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8.324.9 NUTRITION SERVICES

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TITLE 8 SOCIAL SERVICES
CHAPTER 324 ADJUNCT SERVICES
PART 9 NUTRITION SERVICES

8.324.9.1 ISSUING AGENCY: New Mexico Human Services Department.
[2/1/95; 8.324.9.1 NMAC - Rn, 8 NMAC 4.MAD.000.1, 3/1/12]

8.324.9.2 SCOPE: The rule applies to the general public.
[2/1/95; 8.324.9.2 NMAC - Rn, 8 NMAC 4.MAD.000.2, 3/1/12]

8.324.9.3 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 Section 27-2-12 et seq. NMSA 1978 (Repl. Pamp. 1991).
[2/1/95; 8.324.9.3 NMAC - Rn, 8 NMAC 4.MAD.000.3, 3/1/12]

8.324.9.4 DURATION: Permanent
[2/1/95; 8.324.9.4 NMAC - Rn, 8 NMAC 4.MAD.000.4, 3/1/12]

8.324.9.5 EFFECTIVE DATE: February 1, 1995
[2/1/95; 8.324.9.5 NMAC - Rn, 8 NMAC 4.MAD.000.5, 3/1/12]

8.324.9.6 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.
[2/1/95; 8.324.9.6 NMAC - Rn, 8 NMAC 4.MAD.000.6, 3/1/12]

8.324.9.7 DEFINITIONS: [RESERVED]

8.324.9.8 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; 8.324.9.8 NMAC - Rn, 8 NMAC 4.MAD.002, 3/1/12]

8.324.9.9 NUTRITION SERVICES: The New Mexico medicaid program (medicaid) pays for medically necessary health services furnished to eligible recipients. To help New Mexico recipients who are pregnant or under twenty-one (21) years of age receive necessary services, the New Mexico medical assistance division (MAD) pays for certain nutrition services [42 CFR 440.60(a)]. This part describes eligible providers, covered nutrition services, service limitations and general reimbursement methodology.
[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758, 3/1/12]

8.324.9.10 ELIGIBLE PROVIDERS:

A. Upon approval of New Mexico medical assistance program provider participation agreements by MAD, the following providers are eligible to be reimbursed for providing nutrition services:

- (1) individuals licensed to practice medicine or osteopathy and the groups they form;
- (2) hospitals;
- (3) rural health clinics;
- (4) federally qualified health centers (FQHC);
- (5) institutional physician components; and
- (6) public health agencies.

B. Once enrolled, providers receive a packet of information, including medicaid program policies, billing instructions, utilization review instructions and other pertinent material from MAD. Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from MAD.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.1, 3/1/12]

8.324.9.11 PROVIDER RESPONSIBILITIES: Providers who furnish services to medicaid recipients must comply with all specified medicaid participation requirements. See 8.302.1 NMAC, *General Provider Policies*. Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance. Providers must maintain records which are sufficient to fully disclose the extent and nature of the services furnished to recipients. See 8.302.1 NMAC, *General Provider Policies*.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.2, 3/1/12]

8.324.9.12 COVERED SERVICES: Medicaid covers medically necessary nutritional services which are based on scientifically validated nutritional principles and interventions which are generally accepted by the medical community and consistent with the physical and medical condition of the recipient. Medicaid covers the following services:

A. Nutritional assessments for all eligible pregnant women and for recipients under twenty-one (21) years of age under the early and periodic screening, diagnosis and treatment (EPSDT) program; and “nutritional assessment” is defined as an evaluation of the nutritional needs of individuals based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs and includes recommending appropriate nutritional intake;

B. Nutrition counseling to or on behalf of recipients under twenty-one (21) years of age who have been referred for a nutritional need. “Nutrition counseling” is defined as advising and helping recipients obtain appropriate nutritional intake by integrating information from the nutrition assessment with information on food, other sources of nutrients and meal preparation, consistent with cultural background and socioeconomic status.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.3, 3/1/12]

8.324.9.13 SERVICE RESTRICTIONS AND LIMITATIONS: All nutritional services must be furnished within the limits of medicaid benefits, within the scope and practice of the provider as defined by state law and in accordance with applicable federal, state and local laws and regulations. Medicaid covers only those services furnished by physicians, licensed nutritionists or licensed dietitians.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.4, 3/1/12]

8.324.9.14 NONCOVERED SERVICES: Nutritional services are subject to the limitations and coverage restrictions which exist for other medicaid services. See 8.301.3 NMAC, *General Noncovered Services*. Medicaid does not cover the following specific services:

A. services not considered medically necessary for the condition of the recipient as determined by MAD or its designee;

B. dietary counseling for the sole purpose of weight loss;

C. weight control and weight management programs; and

D. commercial dietary supplements or replacement products marketed for the primary purpose of weight loss and weight management. See 8.324.5 NMAC, *Durable Medical Equipment and Medical Supplies*.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.5, 3/1/12]

8.324.9.15 PRIOR APPROVAL AND UTILIZATION REVIEW: All medicaid services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Authorization and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior approval and claims processing.

A. **Prior approval:** Certain procedures or services can require 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. **Eligibility determination:** 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. **Reconsideration:** Providers who disagree with prior approval request denials or other review decisions can request a re-review and a reconsideration. See Section MAD-953, *Reconsideration of Utilization Review Decisions*.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.6, 3/1/12]

8.324.9.16 REIMBURSEMENT:

A. Nutritional service providers must submit claims for reimbursement on the HCFA-1500 claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services*. Once enrolled, providers receive instructions on documentation, billing, and claims processing. Reimbursement to providers is made at the lesser of the following:

- (1) the provider's billed charge; or
- (2) the MAD fee schedule for the specific service or procedure.

(3) The provider's billed charge must be their usual and customary charge for the service. "Usual and customary charge" refers to the amount which the individual provider charges the general public for a specific procedure or service.

B. **Charges included in office visit code:** Physicians and clinics must include the charges for nutritional services in the office visit code when services are furnished by physicians. The level of the office visit reflects the length and complexity of the visit.

C. **Charges included in encounter rates:** Providers reimbursed through encounter rates must include nutritional services in the encounter rate.

D. **Services furnished as part of prenatal or postpartum care:** Nutrition services furnished are included in the reimbursement fees for prenatal and postpartum care and are not reimbursed separately.

E. **Charges billed separately:** Nutrition services can be billed as a separate charge only when services are furnished by licensed nutritionists or licensed dietitians who are employed by eligible providers. Reimbursement is made to eligible providers and not directly to the nutritionists or dietitians.

[2/1/95; 8.324.9.9 NMAC - Rn, 8 NMAC 4.MAD.758.7, 3/1/12]

HISTORY OF 8.324.9 NMAC: [RESERVED]