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TITLE 8 SOCIAL SERVICES
CHAPTER 350 RECONSIDERATION OF UTILIZATION REVIEW
PART 2 RECONSIDERATION OF UTILIZATION REVIEW DECISIONS

8.350.2.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[2/1/95; 8.350.2.1 NMAC - Rn, 8 NMAC 4.MAD.000.1 & A, 12/15/11]

8.350.2.2 SCOPE: The rule applies to the general public.
[2/1/95; 8.350.2.2 NMAC - Rn, 8 NMAC 4.MAD.000.2, 12/15/11]

8.350.2.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[2/1/95; 8.350.2.3 NMAC - Rn, 8 NMAC 4.MAD.000.3 & A, 12/15/11]

8.350.2.4 DURATION: Permanent
[2/1/95; 8.350.2.4 NMAC - Rn, 8 NMAC 4.MAD.000.4, 12/15/11]

8.350.2.5 EFFECTIVE DATE: November 1, 1996 unless a later date is cited at the end of a section.
[11/1/96; 8.350.2.5 NMAC - Rn, 8 NMAC 4.MAD.000.5 & A, 12/15/11]

8.350.2.6 OBJECTIVE: The objective of this rule is to provide instructions for the service portion of the New Mexico medicaid programs.
[2/1/95; 8.350.2.6 NMAC - Rn, 8 NMAC 4.MAD.000.6 & A, 12/15/11]

8.350.2.7 DEFINITIONS: [RESERVED]

8.350.2.8 MISSION STATEMENT: 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.
[2/1/95; 8.350.2.8 NMAC - Rn, 8 NMAC 4.MAD.002 & A, 12/15/11]

8.350.2.9 UTILIZATION REVIEW DECISIONS:

A. Utilization review decisions are those decisions the medical assistance division (MAD), the MAD utilization review (UR) contractor or a MAD designee makes regarding the medical necessity of services or items that require authorization for medical necessity or a level of care (LOC) determination prior to reimbursement by MAD and its fee-for-service program. For applicable rules for services and items provided through a MAD managed care organization (MCO), refer to 8.305.12 NMAC, *MCO Member Grievance System*, 8.306.12 NMAC, *Member Grievance Resolution*, and 8.307.12 NMAC, *Member Grievance Resolution*. For applicable rules for services and items provided through coordinated service contractors, refer to 8.349.2 NMAC, *Appeals and Grievance Process*.

B. For services for which payment has already been made for which MAD is recouping payment due to a post payment review of medical necessity or LOC, the applicable rule is 8.353.2 NMAC, *Provider Hearings.*

C. Decisions are based on information submitted by the provider in a format specified by MAD, the MAD coordinated services contractor (MAD UR contractor), or a MAD designee, and applicable state rules.

D. Prior to making a decision, the MAD UR contractor, or a MAD designee may issue a request for information (RFI) to the provider requesting clarification or additional information in order to have sufficient information to render an appropriate decision. The provider must submit the clarification or additional information within 21 calendar days of issuance of the request or a technical denial may be issued.

E. MAD or its designee may reduce the authorized services or items including frequency, intensity, duration, quantity, scope or level of care after considering the submitted documentation or MAD rules. An eligible provider or eligible recipient who is dissatisfied with the decision may proceed according to the rules for reconsideration in 8.350.2.10 NMAC, *reconsideration of utilization review decisions.*
[11/1/96; 8.350.2.9 NMAC - Rn, 8 NMAC 4.MAD.953 & A, 12/15/11]

8.350.2.10 RECONSIDERATION OF UTILIZATION REVIEW DECISIONS: A provider who is dissatisfied with a medical necessity or LOC decision by MAD, the UR contractor or a MAD designee, can request reconsideration. An eligible recipient who is dissatisfied with a medical necessity or LOC decision by MAD, the UR contractor or a MAD designee, can request the provider to pursue reconsideration on his or her behalf.

A. **Time constraints and submission requirements:** Requests for reconsideration must be in writing and received by the UR contractor or a MAD designee within 30 calendar days after the date on the initial determination decision notice.

B. **Requirement for filing an extension:** The UR contractor or a MAD designee will accept a request for reconsideration filed up to 14 calendar days past the 30 calendar day limit if MAD finds that there was good cause for the provider's or the eligible recipient's failure to file a timely request. The provider or the eligible recipient must furnish MAD with written documentation of good cause. Good cause includes serious illness that prevented the provider or the eligible recipient from filing the request, death or serious illness in the provider's or the eligible recipient's immediate family, destruction of important records, or other unusual or unavoidable circumstances.

C. **Information required in the request for reconsideration:** The request for reconsideration must include the following:

(1) reference to the challenged decision or action;
(2) basis for the challenge;
(3) copies of any document(s) pertinent to the challenged decision or action;
(4) copies of claim form(s) if the challenge involves a claim for payment which is denied due to a utilization review decision; and
(5) statement that a reconsideration of the decision is requested.

D. **Individuals conducting reconsideration review:** Individuals employed by MAD, the UR contractor or a MAD designee who were not participants in the initial utilization review decision conduct the reconsideration review.

E. **Information used in reconsideration process:** The UR contractor or a MAD designee reviews the information and findings upon which the initial determination decision was based and any additional information submitted to, or otherwise obtained by, the UR contractor or a MAD designee. The information can include the following:

(1) case records and other applicable documents submitted to the UR contractor or a MAD designee by the provider when the request for services was initially submitted;
(2) findings of the reviewer resulting in the initial decision;
(3) complete record of the service(s) provided, including hospital or medical records; and
(4) additional documents submitted by the provider to support a reconsideration review.

F. **Decision deadline:** The UR contractor or a MAD designee performs the reconsideration and furnishes the reconsideration decision within 10 business days of receipt of the reconsideration request.

G. **Notification of reconsideration decision:** The UR contractor or a MAD designee gives the provider and the eligible recipient written notice of the reconsideration determination. If the decision is adverse to the eligible recipient, the notice also includes a statement advising an eligible recipient that he/she can request an administrative hearing.

[11/1/96; 8.350.2.10 NMAC - Rn, 8 NMAC 4.MAD.953.1 & Repealed, 12/15/11; 8.350.2.10 NMAC - Rn & A, 8.350.2.11 NMAC, 12/15/11]

8.350.2.11 RECIPIENT HEARINGS: When a reconsideration results in the termination, modification, suspension, reduction or denial of the services or LOC requested for the eligible recipient, the right to be notified and the right to an administrative hearing falls to the eligible recipient, who may request an administrative hearing. The eligible recipient can submit a written request for an administrative hearing to the MAD office or HSD fair hearings bureau. With the permission of the eligible recipient, the provider may assist the eligible recipient or act on behalf of the eligible recipient in the administrative hearing process. A request for an administrative hearing must be received within 30 calendar days of the final UR reconsideration decision or within the time frame indicated on the notice of action. See 8.352.2 NMAC, *Recipient Hearings*.

A. **Record preservation:** To preserve a record for review, MAD, the UR contractor or a MAD designee documents and retains a record of the reconsideration determination.

B. **Documentation requirements:** The record preserved by MAD, the UR contractor or a MAD designee includes all documentation of the initial utilization review decision, copies of any documents relevant to

the initial decision, any additional evidence presented during the reconsideration, and a copy of the reconsideration determination.
[11/1/96; 8.350.2.11 NMAC - Rn, 8 NMAC 4.MAD.953.2 & Repealed, 12/15/11; 8.350.2.11 NMAC - Rn & A, 8.350.2.12 NMAC, 12/15/11]

HISTORY OF 8.350.2 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
ISD 306.1000, Reconsideration Procedures for Ambulatory Care, filed 1/7/80.
ISD 306.1000, Reconsideration Procedures for Ambulatory Care, filed 7/8/82.
ISD 306.2000, Reconsideration Procedures for Delegated Hospitals, filed 1/7/80.
ISD 306.3000, Reconsideration Procedures for Non-Delegated and Non-Designated Hospitals, filed 1/7/80.

History of Repealed Material: [RESERVED]