



State of New Mexico  
Health Care Authority  
**Human Services Register**



HEALTH CARE  
AUTHORITY

**I. DEPARTMENT**  
NEW MEXICO HEALTH CARE AUTHORITY

**II. SUBJECT**  
8.321.2 NMAC, SPECIALIZED BEHAVIORAL HEALTH PROVIDER  
ENROLLEMNT AND REIMBURSEMENT

**III. PROGRAM AFFECTED**  
(TITLE XIX) MEDICAID

**IV. ACTION**  
FINAL RULE

**V. BACKGROUND SUMMARY**

The New Mexico Health Care Authority (HCA) Register Volume 47, Register 15, dated June 24, 2024, issued the proposed New Mexico Administrative Code (NMAC) 8.321.2 NMAC, Specialized Behavioral Health Provider Enrollment and Reimbursement.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: June 25, 2024

Hearing Date: July 26, 2024

Adoption Date: December 1, 2024

Technical Citations: CFR 42 Part 8

A public hearing was held on July 26, 2024, to receive public comments and testimony on this proposed rule. Public comments were also directed to the HCA in writing during the public comment period. Below is a table detailing the public comments received by the HCA during the public comment period as well as the HCA's response to the public comments. The final rule has been revised based upon recommendations from public comments that were accepted by the HCA.

Comments Summary	HCA Response
One commenter requested clarification of certification requirements described in 8.321.2.19 NMAC. Community Support Worker (CSW) requirements include “or” prior to peer certification, making the requirement optional. The certifications do not seem to be optional.	Thank you for this comment. HCA will retain the language as written. A CSW may, but is not required to be, be a certified peer support worker.
Three commenters requested clarification regarding the addition of Accredited Adult Residential Treatment Centers (AARTC) for mental health. One commenter requested clarification of size limitation for AARTCs.	The State’s approved 1115(c) Waiver includes AARTC for mental health services. Inclusion in the rule promulgation is part of the implementation process for this new service. Additional information will be forthcoming though the implementation process, including AARTC certification and licensure requirements.
One commenter requested clarification of where AARTC rates may be found.	AARTCs are reimbursed through a cost-based reimbursement process which includes individualized rates for each facility. These rates are not published in a fee schedule.
Two commenters requested clarification of the inclusion of involuntary admissions to Crisis Triage Centers (CTC).	8.321.2 NMAC does not require CTCs to receive involuntary admissions. This section identifies that Medicaid will reimburse for both voluntary and involuntary admissions. Requirements for involuntary admissions are described in 8.321.11 NMAC.
One commenter identified that the requirement for CTCs to operate 24/7, 365 does not align with DOH (now HCA) facility requirements that allow for non 24/7, 365 operation.	The requirement that CTCs operate 24 hours a day, 7 days a week, 365 days a year is included

	<p>in the NM Medicaid State Plan approved by the Centers for Medicare and Medicaid Services (CMS) and is necessary for Medicaid reimbursement.</p> <p>HCA will consider this for a future State Plan amendment.</p>
One commenter suggested that the intensive outpatient (IOP) requirements are not consistent with the hours identified in Supplement 24-05.	Supplement 24-05 clarifies hourly requirements for per diem reimbursement. IOP instructions identified in NMAC describe the American Society of Addiction Medicine (ASAM) Level of care guidelines which include a minimum of 9 hours per week for Level 2.1.
One commenter asked why AARTCs must be certified by the Behavioral Health Services Division (BHSD) if these agencies are already accredited by the joint commission (JC), council on accreditation (COA), or the commission on accreditation of rehabilitation facilities (CARF) and identifies this is duplication for providers.	CMS requires state licensure of AARTCs in addition to accreditation by national bodies. HCA is in the process of developing licensure requirements for AARTCs. In the interim, CMS has approved HCA to certify AARTCs through a process with BHSD.
One commenter asked if ASAM releases a new edition, will that automatically take effect, or does the billing manual and NMAC need to be updated?	The State has provided initial ASAM 4 <sup>th</sup> edition training. The State will provide guidance through updated NMAC and policy and billing manual changes. Ample notice via multiple communications will be provided.
One commenter asked why is medication assisted treatment (MAT) for alcohol use disorder not also required?	CMS requires MAT for Opioid Use Disorder (OUD) due to the consistent evidence that MAT for OUD is associated with reduced mortality. At this time, MAT for alcohol use disorder is strongly encouraged, but not required.
One commenter asked if ASAM training will be completed internally or is this required to come from an outside agency or the state?	ASAM training shall be provided by a designated training agency. HCA has provided training

	opportunities, additionally ASAM has partnered with designated training organizations. BHSD will continue to provide trainings and providers can continue to seek training independently.
One commenter asked that the term “practitioners” be defined - definition of practitioners.	We have added the word licensed to clarify that the State is referring to licensed clinical practitioners.
One commenter asked the state to define “facility.” Does this mean medical facility or building?	“Facility” includes, but is not limited to, crisis triage centers, hospitals, and inpatient treatment to which a mobile crisis team may connect an individual for additional care as appropriate.
One commenter asked if all services within 72 hours of a mobile crisis episode are part of one claim or is it a separate claim if there is a new crisis?	Activities conducted during the 72-hour period are considered to be part of the episode of care included in the per diem reimbursement.
One commenter asked if CSW can be included in the list of screening brief intervention and referral to treatment (SBIRT) eligible practitioners and why a certified peer support worker (CPSW) may provide SBIRT screening but is not able to provide other similar screenings in a BH or other setting?	NM Medicaid State Plan currently does not include CSW as an allowed provider for SBIRT. HCA will consider this recommendation for a future state plan amendment.  CPSW are approved by CMS in our Medicaid State Plan as SBIRT practitioners. Each service must adhere to specific provider requirements.
One commenter asked why nationally recognized Peer Support trainings and certifications are not recognized?	This is not within the scope of this rule promulgation. Peer credentialing requirements are overseen by the New Mexico Credentialing Board for Behavioral Health Professionals.
One commenter asked what certifications are recognized for supervision of peer support workers?	This is not within the scope of this rule promulgation. Peer credentialing requirements are overseen by the New Mexico

	Credentialing Board for Behavioral Health Professionals.
One commenter asked why clients mandated by the justice system automatically qualify for IOP but not for other levels of care such as a residential treatment center (RTC)?	Thank you for this comment. HCA will retain the language as written. HCA Justice Liaison will continue to work with the court to encourage court recommendations match requirements for medical necessity.
Two commenters suggest revisions be made to SBIRT requirements to adjust language to reference state law for the provision of care to minors. Proposed language: "MAD recipient adolescents 11-17 of age, in accordance with state laws related to adolescent consent and confidentiality" and for 2 and 3 proposed language: "MAD recipient adults 18 years and older."	HCA agrees and has incorporated the proposed language.
One commentor proposed adjusting SBIRT language to remove any obstacles to screening and treatment by requiring co-occurrence of disorders. Proposed language: New suggested language would be: (1) SBIRT screening, whether screening results are positive or negative; (2) Brief intervention and referral to behavioral health treatment when SBIRT screens are positive for alcohol or other drugs with or without positive screens for depression, anxiety or trauma."	HCA agrees and has incorporated the proposed language.
One commenter shares support for telehealth provisions proposed in the rule.	HCA appreciates the feedback.
One commenter shares support of inclusion of occupational therapy practitioners.	HCA appreciates the feedback.
One commenter identified that corresponding changes for the opioid treatment program (OTP) must be made in 8.321.10 NMAC.	Changes to 8.321.10 NMAC is outside of the scope of this rule promulgation. HCA will address 8.321.10 NMAC in a future promulgation.
Two commenters requested HCA clarify the definition of "RLD board approved supervisor".	The Regulation and Licensing Department (RLD) oversees the board approvals for clinical supervisors.

	These applications can be found here: <a href="#">Social-Work-Board-Approved-Supervisor-Application.pdf (nmrecovery.org)</a> and Counseling-and-Therpay-Practice-Board-Approved-Supervisor-Application.pdf (nmrecovery.org).
One commenter noted 8.321.2.20 Crisis Intervention Services: B-1- Eligible providers- Telephone Crisis services. References independently licensed BH practitioner in the title but goes on to list providers at multiple levels. The commenter suggested HCA remove the Independently licensed BH practitioner reference from the telephone crisis services heading.	HCA appreciates the comment. The reference to Independently licensed BH practitioner will be removed.
One commenter suggested expanding eligible providers to include community support workers, community health workers and case managers for 8.321.2.37 Supportive Housing Pre-Tenancy and Tenancy Services.	HCA appreciates the comment. In the NM 1115(c) Waiver renewal application, the provider types eligible for reimbursement under the Pre-Tenancy/Tenancy Supportive Housing Services code included CPSWs and Licensed BH Professionals and expanded to include Community Support Workers, Case Managers, and Supportive Housing Coordinators.
One commenter noted that therapeutic interventions are limited to independently licensed providers and asks if non-independently licensed providers will be eligible to provide these services.	Thank you for this comment HCA will retain the language as written.
One commenter asked if NM HCA will be adding a provider type for individual OT's, who wish to be contracted independently?	HCA appreciates the comment. OTs are eligible to be reimbursed for services within their scope of practice. At this time HCA will not create a new provider type for this allowance. OTs will continue to enroll based on existing requirements.
One commenter requested the following clarification be included for treatment planning: The treatment plan is only billable, when conducting the final face-to-face meeting with the recipient present and key decisions are made, resulting in an update to the treatment plan.	Thank you for this comment HCA will retain the language as written.

One commentor requested that the requirement for site visits be adjusted from “may” to “must” to ensure compliance.	HCA agrees and has incorporated the proposed change.
One commentor requested that HCA clarify which individuals would fall under 8.321.2.20 B.(2)(c) –(xv) “other certified or credentialed individuals”.	Mobile crisis and Mobile Response and Stabilization (MRSS) teams are comprised of multidisciplinary team that includes at least one behavioral health care professional able to conduct a mobile crisis screening and assessment within their permitted scope of practice under state law. Additional team members may include other professionals or paraprofessionals with appropriate expertise in behavioral health or mental health crisis response. “Other certified or credentialed individuals” allows for flexibility in team make-up.
One commentor asked if IOP approved providers are required to run both substance use disorder (SUD) and mental health (MH) IOP program services.	It is not a requirement for IOP providers to operate both SUD and MH IOP program services. Although IOP providers must have the capacity to address co-occurring disorders.
Two commenters suggested HCA clarify the language change from service plan to treatment plan.	Language was adjusted to align across programs and reduce duplication. Treatment plan may be interpreted to include service plan where appropriate.
One commentor supports elimination of the list of provider types whose diagnoses of autism spectrum disorder (ASD) will be accepted and replace it with authorization to accept diagnoses from licensed practitioners whose scope of practice allows them to render such a diagnosis.	Thank you for your comment.
One commentor asked if the restriction of Behavioral Management Skills (BMS) services through the Medicaid School-Based Services (MSBS) program is intended to mean that BMS is part of the service package covered by the Centennial Care/Turquoise Care MCOs rather than through the school-based	This restriction identifies only that BMS is not a covered service as part of the MSBS program. BMS is Medicaid reimbursable outside of MSBS.

service program or if they are not covered by Medicaid at all when provided in schools.	
One commenter requested clarification of IOP eligibility requirements stating that while the rule requires a diagnosis for IOP services there is also a provision for court mandated services. Commenter states there is a conflict in these requirements.	HCA will continue to work with MCOs, Courts, and Providers to provide support through clinical reasoning and quality improvement efforts.

**VI. RULE**

These amendments will be contained in 8.321.2 NMAC. The final register and rule language is available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/providers/rules-nm-administrative-code/>. If you do not have internet access, a copy of the final register and rule may be requested by contacting the Medical Assistance Division at (505) 827-1337.

**VII. EFFECTIVE DATE**

This rule will have an effective date of December 1, 2024.

**VIII. PUBLICATION**

Publication of this rule is approved by:

DocuSigned by:



11/5/2024

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KARI ARMIJO, SECRETARY

HEALTH CARE AUTHORITY