

INDEX

8.306.6 PROVIDER NETWORKS

8.306.6.1 ISSUING AGENCY1

8.306.6.2 SCOPE1

8.306.6.3 STATUTORY AUTHORITY1

8.306.6.4 DURATION1

8.306.6.5 EFFECTIVE DATE1

8.306.6.6 OBJECTIVE1

8.306.6.7 DEFINITIONS1

8.306.6.8 MISSION STATEMENT1

8.306.6.9 GENERAL NETWORK REQUIREMENTS1

8.306.6.10 PROVIDER QUALIFICATIONS AND CREDENTIALING2

8.306.6.11 UTILIZATION OF OUT-OF-STATE PROVIDERS2

8.306.6.12 PRIMARY CARE PROVIDERS2

8.306.6.13 SPECIALTY PROVIDERS4

8.306.6.14 ACCESS TO SERVICES4

8.306.6.15 FAMILY PLANNING PROVIDERS4

8.306.6.16 PROVIDER EDUCATION AND COMMUNICATION5

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TITLE 8 SOCIAL SERVICES
CHAPTER 306 STATE COVERAGE INSURANCE (SCI)
PART 6 PROVIDER NETWORKS

8.306.6.1 ISSUING AGENCY: Human Services Department
[8.306.6.1 NMAC - N, 7-1-05]

8.306.6.2 SCOPE: This rule applies to the general public.
[8.306.6.2 NMAC - N, 7-1-05]

8.306.6.3 STATUTORY AUTHORITY: New Mexico Statutes Annotated, 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the medicaid program. The State Coverage Insurance (SCI) program is authorized under a health insurance flexibility and accountability (HIFA) waiver under section 1115 of the Social Security Act for the parent population and a medicaid demonstration waiver under section 1115 for the childless adult population, both subject to special terms and conditions.
[8.306.6.3 NMAC - N, 7-1-05; A, 6-1-10]

8.306.6.4 DURATION: The SCI program is operated subject to continuation of the state's HIFA waiver and the medicaid demonstration waiver, and subject to availability of funds.
[8.306.6.4 NMAC - N, 7-1-05; A, 6-1-10]

8.306.6.5 EFFECTIVE DATE: July 1, 2005, unless a later date is cited at the end of a section.
[8.306.6.5 NMAC - N, 7-1-05]

8.306.6.6 OBJECTIVE: The objective of these regulations is to provide policies for the service portion of the New Mexico SCI program.
[8.306.6.6 NMAC - N, 7-1-05]

8.306.6.7 DEFINITIONS: See 8.306.1.7 NMAC.
[8.306.6.7 NMAC - N, 7-1-05]

8.306.6.8 MISSION STATEMENT: The mission of the medical assistance division is to reduce the impact of poverty on people living in New Mexico and to assure low income and disabled individuals in New Mexico equal participation in the life of their community.
[8.306.6.8 NMAC - N, 7-1-05; A, 7-1-09]

8.306.6.9 GENERAL NETWORK REQUIREMENTS: The MCO shall establish and maintain a comprehensive network of providers willing and capable of serving members enrolled with the MCO.

A. **Service coverage:** The MCO shall provide or arrange for the provision of services described in 8.306.7 NMAC, *Benefit Package* prior to contract start date. The MCO is solely responsible for the provision of covered services and shall ensure that its network includes providers in sufficient numbers and required specialists to make all services included in the package available and in accordance with access standards as specified herein and in 8.305.8.18 NMAC, *standards for access*.

B. **Comprehensive network:** The MCO shall contract with the full array of providers necessary to deliver a level of care at least equal to, or better than, community norms. The MCO shall contractually require that all network providers and subcontractors be in compliance with the Health Insurance Portability and Accountability Act (HIPAA). In establishing and maintaining the network of appropriate providers, the MCO shall consider the following:

- (1) the numbers of network providers who are not accepting new SCI members, as identified by a process for checking the open/closed panel status;
- (2) the geographic location of providers and SCI members, considering distance, travel time, the means of transportation ordinarily used by SCI members; and
- (3) whether the location provides physical access for SCI members, including members with disabilities.

C. **Maintenance of provider network:** The MCO shall notify HSD within five working days of unexpected changes to the composition of its provider network that negatively affects members' access or the

MCO's ability to deliver services included in the benefit package in a timely manner. The MCO shall regularly update open and closed panel status and post this information on its website. Anticipated material changes in an MCO provider network shall be reported to HSD in writing when the MCO knows of the anticipated change or within 30 calendar days, whichever comes first. A notice of significant change shall contain:

- (1) the nature of the change;
- (2) how the change affects delivery of or access to covered services; and
- (3) the MCO's plan for maintaining access and the quality of member care.

D. Required policies and procedures: The MCO shall maintain policies and procedures on provider recruitment and termination of provider participation with the MCO. The recruitment policies and procedures shall describe how an MCO responds to a change in the network that affects access and its ability to deliver services in a timely manner. The MCO:

- (1) shall not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment;
- (2) shall not discriminate against providers with respect to participation, reimbursement, or indemnification for any provider acting within the scope of that provider's license or certification under applicable state law solely on the basis of the provider's license or certification;
- (3) shall not decline to include individual or groups of providers in its network without giving the affected providers written notice of the reason for its decision;
- (4) shall not be required to contract with providers beyond the number necessary to meet the needs of its members;
- (5) shall be allowed to use different reimbursement amounts for different specialties or for different practitioners within the same specialty;
- (6) shall be allowed to establish measures that are designed to maintain quality of services and control costs and are consistent with its responsibility to members;
- (7) may not employ or contract with providers excluded from participation in federal health care programs because of misconduct; and
- (8) shall not be required to contract with providers who are ineligible to receive reimbursement under medicaid fee-for-service.

E. General information submitted to HSD: The MCO shall maintain an accurate list of contracted, subcontracted, pending and terminated PCPs, specialists, hospitals and other providers participating or affiliated with the MCO. The MCO shall submit the list to HSD on a monthly basis and include a clear delineation of all additions and terminations that have occurred since the last submission.

[8.306.6.9 NMAC - N, 7-1-05; A, 7-1-09]

8.306.6.10 PROVIDER QUALIFICATIONS AND CREDENTIALING: The MCO shall verify that each contracted or subcontracted provider, practitioner and facility, participating in, or employed by, the MCO meets applicable federal and state requirements for licensing, certification, accreditation and recredentialing for the type of care or services within the scope of practice as defined by federal medicaid statutes and state law.

[8.306.6.10 NMAC - N, 7-1-05]

8.306.6.11 UTILIZATION OF OUT-OF-STATE PROVIDERS: To the extent possible, the MCO is encouraged to utilize in-state and border providers, which are defined as those providers located within 100 miles of the New Mexico border, Mexico excluded. The MCO may include out-of-state providers in the network.

[8.306.6.11 NMAC - N, 7-1-05]

8.306.6.12 PRIMARY CARE PROVIDERS: The primary care provider (PCP) shall be a participating MCO medical provider who has the responsibility for supervising, coordinating and providing primary health care to members, initiating referrals for specialist care and maintaining the continuity of the member's care. The MCO shall distribute information to the providers explaining the SCI-specific policies and procedures outlining PCP responsibilities.

A. Primary care responsibilities: The MCO shall ensure that the following primary care responsibilities are met by the PCP or in another manner:

- (1) 24-hour, seven day a week access to care;
- (2) coordination and continuity of care with providers who participate within the MCO network and with providers outside the MCO network according to MCO policy;

(3) maintenance of a current medical record for the member, including documentation of services provided to the member by the PCP and specialty or referral services;

(4) requiring PCPs contracted with the MCO to vaccinate members in their offices and not refer members elsewhere for immunizations;

(5) ensuring the member receives appropriate prevention services for his age group;

(6) following MCO established procedures for coordination of services for members with providers participating in the MCO network; and

(7) the MCO shall develop and implement policies and procedures governing how coordination with the PCP will occur with hospitals that require in-house staff to examine or treat members having outpatient or ambulatory surgical procedures performed.

B. Types of primary care providers: The MCO may designate the following providers as PCPs, as appropriate:

(1) medical doctors or doctors of osteopathic medicine with the following specialties: general practice, family practice, internal medicine, gerontology, obstetrics, and gynecology;

(2) certified nurse practitioners, certified nurse midwives and physician assistants;

(3) specialists, on an individualized basis for members whose care is more appropriately managed by a specialist, such as members with infectious diseases, chronic illness or a disability;

(4) primary care teams consisting of residents and a supervising faculty physician for contracts with teaching facilities or teams that includes certified mid-level practitioners who, at the member's request, may serve as the point of first contact; in both instances, the MCO shall organize its teams to ensure continuity of care to members and shall identify a "lead physician" within the team for each member; the "lead physician" shall be an attending physician (medical students, interns and residents cannot serve as the "lead physician"); or

(5) other providers who meet the MCO credentialing requirements as a PCP.

C. Providers that shall not be excluded as PCPs: MCOs shall not exclude providers as primary care providers based on the proportion of high-risk patients in their caseloads.

D. Selection or assignment to a PCP: The MCO shall maintain written policies and procedures governing the process of member selection of a PCP and requests for a change in PCP.

(1) **Initial enrollment:** At the time of enrollment into the MCO, the MCO shall ensure that each member may choose a PCP within a reasonable distance from the member's residence.

(a) The MCO shall assume responsibility for assisting members with PCP selection.

(b) The process whereby the MCO assigns members to PCPs shall include at least the following features:

(i) the MCO shall contact the member within five business days of enrollment and provide information on options for selecting a PCP;

(ii) the MCO shall offer freedom of choice to members in making a selection;

(iii) a member shall choose a PCP or the MCO will assign a PCP within 15 calendar days of enrollment with the MCO; a member may select a PCP from the information provided by the MCO; a member may choose a PCP anytime during this selection period;

(iv) the MCO shall notify the member in writing of his PCP's name, location and office telephone number; and

(v) the MCO shall provide the member with an opportunity to select a different PCP if he is dissatisfied with assigned PCP.

(2) **Subsequent change in PCP initiated by member:** Members may initiate a PCP change at any time, for any reason. The request for PCP change may be made in writing or by telephone. If the change is requested by the 20th day of the month it will become effective the first day of the following month. If the request is made after the 20th day it will become effective the first day of the second month following the request.

(3) **Subsequent change in PCP initiated by the MCO:** In instances where a PCP has been terminated or suspended for potential quality or fraud and abuse issues, the MCO shall allow affected members to select another PCP or make an assignment within 15 days of the termination effective date. The MCO shall notify the member in writing of the PCP's name, location and office telephone number. The MCO may initiate a PCP change for a member under certain circumstances such as:

(a) the member and MCO agree that assignment to a different PCP in the MCO is in the member's best interest, based on the member's medical condition;

(b) a member's PCP ceases to participate in the MCO's network;

(c) a member's behavior toward the PCP is such that it is not feasible to safely or prudently provide medical care and the PCP has made all reasonable efforts to accommodate the member; or

(d) a member has initiated legal action against the PCP.

(4) **Provider lock-in:** HSD shall allow the MCO to require that a member see a certain provider while ensuring reasonable access to quality services when identification of utilization of unnecessary services or a member's behavior is detrimental or indicates a need to provide case continuity. Prior to placing a member on provider lock-in, the MCO shall inform the member of the intent to lock-in, including the reasons for imposing the provider lock-in and that the restriction does not apply to emergency services furnished to the member. The MCO's grievance procedure shall be made available to a member disagreeing with the provider lock-in. The member shall be removed from provider lock-in when the MCO has determined that the utilization problems or detrimental behavior have ceased and that recurrence of the problems is judged to be improbable. HSD shall be notified of provider lock-ins on a quarterly basis and informed of provider lock-in removals at the time they occur.

(5) **Pharmacy lock-in:** HSD shall allow the MCO to require that a member see a certain pharmacy provider when member compliance or drug seeking behavior is suspected. Prior to placing the member on pharmacy lock-in, the MCO shall inform the member or his/her representative of the intent to lock-in. The MCO's grievance procedure shall be made available to the member being designated for pharmacy lock-in. The pharmacy lock-in shall be reviewed and documented by the MCO and reported to HSD every quarter. The member shall be removed from pharmacy lock-in when the MCO has determined that the compliance or drug seeking behavior has been resolved and the recurrence of the problem is judged to be improbable. HSD shall be notified of all lock-in removals.

E. **MCO responsibility for PCP services:** The MCO shall be responsible for monitoring PCP actions to ensure compliance with MCO and HSD policies. The MCO shall ensure that PCPs are successfully identifying and referring members to specialty providers as medically necessary.
[8.306.6.12 NMAC - N, 7-1-05; A, 6-1-08; A, 7-1-09]

8.306.6.13 SPECIALTY PROVIDERS:

A. The MCO shall be responsible for monitoring PCP actions to ensure compliance with MCO and HSD policies. The MCO shall communicate with and educate PCPs about special populations and their service needs. The MCO shall ensure that PCPs are successfully identifying and referring members to specialty providers as medically necessary. The MCO shall contract with a sufficient number of specialists with the applicable range of expertise to ensure that the anticipated needs of MCO members will be met within the MCO network of providers. The MCO shall have a system to refer members to providers who are not affiliated with the MCO network if providers with the necessary qualifications or certifications to provide the required care do not participate in the MCO's network.

B. The MCO shall have written policies and procedures for the arrangement and documentation of all referrals. The MCO policies and procedures shall designate the process used by the MCO to ensure that referrals for all medically necessary services are available to members. The MCO referral process shall be effective and efficient and not impede timely access to and receipt of services.

C. A woman in her third trimester of pregnancy at the time of enrollment, who has an established obstetrical provider, may maintain that relationship. (Refer to Paragraph (4) of Subsection I of 8.305.11.9 NMAC, *Reimbursement for Women in the Third Trimester of Pregnancy*.)

D. The MCO or a specialist may initiate a change of specialists when the member's/guardian's behavior toward the specialist is such that it has made all reasonable efforts to accommodate the member /guardian and address the member's problems, but those efforts have been unsuccessful
[8.306.6.13 NMAC - N, 7-1-05]

8.306.6.14 ACCESS TO SERVICES: The MCO shall demonstrate that its network is sufficient to meet the health care needs of enrolled members. HSD initially assesses the sufficiency of this network and then throughout the contract period. The MCO shall notify HSD of any changes in the MCO network. Changes affecting member access to care shall be communicated to HSD and remedied by the MCO in an expeditious manner.

A. **Provider to member ratios:**

(1) **PCP to member ratios:** The MCO shall ensure the member caseload of any PCP in its network does not exceed 1,500 SCI enrollees. Exceptions to this limit may be made with the consent of the MCO and HSD. Reasons for exceeding the limit may include continuation of established care, assignment of a family unit or availability of mid-level clinicians in the practice that expand the capacity of the PCP.

(2) **Specialist to member ratios:** HSD shall not establish specific specialist to member ratios. The MCO shall ensure that members have adequate access to specialty services.

B. **Compliance with specified access standards:** The MCO shall comply with all access standards delineated under the terms of the SCI contract with respect to geographic location, scheduling time and waiting times.

C. **Requirements for MCO policies and procedures:** The MCO shall maintain written policies and procedures describing how members and providers receive instructions on access to services including prior authorization and referral requirements for various types of medical or surgical treatments, emergency room services, and behavioral health services. The policies and procedures shall be made available in an accessible format, upon request, to HSD, network providers and members.
[8.306.6.14 NMAC - N, 7-1-05]

8.306.6.15 FAMILY PLANNING PROVIDERS: The MCO shall maintain policies and procedures defining how members are educated about their right to family planning services, freedom of provider choice and method of accessing such services. The MCO shall ensure its policies and procedures for accessing family planning services meet specified requirements for member communication.
[8.306.6.15 NMAC - N, 7-1-05]

8.306.6.16 PROVIDER EDUCATION AND COMMUNICATION: The MCO shall establish and maintain policies and procedures governing the development and distribution of education and informational materials regarding SCI to its network providers. Policies and procedures shall:

- A. inform providers of the conditions of participation with the MCO regarding SCI;
- B. inform providers of their responsibilities to the MCO and to SCI members;
- C. inform providers of SCI-specific policies and procedures;
- D. furnish providers with policies and procedures regarding cultural competency and provide ongoing educational opportunities for providers and their staff on cultural competency;
- E. provide information on credentialing and re-credentialing, prior authorization and referral processes and how to request and obtain a second opinion; and
- F. provide information on the MCO's internal provider grievance process, by which providers can express their dissatisfaction with the plan's actions and file a complaint.
- G. the MCO may conduct an annual provider satisfaction survey, the results of which will be incorporated into the MCO's quality improvement (QI) program; survey results will be forwarded to HSD.
- H. the MCO shall actively solicit input from its network providers in an effort to improve and resolve problem areas related to the SCI program; the information provided will be incorporated into the MCO's QI program.
- I. the MCO shall be able to provide HSD evidence, when requested, of all provider educational activities; evidence of such activities may include: a provider education schedule of events; provider manuals distributed to contracted providers and updated at least quarterly; publications, such as brochures and newsletters; or media, such as films, videotaped presentations, seminars; and schedules of classroom instruction; the MCO shall maintain and continue these activities with its network providers, including behavioral health, throughout the term of the MCO provider contractual relationship.

[8.306.6.16 NMAC - N, 7-1-05]

8.306.6.17 MCO PROVIDER TRANSITION OF CARE: The MCO shall notify HSD of unexpected changes to the composition of its provider network that would have a significantly negative effect on member access to services or on the MCO's ability to deliver services included in the benefit package in a timely manner. In the event that provider network changes are unexpected or when it is determined that a provider is unable to meet their contractual obligation, the MCO shall be required to submit a transition plan(s) to HSD for all affected members.
[8.306.6.17 NMAC - N, 6-1-08]

HISTORY OF 8.306.6 NMAC: [RESERVED]