



HEALTH CARE
AUTHORITY

Michelle Lujan Grisham, Governor
Kari Armijo, Cabinet Secretary
Dana Flannery, Medicaid Director

June 24, 2024

RE: Tribal Notification to Request Advice and Comments Letter 24-12: Proposed Amendments to 8.321.2 NMAC, *Specialized Behavioral Health Provider Enrollment and Reimbursement*.

Dear Tribal Leadership, Indian Health Service, Tribal Health Providers, and Other Interested Parties:

Seeking advice and comments from New Mexico’s Indian Nations, Tribes, Pueblos and their health care providers is an important component of the government-to-government relationship with the State of New Mexico. In accordance with the New Mexico Human Services Department’s (HSD’s) Tribal Notification to Request Advice and Comments process, this letter is to inform you that HSD, through the Medical Assistance Division (MAD), is accepting written comments until **5:00 p.m., Mountain Time (MT) on July 26, 2024** regarding proposed amendments to the following New Mexico Administrative Code (NMAC) rule 8.321.2, *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: Proposed as December 1, 2024

Technical Citations: CFR 42 Part 8

The Department is proposing to amend the rule as follows:

Throughout the rule:

1. Language is updated to change Human Services Department (HSD) to Health Care Authority (HCA).
2. Language is updated to remove the term “abuse” and replace with “use”.
3. Language is updated to reflect that providers and practitioners render services within their respective practice board’s scope of practice or licensing agency’s requirements.
4. Language and acronyms updated and standardized with other New Mexico Medicaid programs and federal regulation.
5. Several sections have been renumbered due to new sections being added into the NMAC.
6. Throughout the document “service” was changed to “treatment”.

Section 8

This section is updated to add the new Health Care Authority mission statement.

Section 9

This section is updated to add occupational therapists as allowable practitioners when they are facilitating occupational performance and managing an individual's mental health functioning and performance.

Section 10

Subsection A – is updated to clarify eligible facility requirements including provision of medication assisted treatment (MAT) services; practitioner training; caregiver screening; and licensing requirements.

Section 11

This new section is added to define requirements for Adult Accredited Residential Treatment centers for individuals with serious mental health conditions.

Section 13

Subsection B – is updated to clarify that a presumption diagnosis of autism spectrum disorder (ASD) may be provided by a licensed practitioner who's scope of practice allows them to render a diagnosis of ASD.

Section 19

Subsection A – is updated to clarify minimum staff and supervisor qualifications. Peer support specific requirements are removed from this section and added to 8.321.2.42 NMAC.

Section 20

This section is updated to include crisis intervention services approved in State Plan Amendment (SPA) NM 23-0006 to include community-based mobile crisis services and mobile response and stabilization services (MRSS).

Subsection A – is updated to define community-based mobile crisis services and MRSS program requirements.

Subsection B – is updated to define community-based mobile crisis services and MRSS provider and practitioner requirements.

Subsection C – is updated to define community-based mobile crisis services and MRSS covered services.

Section 21

This section is updated to allow involuntary admissions to a Crisis Triage Center (CTC) for individuals who have been determined to be a danger to themselves or others.

Subsection C – is updated to allow the requirement for an available charge nurse to be on duty at all times of operation to be met via access to a supervising nurse who is available via telehealth.

Section 26

This section is updated to clarify the Intensive Outpatient Program (IOP) for substance use disorder (SUD) provider application process.

Subsection A – is updated to clarify staff and practitioner requirements.

Subsection B – is updated to include the requirement for care coordination.

Subsection C – is updated to define the amount and intensity of service.

Section 27

This section is updated to clarify the Intensive Outpatient Program (IOP) for mental health conditions provider application process.

Subsection A – is updated to clarify staff and practitioner requirements.

Subsection B – is updated to include the requirement for care coordination.

Subsection C – is updated to define covered services and the amount and intensity of services.

Section 28

This section is updated to align with 42 CFR Part 8.

Subsection A - language is updated to reflect practitioner requirement to complete the drug enforcement agency (DEA) approved training to prescribe buprenorphine.

Section 29

This section is amended to include Multisystemic Therapy Problem Sexual Behavior (MST-PSB).

Subsection A – is updated to clarify the licensure requirements for MST and MST-PSB providers.

Subsection C – is updated to clarify that MST is provided in the community and that services provided to family members or other supports must be for the direct benefit of the Medicaid recipient.

Section 31

This section is updated to align with 42 CFR Part 8.

Subsection C - is amended to reflect current policies and procedures that reflect special needs and priority for treatment of recipients with opioid use disorder.

Subsection D – is amended to include requirements for mandatory laboratory tests; the allowance for medication unites; and define requirements for take home medications in alignment with 42 CFR Part 8.

Section 33

This section is updated to define Psychosocial Rehabilitation Services (PSR) agency requirements to have provided a minimum of three years of Comprehensive Community Support Services (CCSS) and complete the application process as described in the Behavioral Health Policy and Billing Manual.

Section 35

Subsection A – provider and practitioner requirements are updated to reflect that allowed practitioners must work within the defined physical health and primary care agency types.

Section 39

This section is added to define program and practitioner requirements for therapeutic intervention services as approved in SPA NM 23-0006. Therapeutic intervention services include: Trauma-Focused Cognitive Behavioral Therapy (TF-CBT), Eye Movement Desensitization and Reprocessing (EMDR), and Dialectical Behavior Therapy (DBT).

Section 40

This section is added to define program and practitioner requirements for Functional Family Therapy (FFT) as approved in SPA NM 23-0006.

Section 41

This section is added to define program and provider requirements for High Fidelity Wraparound (HFW) as approved in Amendment 2 to New Mexico's 1115(c) waiver.

Section 42

This section is added to define program and practitioner requirements for peer support services in alignment with the New Mexico Medicaid State Plan.

Estimated Total Financial Impact

HSD anticipates no financial impact as a result of changes to NMAC 8.321.2.

Tribal Impact

HSD anticipates changes to the NMAC 8.321.2 will allow providers, serving tribal members, to access pertinent billing and policy information in a clear and accessible format.

Tribal Advice and Comments

Tribes and tribal healthcare providers may view the proposed NMAC rules on the HSD webpage at: <https://www.hsd.state.nm.us/providers/written-tribal-consultations/>. *Notification Letter 24-12*.

A written copy of these documents may be requested by contacting the HSD Medical Assistance Division (HSD/MAD) in Santa Fe at (505) 827-1337.

Important Dates

A public hearing to receive testimony on this proposed rule will be held in person at the **Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505** and via Zoom on **July 26, 2024, at 9:00 a.m.**

Join Zoom Meeting

<https://us02web.zoom.us/j/9182801909?pwd=YXZrNTV0M3MrUUFudUNVMGxlUkMvZz09&omn=86012989805>

Meeting ID: 918 280 1909

Passcode: y2CwhJ

Written advice and comments must be received no later than 5:00 p.m. MT on July 26, 2024.

Please send your advice, comments or questions to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email to theresa.belanger@hsd.nm.gov.

All comments and responses will be compiled and made available after August 23, 2024.

Sincerely,



Dana Flannery, Medicaid Director
Medical Assistance Division