



State of New Mexico
Medical Assistance Program Manual
Supplement



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TO: PHARMACISTS AND PRESCRIBERS

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SUBJECT: ENACTING THE END-OF-LIFE OPTIONS ACT, MEDICAL AID IN DYING BILLING AND GUIDANCE

The New Mexico Human Services Department, Medical Assistance Division (HSD/MAD) is issuing this Supplement to implement House Bill (HB) 47 The End-of-Life Options Act in reimbursement for Medical Aid in Dying (MAID) medication by delivering medical and pharmacy services for Medicaid eligible individuals.

Medical Aid in Dying is in New Mexico Law passed through HB 47 that permits terminally ill adult qualified individuals with the capacity to make medical decisions to be prescribed an aid-in-dying medication. The qualified individual may self-administer that medication to bring about a peaceful death. Beginning 6/1/2023 HSD/MAD will reimburse for the prescribed aid-in-in dying compounded medication billed directly through Fee for Service (FFS) Medicaid.

Qualified Individual Eligibility

Medicaid qualified individuals must, at minimum, meet all the following criteria:

- Be 18 years of age or older;
- Have the capacity to make medical decisions;
- Have a diagnosis from an attending physician of an incurable and irreversible disease which will, within reasonable medical judgment, result in death within six months; and
- Voluntarily request Medical Aid in Dying with the ability to self-administer the compounded medication.

Note: Recipients who elect hospice care and meet the criteria above are also eligible for end-of-life services.

Medical Aid in Dying Providers

Providers are not required to participate in the program. Participation is voluntary. The Act contains requirements for the following providers:

- **Prescribing health care provider:** Provider who writes the prescription. May be a Medical Doctor, Doctor of Osteopathic Medicine, Advanced Practice Nurse, or Physician Assistant.
- **Consulting Physician:** Provider who gives second opinion and confirms that the member is eligible for Medical Aid in Dying. This person must be the hospice physician or a physician who has experience with the underlying condition rendering the qualified individual terminally ill. Must be a Medical Doctor or Doctor of Osteopathy.
- **Mental health specialists:** Psychiatrists, Psychologists, Master of Social Work, Psychiatric Nurse Practitioners, and Professional Clinical Mental Health Counselors who, at the request of the prescribing or consulting provider, help to determine whether the individual has the capacity to make medical decisions, act voluntarily and make an informed decision about Medical Aid in Dying.
- **Pharmacists:** Pharmacists who compound and dispense prescribed end of life medications.
- **Clinics:** Rural Health Clinics (RHCs), Federally Qualified Health Centers (FQHCs), Indian Health Services Memorandum of Agreement (IHS/MOA) 638 clinics and standard outpatient clinics that render services similar to the preceding, but in a clinic setting.

Current Covered Services

The following end of life services are covered, normal billing, as appropriate:

- Provider visits in which the individual makes an oral and/or written request to the prescribing provider for MAID medications. See “Office Visits.”
- Office visits where prescriber evaluates that member is eligible for MAID (see prescribing provider responsibilities for more details)
- Office visit with a consulting provider to confirm that the member a) has capacity, b) has a terminal illness and c) has the ability to self-administer the medication.
- Compounded medication prescribed in accordance with MAID for a qualifying patient.

Billing Guidance

The following end of life services are covered, as appropriate:

Office Visits

The following office visits are reimbursable through normal billing when performed by a Medicaid-enrolled licensed provider (Medical Doctor, Doctor of Osteopathy, Advanced Practice Nurse, Physician Assistant):

- At least two visits, one with the prescribing provider and another with the consulting provider including the following:
 - Evaluation of the member and confirmation that they have a terminal illness with a prognosis of less than 6 months.
 - Verification that member has capacity to request MAID medications.
 - Confirmation that member will be self-administering the compounded medication.
 - The prescribing provider prescribes medications, consistent with the requirements of the Act.

Note: More than one of the preceding actions rendered by the prescribing provider may be provided during the same visit. For example, both the request and prescription may occur at the visit. Additional visits for discussion or counseling related to the Act are also covered.

- One visit with a consulting physician to confirm the terminal diagnosis and life expectancy of six months or less.
- Up to two visits with a Medicaid enrolled psychiatrist or licensed psychologist for a mental health assessment to determine if the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental health disorder.

Prescribing Provider Responsibilities

Prescribing providers must perform all of the following:

- Prior to prescribing aid-in-dying medications, make an initial determination of all the following:
 - Whether the individual has a terminal disease that will result in death in six months or less.
 - Whether the individual has the capacity to make medical decisions. If there are indications of an uncontrolled mental disorder, refer the individual for a mental health assessment. If a mental health specialist assessment referral is made, no aid-in-dying medications may be prescribed until the mental health specialist determines the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder or intellectual disability.
 - Whether the individual has voluntarily made the request for the aid-in-dying medications.
 - Whether the individual has the physical ability to self-administer the aid-in-dying medications.
- Confirm that the individual is making an informed decision by discussing all of the following:
 - Medical diagnosis and prognosis.
 - Potential risks associated with ingesting the requested aid-in-dying medications.
 - Probable result of ingesting the aid-in-dying medications.
 - Option of obtaining the aid-in-dying medications but not taking them.
 - Feasible alternatives or additional treatment options, including but not limited to:
 - Hospice care
 - Palliative care
 - Pain control
- Refer the individual to a consulting physician for medical confirmation of the terminal diagnosis and life expectancy of six months or less and for a determination that the individual is mentally competent to make medical decisions.
- Counsel the individual about the importance of all of the following:
 - Having another person present when they ingest the aid-in-dying medications.
 - Not ingesting the aid-in-dying drugs in a public place.
 - Notifying the next of kin of their request for the aid-in-dying medications. The end-of-life request cannot be denied if an individual declines to notify or is unable to notify next of kin.
 - Participating in a hospice program if patient desires. Enrollment in a hospice program is not necessary for utilization of MAID services
 - Maintaining the aid-in-dying medications in a safe and secure location until the time the individual will self-administer the medications.
- The prescribing clinician also must:
 - Inform the individual that they may withdraw or rescind the request for the aid-in-dying medications at any time and in any manner.
 - Provided the individual and ensure the individual has given written consent/Attestation for the aid-in-dying medications by ensuring completion of the Consent/Attestation as specified in HB 47. This form must be kept in the individual's health record.
 - Confirm that all requirements are met, and all appropriate steps are carried out in accordance with the Act before writing a prescription for aid-in-dying drugs.
- The attending physician must report the following data to Department of Health related to the individuals who received prescriptions for aid-in-dying drugs:

- The individual’s age at death
- The individual’s race and ethnicity
- The individual’s gender
- Whether the individual was enrolled in a hospice at the time of death
- The individuals underlying medical condition; and
- The date that the individual self-administered the MAID medication

Pharmacy Billing Guidance:

All pharmacy claims are to be billed directly to the New Mexico Fee for Service PBM Conduit, not MCO Pharmacy Benefit Managers.

A prescription for MAID medication shall:

- A. Not be filled until forty-eight hours after the prescription for MAID medication has been written, unless the qualified individual's prescribing health care provider has medically confirmed that the qualified individual may, within reasonable medical judgment, die before the expiration of the waiting period identified herein, in which case, the prescription may be filled once the prescribing health care provider affirms that all requirements have been fulfilled pursuant to Section 3 of the Elizabeth Whitefield End-of-Life Options Act; and
- B. Indicate the date and time that the prescription for MAID medication was written and indicate the first allowable date and time when it may be filled.

Medicaid FFS may be billed for a MAID prescription only when the attending physician has obtained the individual’s written consent and properly notified (by personal delivery, mail or electronically) the dispensing pharmacy and/or pharmacist, prior to dispensing of the actual prescription, that the prescription will be used for services under the End-of Life Options Act.

A prescription used for MAID shall be compounded by a certified compounding pharmacy utilizing designated bulk powders. Compounding shall not take place from crushed tablets or opened capsules. Compounding pharmacists are encouraged to follow compounding recommendations from the American Clinicians Academy on Medical Aid in Dying. www.ACAMAID.org

The following bulk compounding powders are covered for MAID prescriptions:

- Digitalis
- Diazepam
- Morphine
- Amitriptyline
- Phenobarbital

All MAID claims for patients with Medicaid coverage are to be electronically adjudicated directly to Conduit, the Fee for Service Pharmacy Benefit Manager, utilizing the member’s ID number. MAID Claims are *not* billed to Medicare, Managed Care Organizations, or commercial health plans.

MAID claim shall be submitted as a compound with the following fields:

Field Number	NCPDP Field Name	Value
412-DC	DISPENSING FEE SUBMITTED	

423-DN	BASIS OF COST DETERMINATION	
42Ø-DK	SUBMISSION CLARIFICATION CODE	99
447-EC	COMPOUND INGREDIENT COMPONENT COUNT	
448-ED	COMPOUND INGREDIENT QUANTITY	
449-EE	COMPOUND INGREDIENT DRUG COST	
451-EG	COMPOUND DISPENSING UNIT FORM INDICATOR	
45Ø-EF	COMPOUND DOSAGE FORM DESCRIPTION CODE	
479-H8	OTHER AMOUNT CLAIMED SUBMITTED QUALIFIER	
488-RE	COMPOUND PRODUCT ID QUALIFIER	
489-TE	COMPOUND PRODUCT ID	NPI
49Ø-UE	COMPOUND INGRED BASIS OF COST DETERMINATION	
4Ø5-D5	DAYS SUPPLY	
4Ø6-D6	COMPOUND CODE	2
4Ø7-D7	PRODUCT/SERVICE ID	NDC
4Ø9-D9	INGREDIENT COST SUBMITTED	
995-E2	ROUTE OF ADMINISTRATION	

Any problems in adjudicating MAID prescriptions should be directed to the Conduent Pharmacy Helpdesk at 1-800-365-4944, Option 3 to notify appropriate staff to assist with claim adjudication.

Please contact the Medical Assistance Division at MADInfo.HSD@state.nm.us if you have any questions regarding this supplement.