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TITLE 8 SOCIAL SERVICES
CHAPTER 323 ENHANCED EPSDT-OUTPATIENT PROVIDERS
PART 2 EPSDT PERSONAL CARE SERVICES

8.323.2.1 ISSUING AGENCY: New Mexico Human Services Department.
[1/1/95; 8.323.2.1 NMAC - Rn, 8 NMAC 4.MAD.000.1, 10/1/02]

8.323.2.2 SCOPE: The rule applies to the general public.
[1/1/95; 8.323.2.2 NMAC - Rn, 8 NMAC 4.MAD.000.2, 10/1/02]

8.323.2.3 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).
[1/1/95; 8.323.2.3 NMAC - Rn, 8 NMAC 4.MAD.000.3, 10/1/02]

8.323.2.4 DURATION: Permanent.
[1/1/95; 8.323.2.4 NMAC - Rn, 8 NMAC 4.MAD.000.4, 10/1/02]

8.323.2.5 EFFECTIVE DATE: September 1, 1998
[8.323.2.5 NMAC - Rn, 8 NMAC 4.MAD.000.5, 10/1/02]

8.323.2.6 OBJECTIVE: The objective of these regulations is to provide policies for the service portion of the New Mexico Medicaid program. These policies describe eligible providers, covered services, noncovered services, utilization review, and provider reimbursement.
[1/1/95, 2/1/95; 8.323.2.6 NMAC - Rn, 8 NMAC 4.MAD.000.6, 10/1/02]

8.323.2.7 DEFINITIONS: [RESERVED]

8.323.2.8 MISSION STATEMENT: The mission of the New Mexico Medical Assistance Division (MAD) is to maximize the health status of Medicaid-eligible individuals by furnishing payment for quality health services at levels comparable to private health plans.
[2/1/95; 8.323.2.8 NMAC - Rn, 8 NMAC 4.MAD.002, 10/1/02]

8.323.2.9 EPSDT PERSONAL CARE SERVICES: The New Mexico Medicaid program (Medicaid) pays for medically necessary personal care services furnished to eligible recipients under 21 years of age as part of the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program [42 CFR Section 440.167]. Services must be accessed through the EPSDT screen. Personal Care services are delivered pursuant to an individualized treatment plan. Personal Care services provide a range of services to consumers who are unable to perform some/all activities of daily living (ADLs) or instrumental activities of daily living (IADLs) because of a disability or a functional limitation(s). A prescribed course of regular Personal Care services and daily living assistance permits a person to live in his or her home rather than an institution and allows him or her to achieve the highest possible level of independence. These services include, but are not limited to, such activities as bathing, dressing, grooming, eating, toileting, shopping, transporting, caring for assistance animals, cognitive assistance, and communicating. An individual may be physically capable of performing ADLs or IADLs but may have limitations in performing these activities because of a cognitive impairment. Personal Care services may be required because a cognitive impairment prevents an individual from knowing when or how to carry out the task. In such cases, personal care may include cuing along with supervision to ensure that the individual performs the task properly. This section describes provider qualifications and responsibilities, recipient eligibility requirements, covered services, service limitations and general reimbursement methodology.
[9/1/98; 8.323.2.9 NMAC - Rn, 8 NMAC 4.MAD.746.5 & A, 10/1/02]

8.323.2.10 ELIGIBLE PROVIDERS: Upon approval of New Mexico Medical Assistance Program Provider Participation Applications by the New Mexico Medical Assistance Division (MAD), agencies that meet the following conditions are eligible to be reimbursed for providing EPSDT Personal Care Services

A. Licensed nursing or home health agencies that are public agencies, private for-profit agencies, or private non-profit agencies.

B. Nurses who supervise personal care attendants must be licensed as a Registered Nurse by the New Mexico Board of Nursing.

C. Certification for participation as a Medicare home health agency is not required. Personal care services may not be furnished by a member of the individual's family. In this instance, a family member is defined as a legally responsible relative, such as parents of minor children and stepparents who are legally responsible for minor children. For clients 18 to 21 years of age, parents or other relatives may provide Personal Care services if they are not legally responsible for the recipient. The parents or other relatives must be employed by an agency eligible to bill the Medicaid program for Personal Care services and must meet the training and supervision standards required by the Medicaid Program.

[9/1/98; 8.323.2.10 NMAC - Rn, 8 NMAC 4.MAD.746.51 & A, 10/1/02]

8.323.2.11 PROVIDER RESPONSIBILITIES:

A. Providers who furnish services to Medicaid recipients must comply with all specified Medicaid participation requirements. See Part 8.302.1 NMAC, GENERAL PROVIDER POLICIES.

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

C. Providers must maintain records that are sufficient to fully disclose the extent and nature of the services provided to the recipients. See Part 8.302.1 NMAC, GENERAL PROVIDER POLICIES.

[9/1/98; 8.323.2.11 NMAC - Rn, 8 NMAC 4.MAD.746.52 & A, 10/1/02]

8.323.2.12 ELIGIBLE POPULATION: Recipients of personal care services must meet all of the following eligibility criteria:

A. Be eligible for Medicaid at the time services are furnished;

B. Be under the age of twenty-one (21);

C. Have a medical condition, established by the recipient's primary care provider, that limits the recipient's physical functional or cognitive ability to such a degree that it adversely affects the recipient's overall ability to meet his/her physical requirements, excluding age-specific physical developmental needs, and results in the recipient's need for assistance with personal care; and

D. Have an individualized treatment plan, developed by the case manager in conjunction with the recipient, if age-appropriate, parent(s) or guardian(s), primary care physician and other appropriate health provider(s), and approved by the designated MAD utilization review contractor.

[9/1/98; 8.323.2.12 NMAC - Rn, 8 NMAC 4.MAD.746.53 & A, 10/1/02]

8.323.2.13 COVERAGE CRITERIA: Personal care services are defined as medically necessary tasks pertaining to a recipient's physical or cognitive functional ability. The goal of the provision of care is to avoid institutionalization and maintain the recipient's functional level. Services are covered under the following criteria:

A. The recipient must have a need for assistance with at least two (2) physical requirements, such as eating, bathing, dressing and toileting activities, appropriate to his/her age.

B. Personal care services must be medically necessary, prescribed by the recipient's primary care provider and included in the recipient's individualized treatment plan.

C. The need for personal care services is evaluated based on the availability of family members, natural supports, such as other community resources and/or friends, that can aid in providing such care.

D. Personal care services must be provided with the consent of the recipient's parent(s) or guardian(s), if the recipient is under age eighteen (18), with the recipient's consent, if over age eighteen (18) years and if the recipient is able to provide consent.

E. Personal care services that are medically necessary are furnished in the recipient's place of residence and outside the home when medically necessary and when not available through other existing benefits and programs such as home health, early intervention or school programs. Personal care services are services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental illness.

F. Personal care services that are medically necessary for attending school, are furnished in partnership with the recipient's school as an alternative to the recipient's participation in a homebound program. The personal care services should foster the child's independence. Personal care services are furnished based on

approval by the designated MAD utilization review contractor and only to eligible recipients and not to others in the school setting.

G. Services must be provided by a personal care attendant who is trained and has successfully demonstrated competency to provide assistance with personal care such as bathing, dressing, eating and toileting. The personal care attendant is employed by the personal care provider and works under the supervision of a registered nurse who is licensed in the State of New Mexico and employed by the personal care provider.

H. The supervisory registered nurse must be employed or contracted by the personal care provider and have one (1) year direct patient care experience. The supervisory registered nurse is also responsible for conducting and documenting visits to the recipient's residence for the purpose of assessing the recipient's progress and personal care attendants performance. The care plan should be updated as indicated and in cooperation with the recipient's case manager. These visits will be conducted and documented every 62 days or more often if the recipient's condition warrants it.

[9/1/98; 8.323.2.13 NMAC - Rn, 8 NMAC 4.MAD.746.54 & A, 10/1/02]

8.323.2.14 COVERED SERVICES: Medicaid covers the following personal care services:

A. Basic personal care services consist of bathing, care of the teeth, hair and nails, assistance with dressing, and assistance with toileting activities

B. Assistance with eating and other nutritional activities, when medically necessary, i.e., due to documented weight loss or other physical effect(s); and

C. Cognitive Assistance such as prompting or cuing.

[9/1/98; 8.323.2.14 NMAC - Rn, 8 NMAC 4.MAD.746.55 & A, 10/1/02]

8.323.2.15 NONCOVERED SERVICES: Services <u>that</u> are not covered under the New Mexico Medicaid EPSDT Personal Care program are as follows:

A. Any task that must be provided by a person with professional or technical training, such as but not limited to: insertion and irrigation of catheters, nebulizer treatments, irrigation of body cavities, performance of bowel stimulation, application of sterile dressings involving prescription medications and aseptic techniques, tube feedings, and administration of medications;

B. Services <u>that</u> are not in the recipient's approved treatment plan and for which prior approval has not been received;

C. Services not considered medically necessary by MAD or its <u>designee</u> for the condition of the recipient.

[9/1/98; 8.323.2.15 NMAC - Rn, 8 NMAC 4.MAD.746.56 & A, 10/1/02]

8.323.2.16 PLAN OF CARE: The recipient's individualized treatment plan is approved by the designated MAD utilization review contractor prior to the initiation of services. The plan must include the following:

A. Statement of the nature of the specific problem and the specific needs of the recipient for personal care services;

B. Description of the physical or cognitive functional level of the recipient as evidenced by the primary care provider clinical evaluation, including mental status, intellectual functioning and the documented medical necessity for personal care services;

C. Description of intermediate and long-range service goals that includes the scope and duration of service, how goals will be attained and the projected timetable for their attainment;

D. Specification of the personal care attendant's responsibilities, including tasks to be performed by the attendant and any special instructions for the health and safety of the recipient; and

E. Statement of the least restrictive conditions necessary to achieve the goals identified in the plan.

F. The plan of care is reviewed and revised, according to the individual's clinical needs, no less often than every six months.

[9/1/98; 8.323.2.16 NMAC - Rn, 8 NMAC 4.MAD.746.57 & A, 10/1/02]

8.323.2.17 PERSONAL CARE ATTENDANT TRAINING:

A. The personal care agency is responsible for ensuring that the personal care attendant has completed a training program and is competent to provide assigned tasks as a personal care attendant.

B. The personal care attendant training program must consist of no less than forty (40) hours of training to be completed by the personal care attendant in the first year of employment. Ten (10) hours of training

must be completed prior to placing the employee in a recipient's home. Two (2) of the ten (10) hours may include agency orientation. Eight (8) of the ten (10) hours of training must be patient/client specific.

C. The training curriculum must include, at a minimum, the following areas:

(1) Communication;
(2) Patient/client rights;
(3) Recording of information in patient/client records;
(4) Nutrition and meal preparation;
(5) Care of ill and disabled children and adolescents;
(6) Emergency response (first aid, CPR, 911, etc.);
(7) Basic infection control;
(8) Housekeeping skills;
(9) Home safety and fire protection.

[9/1/98; 8.323.2.17 NMAC - Rn, 8 NMAC 4.MAD.746.58, 10/1/02]

8.323.2.18 PRIOR APPROVAL AND UTILIZATION REVIEW: All Medicaid services are subject to utilization review for medical necessity and program compliance. Reviews by MAD and/or the utilization review contractor, can be performed before services are furnished, after services are furnished, before payment is made, or after payment is made. See Part 8.302.5 NMAC, PRIOR APPROVAL AND UTILIZATION REVIEW. Once enrolled, providers receive instructions and documentation forms necessary for prior approval and claims processing.

A. All personal care attendant services must be included in the recipient's plan of care and must receive prior approval from MAD or its designee. Services for which prior approval was obtained remain subject to utilization review at any point in the payment process.

B. Prior approval of services does not guarantee that individuals are eligible for Medicaid. Providers must verify that individuals are eligible for Medicaid at the time services are furnished and determine if Medicaid recipients have other health insurance.

C. Providers who disagree with prior approval denials or other review decisions can request a re-review and a reconsideration. See Part 8.350.2 NMAC, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS.

[9/1/98; 8.323.2.18 NMAC - Rn, 8 NMAC 4.MAD.746.59 & A, 10/1/02]

8.323.2.19 REIMBURSEMENT: Personal care attendant providers must submit claims for reimbursement on the HCFA-1500 claim form or its successor. See Part 8.302.2 NMAC, BILLING FOR MEDICAID SERVICES. Once enrolled, providers receive instructions on documentation, billing, and claims processing. Claims must be filed per the Billing Instructions in this manual. Personal care attendant providers must use ICD-9 diagnosis codes when billing for Medicaid services.

A. Reimbursement for personal care attendant services is made at the lesser of the following:

(1) The providers billed charge; or
(2) The MAD fee schedule for the specific service or procedure.

B. The providers billed charge must be its usual and customary charge for services.

C. Usual and customary charge refers to the amount an individual provider charges the general public in the majority of cases for a specific service and level of service.

[9/1/98; 8.323.2.19 NMAC - Rn, 8 NMAC 4.MAD.746.510, 10/1/02]

HISTORY OF 8.323.2 NMAC: [RESERVED]