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8.310.13 TELEHEALTH SERVICES

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TITLE 8 SOCIAL SERVICES
CHAPTER 310 HEALTH CARE PROFESSIONAL SERVICES
PART 13 TELEHEALTH SERVICES

8.310.13.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.310.13.1 NMAC - N, 8/1/07]

8.310.13.2 SCOPE: The rule applies to the general public.
[8.310.13.2 NMAC - N, 8/1/07]

8.310.13.3 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 and by the state human services department pursuant to state statute. See Section 27-2-12 et seq. NMSA 1978 (Repl. Pamp. 1991).
[8.310.13.3 NMAC - N, 8/1/07]

8.310.13.4 DURATION: Permanent
[8.310.13.4 NMAC - N, 8/1/07]

8.310.13.5 EFFECTIVE DATE: August 1, 2007, unless a later date is cited at the end of a section.
[8.310.13.5 NMAC - N, 8/1/07]

8.310.13.6 OBJECTIVE: The objective of these regulations is to provide policies for the service portion of the New Mexico medical assistance programs.
[8.310.13.6 NMAC - N, 8/1/07]

8.310.13.7 DEFINITIONS: [RESERVED]

8.310.13.8 MISSION STATEMENT: The mission of the New Mexico medical assistance division (MAD) is to maximize the health status of eligible individuals by furnishing payment for quality health services at levels comparable to private health plans.
[8.310.13.8 NMAC - N, 8/1/07]

8.310.13.9 TELEHEALTH SERVICES: The New Mexico MAD pays for medically necessary health services furnished to eligible recipients. To help New Mexico eligible recipients receive medically necessary services, MAD pays for covered telehealth services.
[8.310.13.9 NMAC - N, 8/1/07]

8.310.13.10 ELIGIBLE PROVIDERS:

A. Upon approval of a New Mexico medical assistance division provider participation agreement by MAD or its designee, licensed practitioners or facilities 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 policies, billing instructions, utilization review instructions, and other pertinent materials. When enrolled, providers receive instructions on how to access these documents. 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. The provider must contact HSD or its authorized agents to request hard copies of any program policy manuals, billing and utilization review instructions, and other pertinent materials and to obtain answers to questions on or not covered by these materials. To be eligible for reimbursement, a provider is bound by the provisions of the MAD provider participation agreement. Reimbursement for services provided through an interactive telecommunication system can be made when the service is rendered by one of the following providers at an allowed originating sight:

(1) individuals licensed to practice medicine or osteopathy by the New Mexico board of medical examiners or the New Mexico board of osteopathic medical examiners;

(2) podiatrists licensed by the board of podiatry under the state New Mexico;

(3) facilities licensed as diagnostic and treatment centers by the New Mexico department of health (DOH), community mental health centers, core service agencies, hospitals, rural health clinics, school-based health centers, and federally qualified health centers; services performed in these facilities must be furnished by individual practitioners who are enrolled as providers;

(4) individuals licensed as certified nurse practitioners and licensed registered nurses by the New Mexico board of nursing may provide services in collaboration with a physician or as independent providers within the scope of their practice. See Section 61-3-23.2(B)(2) NMSA 1978 (Cum. Supp. 1992);

(5) physician assistants certified by the national commission on certification of physician assistants inc. and licensed by the New Mexico board of medical examiners or New Mexico board of osteopathic medical examiners when furnishing services within the scope of their practice as defined by state law; direction and supervision of physician assistants must be performed by the licensed physicians who are enrolled providers and are approved by the New Mexico board of medical examiners or the New Mexico board of osteopathic medical examiners as supervisory physicians;

(6) nurse midwives licensed by the board of nursing as registered nurses and licensed by the department health as certified nurse midwives;

(7) pharmacist clinicians certified by the New Mexico board of pharmacy may furnish services within the scope of their practice as defined by state law; direction and supervision of pharmacist clinicians must be performed by licensed physicians who are enrolled as providers and are approved by the New Mexico board of medical examiners as supervisory physicians;

(8) individuals licensed as clinical nurse specialists by the New Mexico board of nursing may provide services in collaboration with a physician or as independent providers within the scope of their practice; see NMSA 1978, 61-3-1 to 61-3-30;

(9) psychologists (Ph.D., Psy.D. or Ed.D.) licensed or board eligible as clinical psychologists by the New Mexico board of psychologist examiners;

(10) licensed independent social workers (LISW) licensed by the New Mexico board of social work examiners, licensed professional clinical counselors licensed by, and marriage and family therapists licensed by New Mexico counseling and therapy practice board;

(11) registered dietitians or nutrition professionals when furnishing services within the scope of their practice as defined by state law under the direction of a licensed physician;

(12) Indian health service and tribal 638 facilities;

(13) physical therapists licensed by the physical therapy board under the state of New Mexico regulation and licensing department and meeting licensure requirements of the department of education;

(14) occupational therapist licensed by the board of occupational therapy under the state of New Mexico regulation and licensing department; or

(15) speech pathologists licensed by the board of speech, language, hearing under the state of New Mexico regulation and licensing department;

B. Practices or groups formed by these individuals may receive reimbursement for services when rendered by eligible providers with in the practice or group.

C. When the originating-site is in New Mexico and the distant-site is outside New Mexico, the provider at the distant-site must be licensed for telehealth to the extent required by New Mexico state law and regulations or meet federal requirements for providing services to Indian health service facilities or tribal contract facilities.

[8.310.13.10 NMAC - N, 8/1/07]

8.310.13.11 PROVIDER RESPONSIBILITIES: A provider who furnishes services to medicaid and other health care program eligible recipients agree to comply with all federal and state laws and regulations relevant to the provision of medical services as specified in the MAD provider participation agreement. A provider also agrees to conform to MAD program policies and instructions as specified in this 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 up-coding services.

[8.310.13.11 NMAC - N, 8/1/07]

8.310.13.12 COVERED SERVICES: MAD covers services and procedures that are medically necessary for the diagnosis and treatment of an illness or injury as indicated by the eligible recipient's condition. All services must be furnished within the limits of provider program policies and within the scope and practice of the provider's professional standards.

A. The originating-site is the location of an eligible recipient at the time the service is being furnished via an interactive telehealth communications system. An interactive telehealth communication system must include both interactive audio and video and be delivered on a real-time basis at the originating and distant-sites. Coverage for services rendered through telehealth provided at the originating-site are covered to the same extent the service and the provider are covered when not provided through telehealth. See 8.310.2 NMAC, *Medical Services Providers*, 8.310.8 NMAC, *Mental Health Professional Services*, MAD-758 [8.324.9 NMAC], *Nutrition Services* and 8.325.2 NMAC, *Dialysis Services.*

B. The distant-site is the location where the physician or practitioner is physically located at time of the telehealth service. Coverage of services rendered through telehealth at the distant-site are limited to consultations, evaluation and management services, individual psychotherapy, pharmacologic management, psychiatric diagnostic interview examinations, end stage renal disease related services, and individual medical nutrition services. All services are covered to the same extent the service and the provider are covered when not provided through telehealth. For these services, use of the telehealth communications system fulfills the requirement for a face-to-face encounter. See 8.310.2 NMAC, *Medical Services Providers*, 8.310.8 NMAC, *Mental Health Professional Services*, MAD-758 [8.324.9 NMAC], *Nutrition Services* and 8.325.2 NMAC, *Dialysis Services.*

C. A telehealth originating-site communication system fee is covered if the eligible recipient was present at and participated in the telehealth visit at the an originating-site located in a health professional shortage area (HPSA); a county not classified as a metropolitan statistical area (MSA); a primary medical care health professional shortage area for physicians, nurse practitioners, and physician assistants; primary behavioral health care professional shortage area for psychiatrists and clinical psychologists; a medical specialist shortage area for non-primary care medical specialties; an IHS or tribal 638 facility, a federally qualified health center or rural health clinic or a federal or state telemedicine demonstration project area. An interactive telecommunications system is required as a condition of reimbursement. Allowed originating-sites are an:

(1) office or clinic of a physician or other practitioner;
(2) hospital;
(3) critical access hospital;
(4) rural health clinic;
(5) federally qualified health center;
(6) community mental health center or core service agency;
(7) school-based health center;
(8) Indian health services and tribal 638 facilities;
(9) ambulatory surgical or treatment center;
(10) skilled nursing facility;
(11) residential treatment center;
(12) home health agency;
(13) diagnostic laboratory or imaging center;
(14) rehabilitation or other therapeutic health setting; or
(15) eligible recipient's residence.

D. End stage renal disease (ESRD) related services included in the monthly capitation payment with two or three visits per month and ESRD-related services with four or more visits per month may be paid when provided through a telehealth communications system. However, at least one visit during the month must be furnished by a physician, nurse practitioner, or physician assistant in a face-to-face encounter with the eligible recipient to examine the vascular access site.

[8.310.13.12 NMAC - N, 8/1/07]

8.310.13.13 PRIOR AUTHORIZATION AND UTILIZATION REVIEW: All services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Authorization and Utilization Review*. Once enrolled, the provider receives instructions on how to access provider program policies, billing instructions, utilization review instructions, and other pertinent material and to obtain answers to questions on or not covered by these materials. 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.

A. **Prior authorization:** Certain procedures or services can require prior approval from MAD or its authorized agents. Services for which prior authorization was obtained remain subject to utilization review at any

point in the payment process. A service provided through telehealth is subject to the same prior authorization and utilization review requirements which exist for the service when not provided through telehealth.

B. **Eligibility determination:** Prior authorization of services does not guarantee an individual is eligible for a medicaid or other healthcare program. Providers must verify that an individual is eligible for a specific program at the time services are furnished and must determine if the eligible recipient has other health insurance.

C. **Reconsideration**: Providers who disagree with prior authorization request denials and other review decisions can request a re-review and a reconsideration. See MAD-953 [8.350.2 NMAC], *Reconsideration of Utilization Review Decisions.*

[8.310.13.13 NMAC - N, 8/1/07]

8.310.13.14 NONCOVERED SERVICES: A service provided through telehealth is subject to the same program restrictions, limitations and coverage which exist for the service when not provided through telehealth.
[8.310.13.14 NMAC - N, 8/1/07]

8.310.13.15 REIMBURSEMENT: Reimbursement for services at the originating-site and the distant-site are made at the same amount as when the services provided are furnished without the use of a telecommunication system. In addition, reimbursement is made to the originating-site for an interactive telehealth system fee at the lessor of the following:

A. the provider's billed charge; or

B. the maximum allowed by MAD for the specific service or procedure.

(1) The provider's billed charge must be their usual and customary charge for services.

(2) "Usual and customary charge" refers to the amount which the provider charges the general public in the majority of cases for a specific procedure or service.

[8.310.13.15 NMAC - N, 8/1/07]

8.310.13.16 REIMBURSEMENT FOR SERVICES FURNISHED BY INTERNS OR RESIDENTS: Reimbursement for services furnished by interns or residents in hospitals with approved teaching programs or services furnished in other hospitals that participate in teaching programs is made through institutional reimbursement. MAD cannot be billed directly by interns or residents for these services.
[8.310.13.16 NMAC - N, 8/1/07]

HISTORY OF 8.310.13 NMAC: [RESERVED]