current CPR and first aid certification; and

(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

[~~K. **Qualifications of community access providers:** Community access service providers must meet all qualifications as set forth by the DOH/DDSD, DDW service definitions and standards.~~]

[~~L. **Qualifications of supported employment providers:** Supported employment providers must meet the minimum qualifications as set forth by the DOH/DDSD, DDW service definitions and standards.~~]

J. **Qualifications of community integrated employment provider agencies:** Community integrated employment provider agencies must comply with the DOH/DDSD accreditation policy and all requirements set forth by the DOH/DDSD DDW service definition, all requirements outlined in the DDW services standards and the MAD rules. Community integrated employment provider agencies must comply with all provisions of the performance based measure requirements. Community integrated employment provider agencies must ensure that all direct support personnel meet all qualifications set forth by DOH/DDSD and the DDW service standards and MAD rules. Community integrated employment provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;
(2) have and maintain documentation of current CPR and first aid certification; and
(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

[~~M. **Qualifications of behavior support consultation providers:** Behavior support consultation providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards.~~]

K. **Qualifications of behavioral support consultation provider agencies:** Behavioral support consultation provider agencies must comply with all requirements set forth by the DOH/DDSD, DDW service standards and MAD rules. Behavioral support consultation provider agencies must ensure that all behavioral support consultants, whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

(1) Providers of [~~behavior~~] behavioral support consultation services must possess [~~qualifications in~~] at least one of the following [~~areas~~] qualifications and be currently licensed and maintain that licensure by the New Mexico appropriate board or licensing authority:

(a) a licensed mental health counselor (LMHC), or
(b) a licensed psychiatrist; or
(c) a licensed clinical psychologist; or
(d) a licensed psychologist associate, (masters or Ph.D. level); or
(e) a licensed independent social worker (LISW); or
(f) a licensed master social worker (LMSW); or
(g) a licensed professional clinical counselor (LPCC); or
(h) a licensed professional counselor (LPC); or
(i) a licensed psychiatric nurse (MSN/RNCS); or
(j) a [~~NM~~] licensed marriage and family therapist (LMFT); or
(k) a [~~NM~~] licensed practicing art therapist (LPAT); or
(l) other related licenses and qualifications may be considered with DOH/DDSD prior written approval.

(2) Providers of [~~behavior~~] behavioral support consultation must have a minimum of one year of experience working with persons with developmental disabilities. [~~All behavior support consultants must maintain current New Mexico licensure with their professional field licensing body.~~]

(3) Behavioral support consultation providers must receive training in accordance with DDSD training policy.

[~~N. **Qualifications of nutritional counseling providers:** Nutritional counseling providers must meet all other qualification criteria in accordance with the DOH/DDSD, DDW service definitions and standards. Nutritional counseling providers must be registered as dietitians by the commission on dietetic registration of the American dietetic association.~~]

L. **Qualifications of nutritional counseling provider agencies:** Nutritional counseling provider agencies must comply with all requirements set forth by DOH/DDSD DDW service definitions, all requirements outlined in the DDW service standards and MAD rules. Nutritional counseling provider agencies must ensure that all nutritional counseling providers, whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Nutritional counseling providers must be registered as dietitians by the commission on dietetic registration of the American dietetic association and licensed in New Mexico as a nutrition counselor.

[~~O. **Qualifications of environmental modification providers:** Environmental modification providers must be a licensed contractor authorized by the State of New Mexico to complete the specified project. Environmental modification providers must meet all qualification criteria in accordance with the DOH/DDSD, DDW service definitions and standards.~~]

M. **Qualifications of environmental modification provider agencies:** Environmental modification contractors must be bonded, licensed by the state of New Mexico and authorized to complete the specified project. Environmental modification provider agencies must comply with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Environmental modification provider agencies must meet all qualifications set forth by the DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. All services shall be provided in accordance with applicable federal, state and local building codes.

[~~P. **Qualifications of personal planning facilitation providers:** Personal planning facilitation providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards.~~

[~~Q. **Qualifications of goods and services providers:** Goods and services providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards.~~]

[~~R. **Qualifications of tier III crisis support providers:** Tier III crisis support providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards.~~]

N. Qualifications of crisis supports provider agencies: Crisis supports provider agencies must comply with all requirements set forth by the DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Crisis supports provider agencies must ensure that direct support personnel, whether subcontractors or employees, meet all qualifications set forth by the DOH/DDSD and the DDW service standards. Crisis supports provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;

(2) have and maintain documentation of current CPR and first aid certification; and

(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

[~~S. **Qualifications for non-medical transportation providers:** Non-medical transportation providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards.~~]

O. Qualifications for non-medical transportation provider agencies: Non-medical transportation provider agencies must comply with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Non-medical transportation provider agencies must ensure that all transportation provider agencies meet all qualifications set forth by DOH/DDSD DDW definition, all requirements outlined in the DDW service standards and MAD rules. Non-medical transportation provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;

(2) have and maintain documentation of current CPR and first aid certification; and

(3) have and maintain documentation of a clear caregiver criminal history screening (CCHS).

[~~T. **Qualification for outlier providers:** Outlier providers must meet all qualifications as set forth by the DOH/DDSD, DDW definitions and service standards.~~]

P. **Qualifications of supplemental dental care provider agencies:** Supplemental dental care provider agencies must comply with all requirements set forth by the DOH/DDSD, DDW service standards and all applicable state and federal laws. Supplemental dental care providers must contract with New Mexico licensed dentists and dental hygienists who are licensed as per New Mexico regulation and licensing department, 61-5A-1 et seq., NMSA 1978. The supplemental dental care provider will ensure that a licensed dentist per New Mexico regulation and licensing provides the oral examination; ensure that a dental hygienist certified by the New Mexico board of dental health care provides the routine dental cleaning services; demonstrate fiscal solvency; and will function as a payee for the service.

Q. **Qualifications of assistive technology purchasing agent providers and agencies**: Assistive technology purchasing agent providers and agencies must comply with all requirements set forth by the DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

R. **Qualifications of independent living transition service provider agencies:** Independent living transition service provider agencies must comply with all requirements and must meet all qualifications set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

S. **Qualifications of personal support technology/on-site response service provider agencies:** Personal support technology/on-site response service provider agencies must comply and must meet all qualifications with all requirements set forth by DOH/DDSD DDW service definition and all requirements outlined in the DDW service standards and the MAD rules. Personal support technology/on-site response service provider agencies must comply with all laws, rules, and regulations from the federal communications commission (FCC) for telecommunications.

T. **Qualifications of preliminary risk screening and consultation related to inappropriate sexual behavior provider agencies**: Preliminary risk screening and consultation related to inappropriate sexual behavior provider agencies must comply with all requirements set forth by the DOH/DDSD, DDW service standards and all applicable state and federal laws. Preliminary risk screening and consultation related to inappropriate sexual behavior provider agencies must meet all qualifications set forth by the DOH/DDSD and the DDW service standards. Preliminary risk screening and consultation related to inappropriate sexual behavior provider agencies must have a current independent practice license through a board of the New Mexico regulation and licensing department in a counseling or counseling-related field (e.g., counseling and therapy practice, psychologist examiners, social work examiners), and a master's or doctoral degree in a counseling or counseling-related field from an accredited college or university. Preliminary risk screening and consultation related to inappropriate sexual behavior provider agencies must comply with all training requirements as specified by DOH/DDSD.

U. **Qualifications of socialization and sexuality education provider agencies:** Socialization and sexuality education provider agencies must comply with all requirements set forth by the DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Socialization and sexuality education provider agencies must meet all qualifications set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

(1) Socialization and sexuality education provider agencies must have one of the following providers rendering the service:

(a) a master's degree or higher in psychology;
(b) a master's degree or higher in counseling;
(c) a master's degree or higher in special education;
(d) a master's degree or higher in social work;
(e) a master's degree or higher in a related field;
(f) a New Mexico registered nurse or as a licensed practical nurse;
(g) a bachelor's degree in special education;
(h) hold a certification in special education; and
(i) been approved by the DDS office of behavioral services as a socialization and sexuality education provider; and
(j) must meet training requirements as specified by DDSD.

V. **Qualifications of customized in-home supports provider agencies:** The customized in-home supports provider agencies must comply with DOH/DDSD accreditation policy and all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Customized in-home supports provider agencies must ensure that all direct support personnel, whether subcontractors or employees, meet all qualifications set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Customized in-home supports provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD;
(2) have and maintain documentation of current CPR and first aid certification; and
(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

W. **Qualifications of intense medical living supports provider agencies:** Intense medical living supports provider agencies must comply with the accreditation policy and all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. Intense medical living supports provider agencies must employ or subcontract with at least one licensed registered nurse by the New Mexico state board of Nursing. Nurses must have a minimum of one year of supervised nursing experience, in accordance with the New Mexico Nursing Practice Act. Intense medical living supports provider agencies must ensure that all direct support personnel meet all qualifications set forth by the DOH/DDSD, DDW service standards and MAD rules. Intense medical living supports provider agencies and direct support personnel must:

(1) comply with all training requirements as specified by DOH/DDSD; and
(2) have and maintain documentation of current CPR and first aid certification; and
(3) have and maintain documentation of clear caregiver criminal history screening (CCHS).

[8.314.5.10 NMAC - Rp, 8.314.5.10 NMAC, 3-1-07; A, 9-14-12]

8.314.5.11 PROVIDER RESPONSIBILITIES:

~~[A. Providers who furnish services to HSD/MAD program eligible recipients must comply with all specified HSD/MAD participation requirements. See 8.302.1 NMAC, *General Provider Policies*.~~

~~B. Providers must verify that individuals are eligible for medicaid and DDW services at the time services are furnished and determine if medicaid recipients have other health insurance.~~

~~C. Providers must maintain any and all medical or business records as necessary to fully disclose the type and extent of services provided to recipients. See 8.302.1 NMAC, *General Provider Policies*.]~~

A. A provider who furnishes services to a medicaid or other health care programs eligible recipient must comply with all federal and state laws, regulations, and executive orders relevant to the provision of services as specified in the MAD provider participation agreement. A provider also must conform to MAD program rules and instructions as specified in the provider rules manual and its appendices, and program directions and billing instructions, as updated. A provider is also responsible for following coding manual guidelines and CMS correct coding initiatives, including not improperly unbundling or upcoding services.

B. A provider must verify that an individual is eligible for a specific health care program administered by the HSD and its authorized agents, and must verify the eligible recipient's enrollment status at the time services are furnished. A provider must determine if an eligible recipient has other health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an eligible recipient.

C. When services are billed to and paid by a MAD fee-for-service coordinated services contractor authorized by HSD, under an administrative services contract, the provider must also enroll as a provider with the coordinated services contractor and follow that contractor's instructions for billing and for authorization of services. See 8.302.1 NMAC, *General Provider Policies*.

[8.314.5.11 NMAC - Rp, 8.314.5.11 NMAC, 3-1-07; A, 9-14-12]

8.314.5.12 ELIGIBLE RECIPIENTS: [~~DDW services are limited to individuals who meet the definition of developmental disability and mental retardation or specific related conditions as determined by the DOH/DDSD in accordance with approved DDW criteria, including the following. The individual has a severe chronic disability, other than mental illness, that:~~

~~A. is attributable to a mental or physical impairment, including the result from trauma to the brain, or a combination of mental and physical impairments;~~

~~B. is manifested before the person reaches the age of twenty-two years;~~

~~C. is expected to continue indefinitely;~~

~~D. results in substantial functional limitations in three or more of the following areas of major life activity:~~

~~(1) self-care;~~

~~(2) receptive and expressive language;~~

~~(3) learning;~~

~~(4) mobility;~~

~~(5) self-direction;~~

~~(6) capacity for independent living; and~~

~~(7) economic self-sufficiency;~~

~~E. reflects the person's need for a combination and sequence of special, interdisciplinary or generic care treatment or other support and services that are of life-long or extended duration and are individually planned and coordinated;~~

~~F. have mental retardation or a specific related condition; related conditions are limited to cerebral palsy, autism (including asperger syndrome), seizure disorder, chromosomal disorders (e.g. downs), syndrome disorders, inborn errors of metabolism, and developmental disorders of brain formation; and~~

~~G. who meet the intermediate care facility for the mentally retarded (ICF/MR) level of care criteria in accordance with 8.313.2 NMAC.~~] Developmental disabilities waiver services are intended for eligible recipients who have developmental disabilities limited to mental retardation/intellectual disability (MR/ID) or a specific related condition as determined by the DOH/DDSD. The developmental disability must reflect the eligible recipient's need for a combination and sequence of special interdisciplinary or generic treatment or other supports and services that are lifelong or of extended duration and are individually planned and coordinated. The eligible recipient must also require the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR), in accordance with 8.313.2 NMAC, and meet all other applicable financial and non-financial eligibility requirements. An eligible recipient is considered to have MR/ID if she/he has significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. An eligible recipient is considered to have a specific related condition if she/he has a severe chronic disability, other than mental illness, that meets all of the following conditions: 1) is attributable to cerebral palsy or seizure disorder; or 2) is attributable to autistic disorder (as described in the fourth edition of the diagnostic and statistical manual of mental disorders); or 3) is attributable to chromosomal disorders (e.g. down), syndrome disorders, inborn errors of metabolism, or developmental disorders of the brain formation limited to the following:

(1) **prenatal causes:**

(a) **chromosomal disorders:** autosomes: 4p-, trisomy 4p, trisomy 8, 5p-, 9p-, trisomy 9p, trisomy 9p mosaic, partial trisomy 10q, 13q-, ring 13, trisomy 13 (Patau), 18p-, 18q-, trisomy 18 (Edwards), trisomy 20p, G (21,22) monosomy/deletion, trisomy 21 (down), translocation 21 (down), "cat-eye" syndrome; Prader-Willi syndrome (15);

(i) x-linked mental retardation: Allan syndrome; Atkin syndrome; Davis syndrome; Fitzsimmons syndrome; fragile x syndrome; fragile x phenotype (no fragile site); Gareis syndrome; glycerol kinase

deficiency; Golabi syndrome; Homes syndrome; Juberg syndrome; Lujan syndrome; Renpenning syndrome; Schimke syndrome; Vasquez syndrome; nonspecific x-linked mental retardation;

(ii) other x chromosome disorders: xo syndrome (Turner); xyy syndrome; xxy syndrome (Klinefelter); xxyy syndrome; xxxy syndrome; xxxx syndrome; xxxxy syndrome; xxxxx syndrome (penta-x);

(b) **syndrome disorders:**

(i) neurocutaneous disorders: ataxia-telangiectasia (Louis-Bar); basal cell nevus syndrome; dyskeratosis congenital; ectodermal dysplasia (hyperhidrotic type); ectromelia ichthyosis syndrome; focal dermal hypoplasia (Goltz); ichthyosis-hypogonadism syndrome, incontinentia pigmenti (Bloch-Sulzberger); Ito syndrome; Klippel-Trenauney syndrome; linear sebaceous nevus syndrome; multiple lentigines syndrome; neurofibromatosis (Type 1); poikiloderma (Rothmund-Thomsen); Pollitt syndrome; Sjogren-Larsen syndrome; Sturge-Weber syndrome; tuberous sclerosis; xeroderma pigmentosum;

(ii) **muscular disorders:** Becker muscular dystrophy; chondrodystrophic myotonia (Schwartz-Jampel); congenital muscular dystrophy; Duchenne muscular dystrophy; myotonic muscular dystrophy;

(iii) **ocular disorders:** Aniridia-Wilm's tumor syndrome; anophthalmia syndrome (x-linked); Leber amaurosis syndrome; Lowe syndrome; microphthalmia-corneal opacity-spasticity syndrome; Norrie syndrome; oculocerebral syndrome with hypopigmentation; retinal degeneration-trichomegaly syndrome; septo-optic dysplasia;

(iv) **craniofacial disorders:** acrocephaly-cleft lip-radial aplasia syndrome; acrocephalosyndactyly;type 1 (Apert); type 2 (Apert); type 3 (Saethre-Chotzen); type 6 (Pfeiffer); Carpenter syndrome with absent digits and cranial defects; Baller-Gerold syndrome; cephalopolysyndactyly (Greig) "cloverleaf-skull" syndrome; craniofacial dysostosis (Crouzon); craniotelencephalic dysplasia; multiple synostosis syndrome;

(v) **skeletal disorders:** acrodysostosis, CHILD syndrome; chondrodysplasia punctata (Conradi-Hunerman type); chondroectodermal dysplasia; Dyggve-Melchior-Clausen syndrome; frontometaphyseal dysplasia; hereditary osteodystrophy (Albright); hyperostosis (Lenz-Majewski); hypochondroplasia; Klippel-Feil syndrome; Nail-patella syndrome; osteopetrosis (Albers-Schonberg); pyknodysostosis; radial aplasia-thrombocytopenia syndrome; radial hypoplasia pancytopenia syndrome (Fanconi); Roberts-SC phocomelia syndrome;

(c) **inborn errors of metabolism:**

(i) **amino acid disorders:** phenylketonuria: phenylalanine hydroxylase (classical, Type 1); dihydropteridine reductase (type 4); dihydrobiopterin synthetase (type 5); histidinemia; gamma-glutamylcysteine synthetase deficiency; hyperlysinemia; lysinuric protein intolerance; hyperprolinemia; hydroxyprolinemia; sulfite oxidase deficiency; iminoglycinuria; branched-chain amino acid disorders: hypervalinemia; hyperleucine-isoleucinemia; maple-syrup urine disease; isovaleric academia, glutaric academia (type 2); 3-hydroxy-3-methylglutaryl CoA lyase deficiency; 3-kethothiolase deficiency;.biotin-dependent disorders: holocarboxylase deficiency; biotinidase deficiency; propionic academia: type A; Type BC; methylmalonic academia: mutase type (mut+); cofactor affinity type (mut-); adenosylcobalamin synthetase type (cbl A); ATP: cobalamin adenosyltransferase type (cbl B), with homocystinuria, type 1 (cbl C), with homocystinuria, type 2 (cbl D); folate-dependent disorders: congenital defect of folate absorption; dihydrofolate reductase deficiency; methylene tetrahydrofolate reductase deficiency; homocystinuria; hypersarcosinemia; non-ketotic hyperglycinemia; hyper-beta-alaninemia; carnosinase deficiency; homocarnosinase deficiency; Hartnup disease; methionine malabsorption (oasthouse urine disease);

(ii) **carbohydrate disorders:** glycogen storage disorders: type 1, with hypoglycemia (von Gierke); type 2 (Pompe); galactosemia; fructose-1, 6-diphosphatase deficiency; pyruvic acid disorders: pyruvate dehydrogenase complex (Leigh); pyruvate carboxylase deficiency; mannosidosis; fucosidosis; aspartylglucosaminuria;

(iii) **mucopolysaccharide disorders:** alpha-L-iduronidase deficiency: Hurler type; Scheie type, Hurler-Scheie type; iduronate sulfatase deficiency (Hunter type); Heparan N-sulfatase deficiency (Sanfilippo 3A type); N-acetyl-alpha-D-glucosaminidase deficiency (Sanfilippo 3B type); Acetyl CoA; glucosaminide N-acetyltransferase deficiency (Sanfilippo 3C type); N-acetyl-alpha D-glucosaminide 6-sulfatase deficiency (Sanfilippo 3D type); beta-glucuronidase deficiency (Sly type);

(iv) **mucolipid disorders:** alpha-neuraminidase deficiency (type1); N-acetylglucosaminyl phosphotransferase deficiency: I-cell disease (Type 2); Pseudo-Hurler syndrome (type 3); mucolipidosis type 4

(v) **urea cycle disorders:** carbamyl phosphate synthetase deficiency; ornithine transcarbamylase deficiency; argininosuccinic acid synthetase deficiency (citrullinemia); argininosuccinic acid (ASA) lyase deficiency; arginase deficiency (argininemia);

(vi) **nucleic acid disorders:** Lesch-Nyhan syndrome (HGPRTase deficiency); orotic aciduria; xeroderma pigmentosum (group A); DeSanctis-Cacchione syndrome;

(vii) **copper metabolism disorders:** Wilson disease; Menkes disease;

(viii) **mitochondrial disorders:** Kearns-Sayre syndrome; MELAS syndrome; MERRF syndrome; cytochrome c oxidase deficiency; other mitochondrial disorders;

(ix) **peroxisomal disorders:** Zellweger syndrome; adrenoleukodystrophy: neonatal (autosomal recessive); childhood (x-linked); infantile Refsum disease; hyperpipecolic academia; chondrodysplasia punctata (rhizomelic type);

(d) **developmental disorders of brain formation:**

(i) neural tube closure defects: anencephaly; spina bifida; encephalocele;

(ii) brain formation defects: Dandy-Walker malformation; holoprosencephaly; hydrocephalus: aqueductal stenosis; congenital x-linked type; Lissencephaly; pachygyria; polymicrogyria; schizencephaly;

(iii) cellular migration defects: abnormal layering of cortex; colpocephaly; heterotopias of gray matter; cortical microdysgenesis

(iv) intraneuronal defects: dendritic spine abnormalities; microtubule abnormalities;

(v) acquired brain defects: hydranencephaly; porencephaly; and

(vi) primary (idiopathic) microcephaly.

(2) Results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation/intellectual developmental disability and requires treatment or services similar to people with MR/ID;

(3) is manifested before the person reaches age 22 years;

(4) is likely to continue indefinitely and;

(5) results in substantial functional limitations in three or more of the following areas of major life activity:

(a) self-care;

(b) receptive and expressive language;

(c) learning;

(d) mobility;

(e) self-direction;

(f) capacity for independent living; and

(g) economic self-sufficiency.

[~~(3) The individual must also require the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR), and meet all other applicable financial and non-financial eligibility requirements.~~]

8.314.5.12 NMAC - Rp, 8.314.5.12 NMAC, 3-1-07; A, 9-14-12]

8.314.5.13 COVERED WAIVER SERVICES: [~~This medicaid waiver covers the following services for a specified and limited number of waiver recipients as a cost effective alternative to institutionalization in an ICF-MR.~~] The program is limited to the number of federally authorized unduplicated recipient (UDR) positions and program funding. All covered services in an individual service plan (ISP) must be authorized and cannot exceed the allowable amount associated with their assigned service package. Covered services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. MAD covers the following services for a specified and limited number of waiver eligible recipients as a cost effective alternative to institutionalization in an ICF-MR. DOH/DDSD utilizes the supports intensity scale (SIS) as its standardized assessment tool. The SIS provides a reliable framework to quantify the support needs of an eligible recipient with developmental disabilities. Utilizing this and other information, the DOH/DDSD resource allocation system determines an eligible recipient's benefit service package known as the service package. The service package is based on the groups identified during the SIS assessment that includes the eligible recipient's living care arrangements. The service package consists of: 1) base budget; 2) a professional service budget, and 3) other services budget that make up the total funding allocation authorized in the eligible recipient's ISP. Services included in the base budget, professional service budget and other services budget are specified in the DDW service standards. The flexibility of the resource allocation system supports the eligible recipient combine beneficial services to the maximum amount associated with his or her assigned service package.

A. **Case management services:** [~~Case management services are person-centered and intended to support the individual in pursuing their desired life outcomes by assisting them in accessing supports and services necessary to achieve the quality of life that they desire, in a safe and healthy environment. Case management services assist participants in gaining access to needed DDW, medicaid state plan services, and needed medical, social, educational and other services, regardless of the funding source for the services to which access is needed.~~] Case management services assist eligible recipients to access medicaid waiver services and medicaid state plan services. Case managers also link the eligible recipient to needed medical, social, educational and other services, regardless of funding source. Waiver services are intended to enhance, not replace existing natural supports and other available community resources. Services will emphasize and promote the use of natural and generic supports to address the eligible recipient's assessed needs in addition to paid supports. Case managers facilitate and assist in assessment activities. Case management services are person-centered and intended to support eligible recipients in pursuing his or her desired life outcomes while gaining independence, and access to services and supports. Case management is a set of interrelated activities that are implemented in a collaborative manner involving the active participation of the eligible recipient, his or her designated representative/guardian, and the entire interdisciplinary team. The case manager is an advocate for the eligible recipient they serve, is responsible for developing the individualized service plan (ISP) and for ongoing monitoring of the provision of services included in the ISP. Case management services include but are not limited to activities such as: assessing needs; facilitating eligibility determination for persons with developmental disabilities; directing the service planning process; advocating on behalf of the [~~individual~~] eligible recipient; coordinating service delivery; assuring services are delivered as described in the individualized service plan (ISP); and maintaining a complete current central [~~client~~] eligible recipient record (e.g. ISP, ISP budget, level of care documentation, assessments).

(1) Cost-effectiveness is a waiver program requirement mandated by federal policy. The fiscal responsibilities of the case manager include assuring cost containment by preventing the expense of waiver services from exceeding a maximum cost established by DOH and by exploring other options to address expressed needs. [~~Case management services are intended to assist individuals to enable, not replace, existing natural supports and other available community resources in collaboration with waiver services.~~]

(2) Case managers must evaluate and monitor direct service through face-to-face visits with the [~~individual~~] eligible recipient to ensure the health and welfare of the eligible recipient, and to monitor the implementation of the ISP.

(3) Case management services must be provided in accordance with the accreditation policy and with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and MAD rules.

[~~B. **Personal support services:** Individuals receiving personal support services live in the community, in their own home or in the home of their family. Personal support/companion services assist the individual with activities of daily living while providing companionship to acquire, maintain or improve social interaction skills in the community or at the job site. Personal support services duties include accompanying the individual to community events and activities of interest to the individual; assistance at the individual's place of employment; and assistance at the individual's home. Legal guardians or natural family members who meet DOH/DDSD requirements must be approved by DOH/DDSD to provide personal support services. Personal support services may include performing and/or assisting the individual with the following:~~

~~(1) household services, cleaning, laundry, meal preparation and assistance, support service that promote the recipient's independence (appointments, shopping and/or errands, extension of skilled therapy services, individualized exercise program);~~

~~(2) individual care services (hygiene/grooming, oral care with intact swallowing reflux, nail care, perineal care, toileting), minor maintenance of assistive device(s), skin care prevention/maintenance, and mobility assistance (ambulation and transfer);~~

~~(3) individuals requiring the assistance for their individualized bowel and bladder program must be determined to be medically stable; a personal support direct care provider must demonstrate competency to perform individualized bowel and bladder programs.~~

~~(a) An individualized bladder program may include the following tasks: straight in and out catheterization; changing of catheter bag; application and care of external catheter; care of indwelling catheter; individualized crede bladder massage if appropriate; care of indwelling catheter; irrigation of indwelling catheter with medicated or non-medicated solutions; and insertion and care of suprapubic catheter.~~

~~(b) An individualized bowel program may include the following tasks: insertion of medicated or non-medicated suppositories; digital stimulation; enemas; manual impaction removal; and ostomy care, including irrigations, changing, cleaning of bags and skin care;~~

~~(4) assist individuals with self-administration of medication, including prompting and reminding; this must be accomplished in accordance with the New Mexico Nursing Practice Act;~~

~~(5) assist the recipient with eating as determined by the interdisciplinary team; the recipient must have an intact swallowing reflux in order to receive assistance; in the instance where the recipient requires tube feeding, the personal support attendant must be trained and supervised by a registered nurse or this task may be delegated to the personal support attendant as governed by the New Mexico Nursing Practice Act;~~

~~(6) personal support services can be provided with respite services, adult day habilitation, or individual, group and customized supported employment as long as the combination is deemed appropriate in the ISP and is not provided for the same hours of the same day;~~

~~(7) personal support services cannot be included in the ISP in combination with any community living support service (i.e. family living, supported living or independent living); in addition, personal support services may not be provided to recipients by their spouses or to minor recipients by their parents; other family members may be covered as personal support services providers only if the following requirements are met:~~

~~(a) the family member meets the qualifications for providers of care;~~

~~(b) there are strict controls to assure that payment is made to the family member only in return for specific services rendered; and;~~

~~(c) there is adequate written justification as to why the family member is the only available provider of care (e.g. a lack of other qualified providers in the geographic area);~~

~~(8) personal support services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~]

[~~C.~~] **B. Respite [~~care~~] services:** Respite is a flexible family support service. The primary purpose of respite is to provide support to the [~~individual~~] eligible recipient and give the primary, unpaid caregiver relief and time away from their duties. [~~The respite care provider assists the individual in activities of daily living to promote the individual's health and safety, as well as maintain a clean and safe environment.~~] Respite services include assistance with routine activities of daily living (e.g., bathing, toileting, preparing or assisting with meal preparation and eating), enhancing self-help skills and providing opportunities for play and other recreational activities; community and social awareness; providing opportunities for community and neighborhood integration and involvement; and providing opportunities for the eligible recipient to make his/her own choices with regard to daily activities. Respite will be scheduled as determined by the primary caregiver. [~~Respite services can be included in the ISP with personal support, adult day habilitation, individual, group and customized supported employments, and community access as long as the services are not provided for the same hours of the same day with the exception of therapies and case management. Respite services cannot be provided for individuals receiving supported or independent living services.~~] An eligible recipient receiving living supports and customized in-home supports (not living with a family member), may not access respite. Respite may be provided in the [~~client's~~] eligible recipient's own home, in a provider's home or in a community setting of the family's choice. Respite services must be provided in accordance with the accreditation policy and all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

[~~D.~~] C. [**~~Private duty nursing~~] Adult nursing services:** [~~Private duty nursing services are provided by registered nurses or licensed practical nurses to adults. Nursing intervention are activities, procedures and treatments provided to treat a physical condition, physical illness or chronic physical disability. Activities, procedures and treatments may include, but not be limited to: health assessment; aspiration precautions; bowel management; feeding tube management; health education; health screening; infection control; medication management; medication administration; nutrition management; oxygen management; seizure management; seizure precautions; self-care assistance, skin care; teaching of prescribed medication; weight management; wound care; and staff supervision of such activities, procedures and treatment. (Children receive this service through the medicaid early periodic screening, diagnosis and treatment [EPSDT] program.)~~

~~(1) Nursing services may be combined with other services, except as specified below.~~

~~(a) Nursing services cannot be included in the ISP for individuals receiving a community living service.~~

~~(b) Because nursing is included in the adult day habilitation rate, any nursing provided during the hours of adult day habilitation cannot be billed as a separate service.~~

~~(2) Private duty nursing services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~] Adult nursing services are provided by licensed registered nurses or licensed practical nurses to an eligible adult recipient. Adult nursing services are intended to support the highest practicable level of health, functioning and independence for a DDW eligible recipient age 21 and older with a variety of health conditions, except for an eligible recipient receiving nursing supports through supported living and intensive

medical living services, where such nursing supports are included as part of the living service and addressed within those respective services standards. Any adult nursing service provided during the hours of customized community supports cannot be billed as a separate rate because nursing is included in the customized community supports rate.

(1) There are two categories of adult nursing services:

(a) assessment and consultation services which include a comprehensive health assessment and basic nurse consultation of and with an eligible recipient; and

(b) ongoing services, which require prior authorization and are tied to the eligible recipient's specific health needs revealed in the comprehensive health assessment.

(2) Adult nursing services support the delivery of professional nursing services in compliance with the New Mexico Nurse Practice Act and in accordance with professional standards of practice.

(3) Eligible children and youth recipients receive medically necessary nursing services through the medicaid state plan early periodic screening, diagnostic and treatment (EPSDT) program and are, therefore, not eligible for this service through the waiver.

(4) Adult nursing services for eligible recipients must be provided in accordance with the accreditation policy and all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

[~~E.~~] D. **Therapy services [~~for adults~~]:** [~~Therapy services include physical therapy, occupational therapy and speech and language therapy. Based on therapy goals, services may be delivered in an integrated natural setting, clinical setting or in a group setting.~~] Therapy services are to be delivered consistent with the participatory approach philosophy and two models of therapy services (collaborative-consultative and direct treatment). These models support and emphasize increased participation, independence and community inclusion in combination with health and safety. Therapy services are designed to support achievement of ISP outcomes and prioritized areas of need identified through therapeutic assessment. Physical therapy (PT), occupational therapy (OT) and speech-language pathology (SLP) are skilled therapies that are recommended by an eligible recipient's interdisciplinary team (IDT) members and a clinical assessment that demonstrates the need for therapy services. Therapy services for eligible adult recipients require a prior authorization except for an initial assessment. A licensed practitioner, as specified by applicable state laws and standards, provides the skilled therapy services. Therapy services for eligible adult recipients must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules. For therapy services, eligible children and youth recipients receive medically necessary nursing services through the medicaid state plan EPSDT benefits.

[~~(1) **Individual integrated therapy:** Individual integrated therapy services are provided within the natural context of an individual's life (i.e. home, day habilitation site, vocational site or community locations). Consultative services may be provided at ISP planning meetings. This model does not include services provided in an isolated, non-integrated manner unless a direct skilled therapy service is provided and applied to a functional activity/routine in collaboration with a caregiver during the same session.~~

~~(2) **Individual clinical therapy:** Individual clinical therapy services are provided in a clinic setting such as in a therapist's office or when services are delivered in an isolated, non-integrated manner. A clinical context would include any location that an individual would not otherwise visit, if they did not have a therapy appointment.~~

~~(3) **Group integrated therapy:** Group integrated therapy services are delivered in a group with a ratio of two or three individuals to one therapist designed to benefit the individuals involved due to a group context. The context of the group must reflect the context of a naturally occurring activity/routine i.e., yoga group instruction; social interaction; leisure activity; etc.~~

~~(4) **Group clinical therapy:** Group clinical therapy services are delivered in a clinical setting, in a group with a ratio of two or three individuals to one therapist designed to benefit the individuals involved due to a group context. A clinical setting would include any location that an individual would not otherwise visit, if they did not have a therapy appointment.~~]

[~~(5)~~] (1) **Physical therapy:** [~~Physical therapy is a skilled therapy service performed by a licensed physical therapist or a licensed physical therapist assistant (PTA) under the supervision of a licensed physical therapist. Services include the diagnosis and management of movement dysfunction and the enhancement of physical and functional abilities. Physical therapy addresses the restoration, maintenance and promotion of optimal physical function, wellness and quality of life related to movement and health. Physical therapy activities: increase, maintain or reduce the loss of functional skills; treat a specific condition clinically related to an individual's developmental disability; or support the individual's health and safety needs. Activities include the identification, implementation or training of therapeutic strategies to support the individual and their family or support staff in efforts to meet the individual's ISP vision and goals.~~] Physical therapy is a skilled licensed therapy service

involving the diagnosis and management of movement dysfunction and the enhancement of physical and functional abilities. Physical therapy addresses the restoration, maintenance, and promotion of optimal physical function, wellness and quality of life related to movement and health. Physical therapy prevents the onset, symptoms and progression of impairments, functional limitations, and disability that may result from diseases, disorders, conditions or injuries. Licensed physical therapy assistant (PTA) may perform physical therapy procedures and related tasks pursuant to a plan of care/therapy intervention plan written by the supervising physical therapist

[~~(6)~~] (2) **Occupational therapy:** [~~Occupational therapy is a skilled therapy service performed by a licensed occupational therapist or certified occupational therapy assistant (COTA) under the supervision of a licensed occupational therapist. Occupational therapy services include diagnosis, assessment and management of functional limitations intended to assist adults to regain, maintain, develop and build skills that are important for independence, functioning and health. Occupational therapy services typically include: customized treatment programs to improve one's ability to perform daily activities; comprehensive home and job site evaluations with adaptation recommendations; performance of skills assessments and treatment; assistive technology recommendations and usage training; and guidance to family members and caregivers. Occupational therapy services: increase, maintain or reduce the loss of functional skills; treat specific conditions clinically related to an individual's developmental disability; or support the individual's health and safety needs. Activities include the identification, implementation or training of therapeutic strategies to support the individual and their family or support staff in efforts to meet the individual's ISP desired outcomes and goals. Based on therapy goals, services may be delivered in an integrated natural setting, clinical setting or in a group setting.~~] Occupational therapy is a skilled, licensed therapy service involving the use of everyday life activities (occupations) for the purpose of evaluation, treatment, and management of functional limitations. Occupational therapy addresses physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being and quality of life.

(a) Occupational therapy services typically include:

(i) evaluation and customized treatment programs to improve the eligible recipient's ability to engage in daily activities;

(ii) evaluation and treatment for enhancement of performance skills;

(iii) health and wellness promotion;

(iv) environmental access and assistive technology evaluation and treatment; and

(v) training/consultation to eligible recipient's family members and direct support personnel.

(b) Certified occupational therapy assistants (COTAs) may perform occupational therapy procedures and related tasks pursuant to a therapy intervention plan written by the supervising occupational therapist (OT) and in accordance with the current NM Occupational Therapy Act.

[~~(7)~~](3) [**~~Speech therapy~~**] **Speech-language pathology:** [~~Speech therapy is a specialized therapy service performed by a licensed speech language pathologist or a speech clinical fellow under the supervision of a licensed speech language pathologist. Speech therapy services include the diagnosis, counseling and instruction related to the development and disorders of communication including speech fluency, voice, verbal and written language, auditory comprehension, cognition, swallowing dysfunction, oral phyaryngeal or laryngeal, or sensory motor competencies. Speech language pathology is also used when an individual requires the use of an augmentative communication device. Services are intended to improve or maintain the individual's capacity for successful communication, to lessen the effects of the individual's loss of communication skills, or to improve or maintain the individual's ability to eat foods, drink liquids, and manage oral secretions with minimal risk of aspiration, other potential injuries or illnesses related to swallowing disorders. Activities include identification, implementation and training of therapeutic strategies to support the individual and their family or support staff in efforts to meet the individual's ISP vision and goals. Based on therapy goals, services may be delivered in an integrated natural setting, clinical setting or in a group setting.~~] Speech-language pathology service, also known as speech therapy, is a skilled therapy service, provided by a speech-language pathologist that involves the non-medical application of principles, methods and procedures for the diagnosis, counseling, and instruction related to the development of and disorders of communication including speech, fluency, voice, verbal and written language, auditory comprehension, cognition, swallowing dysfunction and sensory-motor competencies. Speech-language pathology services are also used when an eligible recipient requires the use of an augmentative communication device. For example, speech-language pathology services are intended to:

(a) Improve or maintain the eligible recipient's capacity for successful communication or to lessen the effects of an eligible recipient's loss of communication skills; or

(b) Treat a specific condition clinically related to an intellectual developmental disability; or

(c) Improve or maintain the eligible recipient's ability to safely eat foods, drink liquids or manage oral secretions while minimizing the risk of aspiration or other potential injuries or illness related to swallowing disorders.

~~[(8) Providers of therapy services must prepare progress notes and reports as required by the DOH or designee, including analysis of data, progress, effectiveness of strategies and significant events in the individual's life which may impact progress. Physical, occupational, and speech therapy services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~F. **Therapy services for children:** Therapy services include physical therapy, occupational therapy and speech and language therapy. Based on therapy goals, services may be delivered in an integrated natural setting, clinical setting or in a group setting.~~

~~(1) **Individual integrated therapy:** Individual integrated therapy services are provided within the natural contexts of an individual's life (i.e. home, day habilitation site, vocational site, community locations). Consultative services may be provided at ISP planning meetings. This model does not include services provided in an isolated, non-integrated manner unless a direct skilled therapy service is provided and applied to a functional activity/routine in collaboration with a caregiver during the same session.~~

~~(2) **Individual clinical therapy:** Individual clinical therapy services are provided in a clinic setting such as in a therapist's office or when services are delivered in an isolated, non-integrated manner. A clinical context would include any location that an individual would not otherwise visit, if they did not have a therapy appointment.~~

~~(3) **Group integrated therapy:** Group integrated therapy services are delivered in a group with a ratio of two or three individuals to one therapist designed to benefit the individuals involved due to a group context. The context of the group must reflect the context of a naturally occurring activity/routine i.e. yoga group instruction; social interaction; leisure activity; etc. One therapist can bill for no more than three individuals regardless of the number of participants.~~

~~(4) **Group clinical therapy:** Group clinical therapy services are delivered in a clinical setting, in a group with a ratio of two or three individuals to one therapist designed to benefit the individuals involved due to a group context. A clinical setting would include any location that an individual would not otherwise visit, if they did not have a therapy appointment. One therapist can bill for no more than three individuals regardless of the number of participants.~~

~~(5) **Physical therapy for children:** Services are delivered by a licensed physical therapist to provide services not covered by the state plan under medicaid EPSDT requirements, nor through an individualized education program (IEP) through the public schools. Services include: physical therapy interventions that are used to promote participation in community integration activities as defined in the DDW service standards; adaptation of exercise equipment and associated training for family members or other support persons to promote ongoing fitness of the child; assessment for appropriate environmental modifications in the home as described in the DDW service standards; recommendations for equipment, techniques or therapy interventions to increase family or caregiver ability to provide support for the child's comfort and conveniences; interventions for children with swallowing disorders to prevent aspiration in accordance with the team approach described in the DOH/DDSD aspiration prevention policy and procedures, as appropriate to the therapist's scope of practice; coordination with other therapists serving the child through EPSDT or the public schools or with other disciplines on the child's DDW interdisciplinary team; and associated evaluation, assessment and training of the child, family or other caregivers related to the above activities.~~

~~(6) **Occupational therapy for children:** Services are delivered by a licensed occupational therapist to provide services not covered by the state plan under medicaid EPSDT requirements, nor through an IEP through the public schools. Services include: occupational therapy interventions that are used to promote participation in community integration activities as defined in the DDW service standards; adaptation of exercise equipment and associated training for family members or other support persons to promote ongoing fitness of the child; assessment for appropriate environmental modifications in the home as described in the DDW service standards; recommendations for equipment, techniques or therapy interventions to increase family or caregiver ability to provide support for the child's comfort and conveniences; interventions for children with swallowing disorders to prevent aspiration in accordance with the team approach described in the DOH/DDSD aspiration prevention policy and procedures, as appropriate to the therapist's scope of practice; coordination with other therapists serving the child through EPSDT or the public schools or with other disciplines on the child's DDW interdisciplinary team; and associated evaluation, assessment and training of the child, family or other caregivers related to the above activities. Based on therapy goals, services may be delivered in an integrated natural setting, clinical setting or in a group setting.~~

~~(7) **Speech and language pathology for children:** Services are delivered by a licensed speech language pathologist to provide services not covered by the state plan under medicaid EPSDT requirements, nor through an IEP through the public schools. Speech language services: interventions to promote participation in community integration activities as defined in the DDW service standards; interventions for children with swallowing disorders to prevent aspiration in accordance with the team approach described in the DOH/DDSD aspiration prevention policy and procedures, as appropriate to the therapist's scope of practice; recommendations for equipment, techniques or therapy interventions to increase family or caregiver ability to facilitate; coordination with other therapists serving the child through EPSDT or the public schools or with other disciplines on the child's DDW interdisciplinary team; and associated evaluation, assessment and training of the child, family or other caregivers related to the above activities. Based on therapy goals, services may be delivered in an integrated natural setting, clinical setting or in a group setting.~~]

[~~G.~~] E. [~~**Community living services:** Community living services are intended to provide persons with the assistance and support needed in a home environment in order to increase or maintain an individual's capacity for independent functioning, self-determination, interdependence, productivity and integration in the community. Community living services are only available for individuals for whom no other residential or support options are clinically appropriate to meet the needs of the individual. Community living services must be justified by the IDT as the only service which can meet the needs of the individual.~~]

~~(1) This service includes personal support, nutritional counseling and nursing supports and, therefore, personal support, nutritional counseling and private duty nursing services may not be included in an ISP for an individual receiving community living services. Respite services cannot be provided to individuals receiving supported or independent living services. Room and board costs are reimbursed through the individual's SSI or other personal accounts and cannot be paid through the waiver service.~~

~~(2) This service is available to individuals 18 years of age or older.~~

~~(3) This service may be available to individuals under 18 years of age in extraordinary circumstances and are approved by the DOH/DDSD Director on a case-by-case basis. Community living services for individuals under 18 years of age may not be provided by legally responsible individuals.~~

~~(4) Legally responsible individuals (i.e. spouses or parents of minor children) may not be paid for any services that they would ordinarily perform in the household for individuals of the same age who did not have a disability or chronic illness.~~

~~(5) This medicaid waiver covers the following three living supports services. Each of these services is a distinct service and must be billed in accordance with DDSD of the DOH standards:~~] **Living supports:**
Living supports are residential habilitation services that are individually tailored to assist an eligible recipient 18 years or older who is assessed to need daily support or supervision with the acquisition, retention, or improvement of skills related to living in the community to prevent institutionalization. Living supports include residential instruction intended to increase and promote independence and to support an eligible recipient to live as independently as possible in the community in a setting of his or her own choice. Living support services assist and encourage an eligible recipient to grow and develop, to gain autonomy, become self-governing and pursue their own interests and goals. Living support providers take positive steps to protect and promote the dignity, privacy, legal rights, autonomy and individuality of each eligible recipient who receives services. Services promote inclusion in the community and eligible recipients are afforded the opportunity to be involved in the community and actively participate using the same resources and doing the same activities as other community members. Living supports will assist an eligible recipient to access generic and natural supports, employment and opportunities to establish or maintain meaningful relationships throughout the community.

(1) Living supports providers are responsible for providing an appropriate level of services and supports up to 24 hours per day, seven days per week.

(2) Room and board costs are reimbursed through the eligible recipient's SSI or other personal accounts and cannot be paid through the medicaid waiver.

(3) Living supports services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

[~~(a) **Family living services**: These services may be furnished by a companion, surrogate, foster or natural family member who has been studied and approved to provide family living in the individual's home or the home of the family living provider. Legal guardians or natural family members who meet the DOH/DDSD requirements must be approved by DOH/DDSD to provide family living services.~~

~~(i) Family living can be provided to no more than two individuals with developmental disabilities in the home environment at a time.~~

~~(ii) The direct support provider must be present when the individual is in the home, as described in the ISP or other coverage specified below.~~

~~(iii) The direct support provider is responsible for services up to 24 hours per day as described in the ISP, but does not include time when an individual is in an employment, school, adult habilitation or other day program. Twenty-four hour support includes coverage in the residential setting during times when the individual is unable to attend other scheduled services and/or activities due to reasons beyond their control (e.g. illness). The direct support provider is responsible for arrangements for back-up supports and staffing. The person(s) providing back-up supports and staffing must be listed with and meet the requirements of the provider agency.~~

~~(iv) The provider agency is responsible for providing on-call emergency staffing coverage. The 24 hour per day requirement may be met through the emergency on-call system, when necessary. If the individual requires emergency staffing services, those services must reach the individual within 60 minutes.~~

~~(v) Family living direct support providers must complete all DOH/DDSD requirements for approval, including completion of a home study, and compliance with all relevant policies, procedures, standards, requirements and training.~~

~~(vi) Substitute care is available to individuals receiving family living services.~~

~~(vii) Family living cannot be included in the ISP for individuals receiving any other living support service.~~

~~(viii) The family living direct support provider may be a single person, couples, roommates, companions, friends, and natural family members. The direct support provider may not be the spouse of the individual served. Family members providing direct supports to the recipient with developmental disabilities must meet all the requirements for approval and ongoing service provision as other family living direct support providers.~~

~~(ix) Family living services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~(b) **Supported living services:** Supported living services are provided in a home setting to four or fewer individuals. This service model can only be accessed by individuals for whom all other residential services are clinically inappropriate and is documented in the ISP. Supported living services must be available up to 24 hours per day, as determined by the IDT, but does not include time when an individual is in an employment, school, adult habilitation or other day program. Supported living is not an appropriate model for individuals needing less than 340 hours of face-to-face service and support per month. Twenty-four hour staff support includes coverage in the residential setting during times when persons are unable to attend other scheduled services and/or activities due to reasons beyond their control (e.g. illness). Additional residential staff support may also be available in an emergency through an on-call system. If the individual requires on-call services, those services must reach the individual within 60 minutes. Supported living provider services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~(c) **Independent living services:** Independent living services are individual intervention and support services promoting a more independent environment and life style. Independent living supports are only provided in the individual's home and community in groups of three or fewer individuals with developmental disabilities. Individuals must be at least 18 years of age. Staff support is available as needed and is furnished on a planned periodic schedule of less than 24 hours per day as required in the ISP. Unscheduled staff support may be available through an on-call system. If the individual requires on-call services, those services must reach the individual within 60 minutes. Independent living is reimbursed at two levels based on the number of support hours needed. Providers serving individuals requiring at least 20 but less than 100 hours of support per month will be reimbursed at level II rates. Individuals requiring 100 or more hours per month will receive level I funding. Independent living cannot be included in the ISP for individuals receiving any other community living service. Independent living services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~]

(4) Living supports consists of family living and supported living as follows:

(a) **Family Living:** Family living is intended for an eligible recipient who is assessed to need residential habilitation to ensure health and safety while providing the opportunity to live in a typical family setting. Family living is a residential habilitation service that is intended to increase and promote independence and to provide the skills necessary to prepare an eligible recipient to live on his or her own in a non-residential setting. Family living services are designed to address assessed needs and identified individual eligible recipient outcomes. Family living is direct support and assistance to no more than two eligible recipients furnished by a natural or host family member, or companion who meets the requirements and is approved to provide family living services in the

eligible recipient's home or the home of the family living direct care personnel. The eligible recipient lives with the paid direct support personnel. The provider agency is responsible for substitute coverage for the primary direct support personnel to receive sick leave and time off as needed.

(i) Home studies: The family living services provider agency shall complete all DOH/DDSD requirements for approval of each direct support personnel, including completion of an approved home study and training prior to placement. After the initial home study, an updated home study shall be completed annually. The home study must also be updated each time there is a change in family composition or when the family moves to a new home. The content and procedures used by the provider agency to conduct home studies shall be approved by DDSD.

(ii) Family living services: Family living can be provided to no more than two eligible recipients with developmental disabilities at a time. An exception may be granted by DOH/DDSD if three eligible recipients are in the residence, but only two of the three are on the waiver and the arrangement is approved by DOH/DDSD based on the home study documenting the ability of the family living services provider agency to serve more than two eligible recipients in the residence; or there is documentation that identifies the eligible recipients as siblings or there is documentation of the longevity of a relationship (e.g., copies of birth certificates or social history summary); documentation shall include a statement of justification from a social worker, psychologist, and any other pertinent professionals working with the eligible recipients.

(iii) Family living services cannot be provided in conjunction with any other living supports service, respite, or nutritional counseling.

(b) **Supported living:** Supported living is intended for an eligible recipient who is assessed to need residential habilitation to ensure health and safety. Supported living is a residential habilitation service that is intended to increase and promote independence and to provide the skills necessary to prepare an eligible recipient to live on his or her own in a non-residential setting. Supported living services are designed to address assessed needs and identified individual eligible recipient outcomes. The service is provided to two to four eligible recipients in a community residence. Prior authorization is required from DOH/DDSD for an eligible recipient to receive this service when living alone.

(i) When DOH/DDSD approves an eligible recipient utilizing the supports intensity scale (SIS) group G, the supported living providers will ensure that agency's direct support personnel receive individualized, eligible recipient specific behavior training and access ongoing behavior support from the behavior support consultant. The provider agency will provide the necessary levels of staffing for the eligible recipient during times of increased risk of harm to self or others. The support will return to a typical staffing pattern once the circumstance associated with the increased risk has ended.

(ii) Supported living services cannot be provided in conjunction with any other living supports service, respite, or nutritional counseling.

~~[H. **Community inclusion services**: Community inclusion services provide individuals with connection to and membership in the same community life that is desired and chosen by the general population. This includes: purposeful, meaningful and equitably paid work; sustained opportunity for self-empowerment and personal relationships; skill development in natural settings; and social, education and community membership activities that are specified in the individual's ISP. Community inclusion services also assist the individual to develop skills and relationships that reduce dependence on paid, specialized services. Community inclusion services include the following: community access, supported employment and adult habilitation.~~

~~(1) Community inclusion services support measurable individual progress as specified in the ISP including the individual's personal definition of a meaningful day. The outcome of community inclusion services is that the individual becomes an integral part of his community in the manner desired by the individual.~~

~~(2) Community inclusion providers must be provided in accordance with the DOH/DDSD DDW services definitions and standards.~~

~~(3) Community inclusion services include the following:~~

~~(a) **Community access services:** Community access services are designed to promote maximum participation in community life, support individuals in achieving their desired outcome, promote self-advocacy, and enhance a participant's ability to control his environment through focused teaching of adaptive skills, self-help and socialization skills. These services may be used by adults and children. For children and youth, the objective of the community access services is to support the family in understanding and promoting his child's development. This service promotes the acquisition and retention of skills necessary for the child to participate successfully in family and community life as well as future employment. Community access services addresses the child's development in natural settings with age appropriate strategies of self-help, cognitive, physical/motor, communication, and social skills; potentially reducing dependence on specialized supports.~~

~~(i) Community access services may be provided in a group (not to exceed three persons), or individual arrangement as outlined in the ISP. Services must accommodate non-traditional hours (e.g., evenings) as outlined in the ISP. Services are to be provided in integrated environments that enhance the person's contribution to the community and increase independence.~~

~~(ii) Community access cannot replace, supplant, or duplicate services included in community living services.~~

~~(iii) Community access services can be provided with any other service, as long as the combination is deemed appropriate in the ISP and as long as the services are not provided for the same hours of the same day, except for therapies or case management.~~

~~(iv) Community access services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~(b) **Supported employment services:** Supported employment services are intended to provide ongoing supports, as needed for persons seeking or maintaining community-based employment for which compensation, if it is covered work, would be made in compliance with the Fair Labor Standards Act (FLSA) and New Mexico labor laws. Supported employment services may be conducted in a variety of settings, in which most persons employed do not have disabilities. Activities are designed to increase or maintain the individual's skills and independence; and may include job development, job placement, and job coaching. Individuals are eligible for DD waiver supported employment services insofar as the service is not otherwise available or appropriate under a program funded under the Rehabilitation Act of 1973, VI-C funds available through the division of vocational rehabilitation, New Mexico public education department (as amended, 1992). DOH will require reporting on supported employment services as specified in the DDSD of the DOH DDW service definitions and standards. Waiver services included in this category are individual supported employment, group supported employment and customized supported employment.~~

~~(c) **Group supported employment:** Group supported employment provides onsite supervision of persons with developmental disabilities working as part of a group in a community-based employment setting, including employment by the provider agency, which promotes opportunities for integration with non-disabled people. Supervision and support is usually furnished on a continual basis as scheduled by the provider or may include full or part-time supervision by the employer.~~

~~(i) Reimbursement to the recipient must be at prevailing hourly wage with regard to productivity and in compliance with the Federal Fair Labor Standards Act. Wages are to be commensurate with the hourly wages or salaries of those performing the same or similar work.~~

~~(ii) Group supported employment services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~(iii) Group supported employment services can be provided with any other service, as long as the combination is deemed appropriate in the ISP and as long as the services are not provided for the same hours of the same day; however, therapy services are reimbursable when provided simultaneously.~~

~~(d) **Individual supported employment:** Individual supported employment offers one-to-one support to participants placed in jobs in the community and support is provided at the work site as needed for the individual to learn and perform the job. Participants must have the opportunity for integration into work settings where most of the people in the work setting are not disabled. Individual supported employment may include competitive jobs in the public or private sector and self-employment. The service delivery model for individual supported employment includes a job coach, job developer and personal support companion. Providers must document time spent on allowable activities on behalf of the individuals and include at least two face-to-face contacts with the individual each month in order to receive reimbursement.~~

~~(i) Supervision and supports are furnished in response to the individual's needs and preferences. Full time support may be needed at the beginning of employment. The fading of support is required in accordance with the ISP supported employment fading plan as the recipient stabilizes in the job. A fading plan must include supports and training needed for a specified period of time at a defined level or degree. The plan will specify natural supports available to the recipient and will address related training for the employer's staff who will be providing the supports. The provider agency will furnish coordination activities including assistance in arranging transportation, job development and job placement.~~

~~(ii) Reimbursement to the recipient must be paid at prevailing hourly wages with regard to productivity and in compliance with the Federal Fair Labor Standards Act.~~

~~(iii) Supported employment services are described in the ISP and must be provided in accordance with the DOH/DDSD DDW service definitions and standards. Individual supported employment services can be provided with any other service, as long as the combination is deemed appropriate in the ISP and as~~

~~long as the services are not provided for the same hours on the same day; however, therapy services are reimbursable when provided simultaneously.~~

~~(e) **Self-employment:** Self-employment services assist the individual to gain self-employment or engage in other entrepreneurial initiatives. The service delivery model for self-employment services includes a business consultant and a personal support companion if needed. The business consultant assists the individual with the development of a business plan; location of business loans and leverage of other financial resources; marketing, advertising, obtaining a business license, permits, tax registration and other legal requirements for a business enterprise; and with banking services, financial management and the development and maintenance of information management systems necessary for business operations. Self-employment services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~(f) **Intensive supported employment:** Intensive supported employment offers individual's one-to-one job coaching for employed individuals in integrated community based settings. Intensive supported employment is intended for individuals who need 1:1 job support (face-to-face) 32 or more hours per month.~~

~~I. **Adult habilitation services:** Adult habilitation services are designed to meet the needs of individuals 18 years of age or older. The service consists of daily functional and purposeful activities, including choice-making and community membership, specified by the IDT members that relate to his desired outcomes, objectives, interests and skills that leads to a reduction of dependence on paid, specialized services. The objective of adult habilitation services is to support measurable individual progress toward ISP specified outcomes, as well as, to meet the individual's personal definition of a meaningful day. Adult habilitation services include participation in adult education; identification of community resources and connections; development of pre-vocation skills; opportunities to pursue hobbies and recreation, leisure or other interests; transportation during adult habilitation services; personal care and activities of daily living; assistance with self-administration of medication; reminding, observing, monitoring of medication and pharmacy needs; and medication administration. When individuals receive compensation in adult habilitation settings, the compensation shall comply with the Fair Labor Standards Act and code of federal regulations. Medicaid funds (e.g. the provider agency's reimbursement) may not be used to pay the individual for work.~~

~~(1) Adult habilitation services that are segregated (e.g. center-based or sheltered work) are time limited as determined by the IDT to support movement to more appropriate, integrated, and age appropriated options such as employment.~~

~~(2) Personal support, nutritional counseling and nursing supports are included in adult day habilitation services. Therefore, personal support, nutritional counseling and private duty nursing services may not be included as separate billable services in the ISP for the time period in which the individual is receiving adult habilitation services.~~

~~(3) Adult habilitation services must take place outside of the individual's residence or any other residential setting unless approved as an exception by DOH/DDSD in accordance with the DOH/DDSD DDW service standards.~~

~~(4) Adult habilitation services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~]

F. **Customized community supports:** Customized community supports consist of individualized services and supports that enable an eligible recipient to acquire, maintain, and improve opportunities for independence, community integration and employment. Customized community supports services are designed around the preferences and choices of each eligible recipient and offer skill training and supports to include: adaptive skill development; adult educational supports; citizenship skills; communication; social skills, socially appropriate behaviors; self advocacy, informed choice; community integration and relationship building. This service provides the necessary support to develop social networks with community organizations to increase the eligible recipient's opportunity to expand valued social relationships and build connections within local communities. This service helps to promote self-determination, increases independence and enhances the eligible recipient's ability to interact with and contribute to his or her community.

(1) Customized community supports services will include based on assessed need, personal support, nursing oversight, medication assistance/administration, and integration of strategies in the therapy and healthcare plans into the eligible recipient's daily activities.

(2) The customized community supports provider will act as a fiscal management agency for the payment of adult education opportunities as determined necessary for the eligible recipient.

(3) Customized community supports services may be provided regularly or intermittently based on the needs of the eligible recipient and are provided during the day, evenings and weekends.

(4) Customized community supports may be provided in a variety of settings to include the community, classroom, and site-based locations. Services provided in any location are required to provide opportunities that lead to participation and integration in the community or support the eligible recipient to increase his/her growth and development.

(5) Pre-vocational and vocational services are not covered under customized community supports.

(6) Customized community supports services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

G. **Community integrated employment:** Community integrated employment provides supports that achieve employment in jobs of the eligible recipient's choice in his or her community to increase his or her economic independence, self-reliance, social connections and ability to grow within a career. Community integrated employment results in employment alongside non-disabled coworkers within the general workforce or in business ownership. This service may also include small group employment including mobile work crews or enclaves. An eligible recipient is supported to explore and seek opportunity for career advancement through growth in wages, hours, experience or movement from group to individual employment. Each of these activities is reflected in individual career plans.

(1) Community integrated employment services must not duplicate services covered under the Rehabilitation Act or the Individuals with Disabilities Education Act (IDEA). Compensation shall comply with state and federal laws including the Fair Labor Standards Act. Medicaid funds (e.g., the provider agency's reimbursement) may not be used to pay the eligible recipient for work.

(2) Community integrated employment services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.

(3) Community integrated employment consists of job development, self-employment, individual community integrated employment and group community integrated employment models.

(a) **Self-employment:** The community integrated employment provider provides the necessary assistance to develop a business plan, conduct a market analysis of the product or service and establish necessary infrastructure to support a successful business. Self-employment does not preclude employment in the other models. Self-employment may include but is not limited to the following:

(i) complete a market analysis of product/business viability;

(ii) creation of a business plan including development of a business infrastructure to sustain the business over time, including marketing plans;

(iii) referral to and coordination with the division of vocational rehabilitation (DVR) for possible funds for business start up;

(iv) assist in obtaining required licenses necessary tax IDs, incorporation documents and completing any other business paperwork required by local and state codes;

(v) support the eligible recipient to develop and implement a system for bookkeeping and records management.;

(vi) provide effective job coaching and on-the-job training and skill development; and

(vii) arrange transportation or public transportation during self-employment services.

(b) **Individual community integrated employment:** Job coaching for employed eligible recipients in integrated community based settings. The amount and type of individual support needed will be determined through vocational assessment including on-the-job analysis. Individual community integrated employment may include, but is not limited to the following:

(i) provide effective job coaching and on-the-job training as needed to assist the eligible recipient to maintain the job placement and enhance skill development; and

(ii) arrange transportation or public transportation during individual community integrated employment services.

(c) **Group community integrated employment:** More than one eligible recipient works in an integrated setting with staff supports on site. Regular and daily contact with non-disabled coworkers or the public occurs. Group community integrated employment may include but is not limited to the following:

(i) participate with the interdisciplinary team (IDT) to develop a plan to assist an eligible recipient who desires to move from group employment to individual employment; and

(ii) provide effective job coaching and on-the-job training as needed to assist the eligible recipient to maintain the job placement and enhance skill development.

[~~J.~~] H. [**~~Behavior~~**] **Behavioral support consultation services:** [~~Behavior support consultant services consist of functional support assessments, positive behavioral support plan development, training and support~~

~~coordination for an individual and their IDT related to behaviors that compromise an individual's quality of life. Factors that compromise an individual's quality of life include behaviors that: interfere with forming and maintaining relationships, integrating into the community, or completing activities of daily living; or pose a health and safety risk to the individual or others. Providers of behavior support consultation services must prepare progress notes and reports as required by DOH or its designee, including progress, effectiveness of strategies and significant events in the individual's life, which may impact progress. Behavior support consultation services must be provided in accordance with the DDSD DDW service definitions and standards.~~] Behavioral support consultation services guide the IDT to enhance the eligible recipient's quality of life by providing positive behavioral supports for the development of functional and relational skills. Behavioral support consultation services also identify distracting, disruptive, or destructive behavior that could compromise quality of life and provide specific prevention and intervention strategies to manage and lessen the risks this behavior presents. Behavioral support consultation services do not include individual or group therapy, or any other behavioral services that would typically be provided through the behavioral health system.

(1) Behavioral support consultation services are intended to augment functional skills and positive behaviors that contribute to quality of life and reduce the impact of interfering behaviors that compromise quality of life. This service is provided by an authorized behavioral support consultant and includes an assessment and positive behavior support plan development; IDT training and technical assistance; and monitoring of an eligible recipient's behavioral support services.

(2) Behavioral support consultation services must be provided in accordance with the accreditation policy and all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

[~~K.~~] I. **Nutritional counseling services:** [~~Nutritional counseling is designed to meet unique food and nutrition needs presented by persons with developmental disabilities~~]. Nutritional counseling services include the assessment, evaluation, collaboration, planning, teaching, consultation and implementation and monitoring of a nutritional plan that supports the eligible recipient to attain or maintain the highest practicable level of health. Nutritional counseling services are in addition to those nutritional or dietary services allowed in the eligible recipient's medicaid state plan benefit, or other funding source. This service does not include oral-motor skill development services, such as those services provided by a speech pathologist. Because nutritional counseling is included in the reimbursement rate for [~~community living services and adult day habilitation~~] living supports, nutritional counseling cannot be billed as a separate service during the hours of [~~community living or day habilitation~~] living supports. Nutritional counseling services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.

[~~L. **Outlier services:** Outlier services cover individuals recognized as having extreme medical needs or behavioral issues requiring services of a frequency, duration, and intensity that surpass those described in other covered DDW services. Outlier services reimburse providers for those few individuals that meet outlier services criteria. Reimbursement is only available after approval has been given by the DOH/DDSD or its designee. Outlier residential services are available only to individuals who receive supported living services. Outlier habilitation services are available to only individuals in adult habilitation. The outlier services are intended to meet the needs of individuals with severe chronic needs. Individuals with short term acute support needs are covered within the existing rates or through supports available through the regular medicaid state plan package. Individuals with extraordinary need fit into one of two categories: 1) high medical necessity or; 2) behavioral outlier.~~

~~(1) **High medical necessity outlier:** To be considered for the high medical necessity outlier rate of reimbursement, individuals must first meet the definition for high medical necessity. Individuals who meet the definition for high medical necessity may qualify for the outlier services and corresponding funding if the frequency, duration, and intensity of staff supports greatly surpass those described in service definitions rates and the following conditions and criteria are met. High medical necessity is defined as a chronic physical condition, including brain disorders, which results in a prolonged dependency on medical care for which daily skilled (nursing) intervention is medically necessary and is characterized by one or more of the following:~~

~~(a) there is a life threatening condition characterized by frequent periods of acute exacerbation which require frequent medical supervision, and/or physical consultation and which in the absence of such supervision or consultation, would require hospitalization;~~

~~(b) the individual requires frequent time consuming administration of specialized treatments which are medically necessary and will be required for more than 30 days; and~~

~~(c) the individual is dependent on medical technology such that without the technology a reasonable level of health could not be maintained; examples include: ventilators, dialysis machines, enteral or parenteral nutrition support and continuous oxygen.~~

~~(2) **High medical necessity criteria:**~~

~~(a) All requests for high medical necessity outlier funding must be in writing and must be accompanied by written documentation that meets the definition for high medical necessity.~~

~~(b) The IDT will initiate the request for outlier funding.~~

~~(c) The IDT will gather all pertinent reports and documentation and ensure timely submission to the DOH/DDSD by the provider.~~

~~(d) Documentation for high medical necessity outlier funding will be submitted by the provider to DOH/DDSD or its designee for review and approval.~~

~~(e) Staffing ratios must be submitted for the habilitation or residential setting as applicable to the request. This information will be used when determining the need for additional enhanced support hours for an individual with an intense staffing need.~~

~~(f) Documentation must show the number of hours necessary to meet the individual's needs, in relation to the total number of hours of staff time available within the setting.~~

~~(g) In order for the request to be considered for outlier funding the number of hours of enhanced support hours must exceed 360 hours per month within the residential setting; except in the situation where the hours of enhanced supports are nursing hours, an equivalent amount of enhanced support hours may be considered.~~

~~(h) In order for the request to be considered for outlier funding the number of hours of enhanced support hours must exceed 84 hours per month within the habilitation setting; except in situations where the number of hours of enhanced supports are nursing hours, then an equivalent amount of enhanced support hours may be considered.~~

~~(i) All generic resources must be identified and accessed prior to requesting outlier funding. The request must be accompanied by documentation of successful or unsuccessful attempts at accessing generic resources.~~

~~(j) Documentation must include a signed attending physician's evaluation report which documents the individual's medical status as it relates to the high medical necessity definition and a signed detailed nursing plan that outlines all procedures to be completed and indicates why the staffing within the setting must include the enhanced hours.~~

~~(k) The ISP incorporates a detailed nursing plan which specifically addresses the individual's condition, needs and outlines the duties of additional or specialized staff.~~

~~(l) Outlier rates will be approved for a specified number of days per year not to exceed the annual waiver billing limits. Each approval will not exceed 180 days.~~

~~(3) **Behavioral outlier:** To be considered for the behavioral outlier rate of reimbursement individuals must exhibit frequent or regular episodes of behavior that is historical, chronic, and predictable. Examples include suicidal behavior, self injurious behavior, physical aggression towards others with intent to cause injury, disruption of most activities which requires intensive staff attention, personal withdrawal from all contact with staff and others, dangerous elopement, or serious criminal activities that are dangerous to others or to the recipient (e.g., rape, manslaughter, battery). Individuals who meet the definition for behavioral outlier may qualify for the outlier services and corresponding funding if the frequency, duration, and intensity of staff supports greatly surpass those described in the service definitions and the following conditions and criteria are met.~~

~~(4) **Behavioral criteria:**~~

~~(a) All requests for outlier funding must be in writing and must be accompanied by written documentation from an appropriate mental health professional (psychiatrist, psychologist, neurologist) that addresses the chronic care criteria that meets the definition of behavioral outlier.~~

~~(b) The IDT will initiate the request for outlier funding.~~

~~(c) The IDT will gather all pertinent reports and documentation and ensure timely submission by the provider to the DOH/DDSD or its designee.~~

~~(d) Documentation for behavioral outlier funding will be submitted by the provider to the DOH/DDSD or its designee for review and approval.~~

~~(e) Staffing ratios must be submitted for the habilitation or residential setting, as applicable to the request. This information will be used when determining the need for additional enhanced support hours for an individual with an intense staffing need.~~

~~(f) Documentation must show the number of hours necessary to meet the individual's needs, in relation to the total number of hours of staff time available within the setting.~~

~~(g) In order for the request to be considered for outlier funding the number of hours of enhanced support hours must exceed 360 hours per month within the residential setting.~~

~~(h) In order for the request to be considered for outlier funding the number of hours of enhanced support hours must exceed 84 hours per month within the habilitation setting.~~

~~(i) All generic resources must be identified and accessed prior to requesting outlier funding. The request must be accompanied by documentation of successful or unsuccessful attempts at accessing generic resources.~~

~~(j) Documentation must include the psychiatric/neurological/ psychological evaluation report which documents the individual's mental health/health status as it relates to the behavioral outlier definition; and provides justification for the use of additional or specialized staffing.~~

~~(k) The psychiatric/neurological/psychological evaluation must be completed by a professional who is not employed by the agency providing supported living or adult habilitation services.~~

~~(l) Individuals being considered for behavioral outlier funding must have a current active behavior support plan that outlines the specific duties of additional staff; and the plan is intensively monitored by the behavior support consultant.~~

~~(m) The behavior plan must be in compliance with the DOH/DDSD DDW policy governing the process of behavioral support service planning for persons with developmental disabilities.~~

~~(n) The ISP specifically addresses the individual's condition, needs and outlines the daily responsibilities of additional or specialized staff.~~

~~(o) Outlier rates will be approved for a specified number of days per year not to exceed the annual waiver billing limits. Each approval will not exceed 180 days.~~]

[~~M. **Environmental modification services :** Environmental modifications services include the purchase and installation of equipment or making physical adaptations to an individual's residence that are necessary to ensure the health, welfare and safety of the individual or enhance the individual's access to the home environment and increase the individual's ability to act independently. Adaptations include the installation of ramps and grab-bars; widening of doorway or hallways; installation of specialized electric and plumbing systems to accommodate medical equipment and supplies; purchase or installation of lifts or elevators; modification of bathroom facilities (roll-in showers, sink, bathtub, and toilet modification, water faucet controls, floor urinals and bidet adaptations and plumbing); turnaround space adaptations; specialized accessibility, safety adaptations, or additions; installation of trapeze and mobility tracks for home ceilings; purchase or installation of automatic door openers or door bells, and voice-activated, light-activated, motion-activated and electric devices; fire safety adaptations; purchase and installation of air filtering devices; heating and cooling adaptations; the purchase and installation of glass substitute for windows and doors; purchase and installation of modified switches, outlets or environmental controls for home devices; and purchase and installation of alarm and alert systems or signaling devices.~~]

J. **Environmental modification services:** Environmental modifications services include the purchase and installation of equipment or making physical adaptations to an eligible recipient's residence that are necessary to ensure the health, welfare and safety of the individual or enhance the eligible recipient's access to the home environment and increase the eligible recipient's ability to act independently.

(1) Adaptations, instillations and modifications include:

(a) heating and cooling adaptations;

(b) fire safety adaptations;

(c) turnaround space adaptations;

(d) specialized accessibility, safety adaptations or additions;

(e) installation of specialized electric and plumbing systems to accommodate medical equipment and supplies;

(f) installation of trapeze and mobility tracks for home ceilings;

(g) installation of ramps and grab-bars;

(h) widening of doorways or hallways;

(i) modification of bathroom facilities (roll-in showers, sink, bathtub and toilet modification, water faucet controls, floor urinals and bidet adaptations and plumbing);

(j) purchase or installation of air filtering devices;

(k) purchase or installation of lifts or elevators;

(l) purchase and installation of glass substitute for windows and doors; purchase and installation of modified switches, outlets or environmental controls for home devices; and

(m) purchase and installation of alarm and alert systems or signaling devices.

(2) Excluded are those adaptations or improvements to the home that are of general utility and are not of direct medical or remedial benefit to the eligible recipient. Adaptations that add to the total square footage of the

home are excluded from this benefit except when necessary to complete an adaptation (e.g., in order to improve entrance/egress to a residence or to configure a bathroom to accommodate a wheelchair).

(3) Environmental modification services must be provided in accordance with applicable federal, state and local building codes.

(4) Environmental modification services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

[~~(1) No duplicate adaptations modifications or improvements shall be approved regardless of the payment source. Home modifications, adaptations, or improvements cannot be part of new construction. Adaptations, modifications, improvements or repairs to the existing homes, which are not of direct medical or remedial benefits to the individual, and automobile/vehicle retrofitting shall not be approved. Such non-beneficial adaptations, or improvements include, that are not limited to carpeting, roof repair, central air conditioning, furnace replacement, remodeling bare rooms and other general household repairs.~~

~~(2) An occupational therapist shall assess the individual's needs and the effectiveness of the requested environmental modification and submit a written recommendation to the case manager that is consistent with DOH/DDSD DDW service standards. If an occupational therapist is not available, the services of a physical therapist or other qualified individual approved by DOH/DDSD may be substituted. A complete report specifying how the environmental modification would contribute to the individual's ability to remain in or return to his home, and how the modification or improvements would increase the individual's independence and decrease the need for other services such as personal support, must be completed on a DOH/DDSD approved form. The report must be completed and submitted to the environmental modification provider and DOH/DDSD for approval before the contractor can be authorized to begin construction. This evaluation must be submitted to DOH/DDSD with the prior authorization request (PAR).~~

~~(3) All services must be provided in accordance with applicable federal, state and local building regulations, standards and codes.~~

~~(4) The environmental modification provider must ensure that proper design criteria are addressed in planning and design of the adaptation, provide or secure licensed contractor(s) or approved vendor(s) to provide construction or remodeling services, provide administrative and technical oversight of construction projects, provide consultation to family members, waiver providers and contractors concerning environmental modification projects to the individual's residence, and inspect the final environmental modification project to ensure that the adaptations meet the approved plan.~~

~~(5) Environmental modifications are managed by professional staff available to provide technical assistance and oversight to environmental modification projects.~~

~~(6) Each environmental modification must be:~~

~~(a) documented with written recommendations from a qualified professional that specifies the model and type of equipment;~~

~~(b) deemed medically necessary by a physician or appropriate licensed professional;~~

~~(c) approved by DOH/DDSD in accordance with written policy including defined qualifying criteria prior to start of adaptations;~~

~~(d) documented as not otherwise available as a medicaid state plan service;~~

~~(e) completed by a DOH approved modification provider that has a GB-2 class construction license.~~

~~(7) Environmental modification services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~

~~N. **Personal planning facilitation:** Personal planning facilitators will work with individuals to select a method for this person-centered enhanced planning activity. The results will be incorporated into the individual's individual service plan (ISP). The facilitator will work with the individual to identify the individuals they wish to invite to the personal planning event. The purpose is to generate a more thorough understanding of the individual's background, preferences, dreams, life goals, natural supports, and to foster creative thinking about how to support the individual to achieve their dreams beyond what occurs in a typical ISP planning process.~~

~~O. **Goods and services:** Goods and services replaces the stipend provided to the individual or family available in community access. Goods and services include services, supports or goods that enhance opportunities to achieve outcomes related to living arrangements, relationships, inclusion in community activities and work so long as the items or services meet the following requirements:~~

~~(1) the item or service is not covered by the medicaid state plan or DD waiver services;~~

~~(2) the item or service is designed to meet the individual's non-covered functional, medical or social needs and advances the desired outcomes in his ISP;~~

~~(3) the item or service is not prohibited by federal and state statutes and regulation;~~

~~(4) one or more of the following additional criteria are met:~~

~~(a) the item or service would increase the individual's functioning related to the disability;~~

~~(b) the item or service would increase the individual's safety in the home environment; or~~

~~(c) the item or service would decrease dependence on other medicaid-funded services;~~

~~(5) examples of this service may include the purchase of non-medical transportation, memberships to support community inclusion, and education materials.~~]

[~~P.~~] K. [**~~Tier III crisis supports~~] Crisis Supports:** [~~Tier III crisis supports~~] Crisis supports are services that provide intensive supports by appropriately trained staff to an eligible recipient experiencing a behavioral or medical crisis either within the eligible recipient's present residence or in an alternate residential setting. [~~via one of the following models.~~] Crisis support must be provided in accordance with the DOH/DDSD DDW service definitions and standards.

(1) **Crisis supports in the [~~individual's~~] eligible recipient's residence:** These services provide crisis response staff to assist in supporting and stabilizing the [~~individual~~] eligible recipient while also training and mentoring staff [~~and/or~~] or family members, who normally support the [~~individual~~] eligible recipient, in order to remediate the crisis and minimize or prevent recurrence.

(2) **Crisis supports in an alternate residential setting:** These services arrange an alternative residential setting and provide crisis response staff to support the [~~individual~~] eligible recipient in that setting, to stabilize and prepare the [~~individual~~] eligible recipient to return home or to move into another permanent location. In addition, staff will arrange to train and mentor staff [~~and/or~~] or family members who will support the [~~individual~~] eligible recipient long term once the crisis has stabilized, in order to minimize or prevent recurrence.

[~~(3) Crisis supports must be prior authorized by the DOH/DDSD office of behavioral services. Crisis supports must be authorized in 14 to 30 calendar day increments, typically not to exceed 90 calendar days. In situations requiring crisis supports in excess of 90 calendar days, the DOH/DDSD director must approve such authorization upon submittal of a written plan to transition the individual from crisis supports to typical menu of DDW services.~~]all requirements set forth by DOH/DDSD DDW service definition.

(3) Crisis support staff will deliver such support in a way that maintains the eligible recipient's normal routine to the maximum extent possible. This includes support during attendance at employment or customized community supports services, which may be billed on the same dates and times of service as crisis supports.

(4) This service requires prior written approval and referral from the office of behavioral services (OBS). Crisis supports are designed to be a short-term response (two to 90 calendar days).

(5) The timeline may exceed 90 calendar days under extraordinary circumstances, with approval from office of behavioral services (OBS), in which case duration and intensity of the crisis intervention will be assessed weekly by OBS staff.

[~~Q.~~] L. **Non-medical transportation:** Non-medical transportation services assists the [~~individual~~] eligible recipient in accessing other waiver supports and non-waiver activities identified in the individual service plan (ISP). Non-medical transportation enables [~~individual~~] eligible recipient to gain physical access to non-medical community services and resources promoting [~~individual~~] the eligible recipient opportunity and responsibility in carrying out ISP activities. This service is to be considered only when transportation is not available through the state medicaid state plan or when other arrangements cannot be made. Non-medical transportation includes funding to purchase a pass for public transportation for the [~~individual~~] eligible recipient. Non-medical transportation provider services must be provided in accordance with [~~the DOH/DDSD DDW service definitions and standards~~] all requirements set forth by DOH/DDSD DDW service definition.

[~~R.~~] M. **Supplemental dental care:** Supplemental dental care provides one routine oral examination and cleaning to [~~individuals~~] eligible recipients on the waiver for the purpose of preserving [~~and/or~~] or maintaining oral health. Supplemental dental care provided on the waiver is for [~~individuals~~] eligible recipients that require routine cleaning more frequently than covered under the medicaid state plan. [~~Supplemental dental care includes an oral examination and a routine dental cleaning.~~] The supplemental dental care service must be provided in accordance with the DOH/DDSD DDW service definition, all requirements outlined in the DW service standards and the MAD rules.

[~~(1) The supplemental dental care provider will ensure that a licensed dentist per New Mexico regulation and licensing provides the oral examination; ensure that a dental hygienist certified by the New Mexico~~

~~board of dental health care provides the routine dental cleaning services; demonstrate fiscal solvency; and will function as a payee for the service.~~

~~(2) The supplemental dental care service must be provided in accordance with the DOH/DDSD DDW service definitions and standards.~~]

N. **Assistive technology purchasing agent service:** Assistive technology purchasing agent service is intended to increase the eligible recipient's physical and communicative participation in functional activities at home and in the community. Items purchased through the assistive technology service assist the eligible recipient to meet outcomes outlined in the ISP, increase functional participation in employment, community activities, activities of daily living, personal interactions, or leisure activities, or increase the eligible recipient's safety during participation of the functional activity.

(1) Assistive technology services allows an eligible recipient to purchase needed items to develop low-tech augmentative communication, environmental access, mobility systems and other functional assistive technology, not covered through the eligible recipient's medicaid state plan benefits.

(2) Assistive technology purchasing agent providers act as a fiscal agent to either directly purchase, or reimburse team members who purchase devices or materials which have been prior authorized by the DOH/DDSD on behalf of an eligible recipient.

(3) Assistive technology purchasing agent services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

O. **Independent living transition services**: Independent living transition services are one-time set-up expenses for an eligible recipient who transitions from a 24 hour living supports setting into a home or apartment of their own with intermittent support that allows his or her to live more independently in the community. The service covers expenses associated with security deposits that are required to obtain a lease on an apartment or home, set-up fees or deposits for utilities (telephone, electricity, heating, etc.), furnishings to establish safe and healthy living arrangements: bed, chair, dining table and chairs, eating utensils and food preparation items, and a telephone. The service also covers services necessary for the eligible recipient's health and safety such as initial or one-time fees associated with the cost of paying for pest control, allergen control or cleaning services prior to occupancy. Independent living transition services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

P. **Personal support technology/on-site response service:** Personal support technology/on-site response service is an electronic device or monitoring system that supports the eligible recipients to be independent in the community or in their place of residence with limited assistance or supervision of paid staff. This service provides 24-hour response capability or prompting through the use of electronic notification and monitoring technologies to ensure the health and safety of the eligible recipient in services. Personal support technology/on-site response service is available to eligible recipients who have a demonstrated need for timely response due to health or safety concerns. Personal support technology/on-site response service includes the installation of the rented electronic device, monthly maintenance fee for the electronic device, and hourly response funding for staff that support the eligible recipient when the device is activated. Personal support technology/on-site response services must be provided in accordance with the DOH/DDSD DDW service definitions and standards.

Q. **Preliminary risk screening and consultation related to inappropriate sexual behavior:** Preliminary risk screening and consultation related to inappropriate sexual behavior (PRSC) identifies, screens, and provides periodic technical assistance and crisis intervention when needed to the IDTs supporting eligible recipients with risk factors for sexually inappropriate or offending behavior, as defined in the DDW standards. This service is part of a continuum of behavior support services (including behavior support consultation and socialization and sexuality services) that promote community safety and reduce the impact of interfering behaviors that compromise quality of life.

(1) The key functions of preliminary risk screening and consultation related to inappropriate sexual behavior services are:

(a) provide a structured screening of behaviors that may be sexually inappropriate;

(b) develop and document recommendations in the form of a report or consultation notes;

(c) development and periodic revisions of risk management plans, when recommended; and

(d) consultation regarding the management and reduction of sexually inappropriate behavioral incidents that may pose a health and safety risk to the eligible recipient or others.

(2) Preliminary risk screening and consultation related to inappropriate sexual behavior services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

R. **Socialization and sexuality education service:** Socialization and sexuality education service is carried out through a series of classes intended to provide a proactive educational program about the values and critical thinking skills needed to form and maintain meaningful relationships, and about healthy sexuality and sexual expression. Social skills learning objectives include positive self-image, communication skills, doing things independently and with others, and using paid and natural supports. Sexuality learning objectives include reproductive anatomy, conception and fetal development, safe sex and health awareness. Positive outcomes for the eligible recipient include safety from negative consequences of being sexual, assertiveness about setting boundaries and reporting violations, expressing physical affection in a manner that is appropriate and making informed choices about the relationships in his/her life. Independent living skills are enhanced and improved work outcomes result from better understanding of interpersonal boundaries, and improved communication, critical thinking and self-reliance skills. Socialization and sexuality education services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

S. **Customized in-home supports:** Customized in-home support services is not a residential habilitation service and is intended for an eligible recipient that does not require the level of support provided under living supports services. Customized in-home supports provide an eligible recipient the opportunity to design and manage the supports needed to live in their own home or their family home. Customized in-home supports includes a combination of instruction and personal support activities provided intermittently as he or she would normally occur to assist the eligible recipient with ADLs, meal preparation, household services, and money management. The services and supports are individually designed to instruct or enhance home living skills, community skills and to address health and safety as needed. This service provides assistance with the acquisition, improvement or retention of skills that provides the necessary support to achieve personal outcomes that enhance the eligible recipient's ability to live independently in the community. Customized in-home support services must be provided in accordance with policy and all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

T. **Intense medical living supports:** Intense medical living supports agencies provide community living supports for an eligible recipient who requires daily direct skilled nursing, in conjunction with community living supports that promote health and assist the eligible recipient to acquire, retain or improve skills necessary to live in the community and prevent institutionalization, consistent with each eligible recipient's ISP. An eligible recipients must meet criteria for intense medical living supports according to eligibility parameters in the standards for this service and require nursing care, ongoing assessment, clinical oversight and health management that must be provided directly by a registered nurse or a licensed practical nurse in accordance with the New Mexico Nursing Practice Act at least once per day.

(1) These medical needs include:

(a) skilled nursing interventions;

(b) delivery of treatment;

(c) monitoring for change of condition; and

(d) adjustment of interventions and revision of services and plans based on assessed clinical needs.

(2) In addition to providing support to an eligible recipient with chronic health conditions, intense medical living supports are available to an eligible recipient who meets a high level of medical acuity and require short-term transitional support due to recent illness or hospitalization. This service will afford the core living support provider the time to update health status information and health care plans, train staff on new or exacerbated conditions and assure that the home environment is appropriate to meet the needs of the eligible recipient. Short-term stay in this model may also be utilized by an eligible recipient who meets the criteria that are living in a family setting when the family needs a substantial break from providing direct service. Both types of short-term placements require prior approval of DOH/DDSD. In order to accommodate referrals for short-term stays, each approved intense medical living provider must maintain at least one bed available for such short-term placements. If the short-term stay bed is occupied, additional requests for short-term stay will be referred to other providers of this service.

(3) The intense medical living provider will be responsible for providing the appropriate level of supports, 24 hours per day seven days a week, including necessary levels of skilled nursing based on assessed need. Daily nursing visits are required, however a nurse is not required to be present in the home during periods of time when skilled nursing services are not required or when an eligible recipient is out in the community. An on-call nurse must be available to staff during periods when a nurse is not present. Intense medical living supports require

supervision by a registered nurse in compliance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

(4) Direct support personnel will provide services that include training and assistance with ADLs such as bathing, dressing, grooming, oral care, eating, transferring, mobility and toileting. These services also include training and assistance with instrumental activities of daily living (IADLs) including housework, meal preparation, medication assistance, medication administration, shopping, and money management.

(5) The intense medical living supports provider will be responsible for providing access to customized community support and employment as outlined in the eligible recipient's ISP. This includes any skilled nursing needed by the eligible recipient to participate in customized community support and development and employment services. This service must arrange transportation for all medical appointments, household functions and activities, and to-and-from day services and other meaningful community options.

(6) Intense medical services must be provided in accordance with all requirements set forth by DOH/DDSD DDW service definition, all requirements outlined in the DDW service standards and the MAD rules.

[8.314.5.13 NMAC - Rp, 8.314.5.13 NMAC, 3-1-07 A, 4-1-11; A, 9-14-12]

8.314.5.14 NON-COVERED SERVICES: [~~Only the services listed as covered waiver services are covered under the DDW program. Medicaid state plan services may be available to waiver recipients through the regular medicaid program. Medicaid state plan services are subject to the limitations and coverage restrictions that exist for other medicaid services. See 8.301.3 NMAC, *General Noncovered Services* for an overview of non-covered services. Medicaid does not cover room and board as waiver service or ancillary services.~~] Only the services listed as covered waiver services are covered under the MAD DDW program. Medicaid non-waiver services may also be available to an eligible waiver recipient through state plan Medicaid services. Medicaid does not cover room and board as waiver service or ancillary services.

[8.314.5.14 NMAC - Rp, 8.314.5.14 NMAC, 3-1-07; A, 9-14-12]

8.314.5.15 INDIVIDUALIZED SERVICE PLAN (ISP): An ISP must be developed by an interdisciplinary team (IDT) of professionals in consultation with the eligible recipient and others involved in the eligible recipient's care. The ISP is developed using information obtained from the supports intensity scale (SIS) which is a standardized assessment tool that provides a reliable framework to quantify the support needs of an eligible recipient with developmental disabilities. The SIS was designed primarily for person-centered planning and is used for resource allocation. The ISP must be in accordance with [~~the~~] policy and all requirements set forth by DOH/DDSD DDW services definition, all requirements outlined in the DDW service standards and the MAD rules. The ISP is submitted to DOH/DDSD or its designee for final approval. DOH/DDSD or its designee must approve any changes to the ISP. See 7.26.5 NMAC.

A. The[~~interdisciplinary team~~] IDT must review the treatment plan every [~~twelve (12)~~] 12 months or more often if indicated.

B. The [~~individualized service plan~~] ISP must contain the following information:

(1) statement of the nature of the specific [~~problem and the specific~~] needs of the eligible recipient;

(2) description of the functional level of the eligible recipient;

(3) statement of the least restrictive conditions necessary to achieve the purposes of treatment;

(4) description of intermediate and long-range goals, with a projected timetable for [~~their~~] eligible recipient's attainment and the duration and scope of services;

(5) statement and rationale of the treatment plan for achieving these intermediate and long-range goals, including provision for review and modification of the plan; and

(6) specification of responsibilities for areas of care, description of needs, and orders for medications, treatments, restorative and rehabilitative services, activities, therapies, social services, diet and special procedures recommended for the health and safety of the eligible recipient.

C. All services must be provided as specified in the ISP.

[8.314.5.15 NMAC - Rp, 8.314.5.15 NMAC, 3-1-07; A, 9-14-12]

8.314.5.16 PRIOR AUTHORIZATION AND UTILIZATION REVIEW: All [~~medicaid~~] MAD services, including services covered under this medicaid waiver, are subject to utilization review for medical necessity and program compliance. Reviews may be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Authorization and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior authorization and claims processing.

A. **Prior authorization:** To be eligible for DDW program services, [~~medicaid recipients~~] a MAD eligible recipient must require the level of care (LOC) of services provided in an [~~intermediate care facility for the mentally retarded (ICF-MR)~~] ICF-MR. LOC determinations are made by MAD or its designee. The ISP must specify the type, amount and duration of services. Certain procedures and services specified in the ISP may require prior authorization from MAD or its designee. Services for which prior authorization was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** Prior authorization of services does not guarantee that individuals are eligible for [~~medicaid~~] MAD services. Providers must verify that individuals are eligible for [~~medicaid~~] MAD, DDW services or other health insurance prior to the time services are furnished. [~~Recipients~~] An eligible recipient may not be institutionalized, hospitalized, or receive [~~medicaid~~] personal care option (PCO) services or other HCBS waiver services at the time DDW services are provided, except for certain case management services that are required to coordinate discharge plans or transition of services to DDW services.

C. **Reconsideration:** Providers who disagree with the denial of a prior authorization request or other review decisions may request [~~a re-review and~~] a reconsideration. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions*.

[8.314.5.16 NMAC - Rp, 8.314.5.16 NMAC, 3-1-07; A, 9-14-12]

8.314.5.18 RIGHT TO A HEARING: The HSD/MAD must grant an opportunity for an administrative hearing as described in this section in the following circumstances and pursuant to 42 CFR Section 431.220(a)(1) and (2), NMSA 1978, Section 27-3-3 and 8.352.2 NMAC, *Recipient Hearings*:

A. when a DDW eligible recipient has been determined not to meet the LOC requirement for waiver services;

B. when a DDW eligible recipient believes that the SIS assessment process was not followed in accordance with proper procedures for conducting the SS assessment; and

C. when a DDW eligible recipient believes that they were not placed into the appropriate NM SIS group and after a determination from the DOH/DDSD review committee has been made regarding the appropriateness of the NM SIS group.

D. The SIS score is not subject to fair hearing rights.

[8.314.5.18 NMAC- N, 9-14-12]

8.314.5.19 CONTINUATION OF BENEFITS PURSUANT TO TIMELY APPEAL:

A. Continuation of benefits may be provided to an eligible recipient who requests a hearing within 13 calendar days of the fair hearing notice. The notice will include information on the right to continued benefits and on the eligible recipient's responsibility for repayment if the hearing decision is not in the eligible recipient's favor.

B. Once the eligible recipient requests a continuation of benefits, his/her budget that is in place at the time of the request is termed a continuation budget. The continuation budget may not be revised until the conclusion of the fair hearing process. See 8.352.2 NMAC, *Recipient Hearings.*

[8.314.5.19 NMAC - N, 9-14-12

HISTORY OF 8.314.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records – State Records Center and Archives.

ISD-Rule 310.2000, Coordinated Community In-Home Care Services, 3/19/84.

History of Repealed Material:

ISD-Rule 310.2000, Coordinated Community In-Home Care Services, Repealed 1/18/95.

8 NMAC 4.MAD.736.12 - Repealed 9/1/98; and

8 NMAC 4.MAD.736.412 - Repealed 9/1/98.

8.314.5 NMAC, Developmental Disabilities Home and Community-Based Services Waiver, Repealed 3/1/07.