

NMAC

Transmittal Form

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use Only) Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

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Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

2020 APR -9 PM 1: 11

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

8.325.10 NMAC rules are being updated to remove outdated language, reference a new provider form, to align the definition of an emergency to be consistent with language found at 42 CFR 440.255(c), to clarify that labor and delivery services provided by an out of state border hospital and/or emergency transfers from an in state acute care hospital to a border acute care hospital are covered, to make residence requirements consistent with other NMAC, and to update the language regarding how a provider can request a reconsideration of a medical necessity decision. No written or oral comments were received so the rules are being adopted as proposed.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Angela Medrano

Check if authority has been delegated

Title:

Deputy Secretary

Signature: (BLACK ink only)

Angela Medrano

Date signed:

4/8/20

2020 APR -9 PM 1:11

This is an amendment to 8.325.10 NMAC, Sections 8, 9 and 11-16, effective 5/1/2020.

8.325.10.8 MISSION STATEMENT: ~~[To reduce the impact of poverty on people living in New Mexico and to assure low income and individuals with disabilities in New Mexico equal participation in the life of their communities.]~~ To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.
[2/1/1995; 8.325.10.8 NMAC - Rn, 8 NMAC 4.MAD.002, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

8.325.10.9 EMERGENCY MEDICAL SERVICES FOR ALIENS (EMSA): The New Mexico ~~[MAD]~~ medical assistance division (MAD) is required to pay for necessary emergency medical services furnished to individuals who are ~~[aliens,]~~ non-citizens, reside in New Mexico and meet the requirements for ~~[MAD]~~ medicaid eligibility 42 CFR 440.255(c).
[2/1/1995; 8.325.10.9 NMAC - Rn, 8 NMAC 4.MAD.769, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

8.325.10.11 PROVIDER RESPONSIBILITIES:

A. A provider who furnishes services to a medicaid or other health care program 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. When services are billed to and paid by a coordinated services contractor authorized by HSD, the provider must follow that contractor's instructions for billing and for authorization of services.

B. ~~[A provider may encourage an individual to apply for emergency medical services for aliens (EMSA) eligibility at a county office when the provider believes the service may qualify as an EMSA emergency service.]~~ A provider may encourage a non-citizen to apply for EMSA eligibility through the local county income support division (ISD) office when the provider believes the service may qualify as an EMSA emergency service. A provider must inform the individual if the provider is unwilling to receive medicaid payment for the service when the service meets the EMSA emergency criteria for coverage. A provider must determine if the 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 alien]~~ a non-citizen recipient.
[2/1/1995; 8.325.10.11 NMAC - Rn, 8 NMAC 4.MAD.769.2 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

8.325.10.12 ELIGIBLE INDIVIDUALS:

A. An applicant must be a noncitizen who is undocumented or who does not meet the qualifying immigration criteria specified in 8.200.410 NMAC, *General Recipient Requirements*, and in 8.285.400 NMAC, *Medicaid Eligibility-Emergency Medical Services for Aliens-Category 085*.

B. Eligibility determinations are made by local county income support division (ISD) offices after the receipt of emergency services. The individual is responsible for completing an application ~~[at]~~ through the local county ISD office and for providing all necessary documentation to prove that he or she meets the applicable eligibility criteria.

(1) An individual must apply for coverage ~~[at]~~ through the ISD office no later than the last day of the third month following the month in which the ~~[alleged]~~ presumed emergency services were received.

(2) ~~[An alien recipient is responsible for notifying providers of the approval or denial of an application.]~~ If eligibility is granted or denied, the medical provider will be notified with a decision for EMSA form, MAD 778 or its successor.

(3) If an application is denied or an application for coverage is not filed by the last day of the third month following the month in which the ~~[alleged]~~ presumed emergency services were received, the ~~[alien]~~ non-citizen recipient is responsible for payment of the provider bill.

(4) If reimbursement for services is denied by MAD or its designee, the ~~[individual]~~ non-citizen is responsible for payment and can be billed directly for payment by the provider.

[2/1/1995; 8.325.10.12 NMAC - Rn, 8 NMAC 4.MAD.769.3 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

8.325.10.13 COVERAGE CRITERIA:

A. "Emergency" as defined for EMSA includes labor and delivery including inductions and cesarean sections, as well as any other medical condition, manifesting itself with acute symptoms of sufficient severity (including severe pain) such that the absence of immediate [emergency] medical attention could reasonably be expected to result in [one of the following]:

- ~~(1) the alien recipient's death;~~
- ~~(2) placement of the alien recipient's health in serious jeopardy;~~
- ~~(3) serious impairment of bodily functions; or~~
- ~~(4) serious dysfunction of any bodily organ or part.]~~
- ~~(1) the recipient's death;~~
- ~~(2) placing the recipient's health in serious jeopardy;~~
- ~~(3) serious impairment to bodily functions; or~~
- ~~(4) serious dysfunction of any bodily organ or part.~~

B. Services are covered only when necessary to treat or evaluate a condition meeting the definition of emergency and are covered only for the duration of that emergency.

C. Labor and delivery services provided by an out of state border hospital or emergency transfers from an in state acute care hospital to a border acute care hospital are covered. The out of state border provider must be enrolled with the New Mexico medicaid program.

~~C.] D.~~ After delivery, a child can have legally documented or citizenship status because of its birth in the United States and, therefore, is not eligible for ~~[emergency services for aliens]~~ EMSA. The child may be eligible for another MAD category of eligibility on his or her own.

~~D.] E.~~ Determination of coverage is made by MAD or its designee.
[2/1/1995; 8.325.10.13 NMAC - Rn, 8 NMAC 4.MAD.769.4 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

8.325.10.14 ~~[SERVICE LIMITATIONS: To meet the categorical eligibility requirements, a recipient who is an alien must be a resident of the state of New Mexico. Proof of residence must be furnished by the alien to the local county ISD office. An individual traveling through New Mexico, entering the United States through New Mexico en route to another destination, visiting in New Mexico or touring New Mexico with a tourist visa does not meet the residence requirement.] RESIDENCE: To meet the categorical eligibility requirements, a recipient who is a non-citizen must be a resident of the state of New Mexico in accordance with 8.200.410.14 and 8.291.410.15 NMAC.~~

[2/1/1995; 8.325.10.14 NMAC - Rn, 8 NMAC 4.MAD.769.5, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

8.325.10.15 **NONCOVERED SERVICES:** MAD does not cover any medical service that is not necessary to treat or evaluate a condition for an individual who is ~~[an alien]~~ a non-citizen that does not meet the definition of EMSA emergency. Additionally, MAD does not cover the following specific services:

- A. long term care;
- B. organ transplants;
- C. rehabilitation services;
- D. elective surgical procedures;
- E. psychiatric or psychological services;
- F. durable medical equipment or supplies;
- G. eyeglasses;
- H. hearing aids;
- I. outpatient prescriptions;
- J. podiatry services;
- K. prenatal and postpartum care;
- L. well child care;
- M. routine dental care;
- N. routine dialysis services;
- O. any medical service furnished by an out-of-state provider;
- P. non-emergency transportation; and
- Q. preventive care.

[2/1/1995; 8.325.10.15 NMAC - Rn, 8 NMAC 4.MAD.769.6 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]