

NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.321.2 NMAC, *Specialized Behavioral Health Provider Enrollment and Reimbursement* to align with CFR 42 part 8, and the implementation of the new Evidence Based Practices Programs.

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. Language and acronyms updated and standardized with other New Mexico Medicaid programs and federal regulation.
4. Several sections have been renumbered due to new sections being added into the NMAC.

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; licensing requirements; and to add family notification 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 12

Subsection A - is updated to add eligible facility requirements for family notification.

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 30

Subsection A - is updated to add eligible facility requirements for family notification.

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.

These proposed rule changes will be contained in 8.321.2 NMAC. The register and the proposed rule are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/2024-comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

The Department proposes to implement this rule effective December 1, 2024.

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

Join Zoom Meeting

<https://us02web.zoom.us/j/9182801909?pwd=YXZrNTV0M3MrUUUudUNVMGxIUkMvZz09&omn=86012989805>

Meeting ID: 918 280 1909

Passcode: y2CwhJ

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

Interested persons may address written comments to:

Human Services Department
Office of the Secretary
ATTN: Medical Assistance Division Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: HSD-madrules@hsd.nm.gov. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on July 26, 2024. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/2024-comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.