

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 325    SPECIALTY SERVICES**  
**PART 10         EMERGENCY MEDICAL SERVICES FOR NON-CITIZENS**

**8.325.10.1        ISSUING AGENCY:** New Mexico Human Services Department (HSD).  
[2/1/1995; 8.325.10.1 NMAC - Rn, 8 NMAC 4.MAD.000.1, 12/1/2003; A, 10/15/2008]

**8.325.10.2        SCOPE:** The rule applies to the general public.  
[2/1/1995; 8.325.10.2 NMAC - Rn, 8 NMAC 4.MAD.000.2, 12/1/2003]

**8.325.10.3        STATUTORY AUTHORITY:** The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under the Social Security Act as amended or by state statute. See Section 27-2-12 *et seq.* NMSA 1978.  
[2/1/1995; 8.325.10.3 NMAC - Rn, 8 NMAC 4.MAD.000.3, 12/1/2003; A, 10/15/2008; A, 11/15/2010]

**8.325.10.4        DURATION:** Permanent.  
[2/1/1995; 8.325.10.4 NMAC - Rn, 8 NMAC 4.MAD.000.4, 12/1/2003]

**8.325.10.5        EFFECTIVE DATE:** February 1, 1995, unless a later date is cited at the end of a section.  
[2/1/1995; 8.325.10.5 NMAC - Rn, 8 NMAC 4.MAD.000.5, 12/1/2003; A, 10/15/2008]

**8.325.10.6        OBJECTIVE:** The objective of these rules is to provide instructions for the service portion of the New Mexico medical assistance programs.  
[2/1/1995; 8.325.10.6 NMAC - Rn, 8 NMAC 4.MAD.000.6, 12/1/2003; A, 10/15/2008]

**8.325.10.7        DEFINITIONS:** [RESERVED]

**8.325.10.8        MISSION STATEMENT:** To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.  
[2/1/1995; 8.325.10.8 NMAC - Rn, 8 NMAC 4.MAD.002, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

**8.325.10.9        EMERGENCY MEDICAL SERVICES FOR NON-CITIZENS (EMSNC):** The New Mexico medical assistance division (MAD) is required to pay for necessary emergency medical services furnished to individuals who are non-citizens, reside in New Mexico and meet the requirements for medicaid eligibility per 42 CFR 440.255(c).  
[2/1/1995; 8.325.10.9 NMAC - Rn, 8 NMAC 4.MAD.769, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020; A, 1/1/2022]

**8.325.10.10       ELIGIBLE PROVIDERS:** Health care to eligible recipients is furnished by a variety of providers and provider groups. The reimbursement and billing for these services is administered by MAD. Upon approval of a New Mexico MAD provider participation agreement by MAD or its designee, licensed practitioners, facilities and other providers of services that meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider must be enrolled before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review instructions, and other pertinent materials. When enrolled, a provider receives instruction on how to access these documents. It is the provider's responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider must contact HSD or its authorized agents obtain answers to questions related to the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD provider participation agreement and all applicable statutes, regulations, and executive orders. MAD or its selected claims processing contractor issues payments to a provider using electronic funds transfer (EFT) only.  
[2/1/1995; 8.325.10.10 NMAC - Rn, 8 NMAC 4.MAD.769.1, 12/1/2003; A, 10/15/2008; A, 11/15/2010]

**8.325.10.11 PROVIDER RESPONSIBILITIES:**

**A.** A provider who furnishes services to a medicaid or other health care program eligible recipient must comply with all federal and state laws, regulations, and executive orders relevant to the provision of services as specified in the MAD provider participation agreement. A provider also must conform to MAD program rules and instructions as specified in the provider rules manual and its appendices, and program directions and billing instructions, as updated. A provider is also responsible for following coding manual guidelines and CMS correct coding initiatives, including not improperly unbundling or upcoding services. When services are billed to and paid by a coordinated services contractor authorized by HSD, the provider must follow that contractor’s instructions for billing and for authorization of services.

**B.** A provider may encourage a non-citizen to apply for EMSNC eligibility through the local county income support division (ISD) office when the provider believes the service may qualify as an EMSNC emergency service. A provider must inform the individual if the provider is unwilling to receive medicaid payment for the service when the service meets the EMSNC emergency criteria for coverage. A provider must determine if the recipient has other health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to a non-citizen recipient.

[2/1/1995; 8.325.10.11 NMAC - Rn, 8 NMAC 4.MAD.769.2 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020; A, 1/1/2022]

**8.325.10.12 ELIGIBLE INDIVIDUALS:**

**A.** An applicant must be a noncitizen who is undocumented or who does not meet the qualifying immigration criteria specified in 8.200.410 NMAC, *General Recipient Requirements*, and in 8.285.400 NMAC, *Medicaid Eligibility-Emergency Medical Services for Non-Citizens - Category 085*.

**B.** Eligibility determinations are made by local county income support division (ISD) offices after the receipt of emergency services. The individual is responsible for completing an application through the local county ISD office and for providing all necessary documentation to prove that he or she meets the applicable eligibility criteria.

(1) An individual must apply for coverage through the ISD office no later than the last day of the third month following the month in which the presumed emergency services were received.

(2) If eligibility is granted or denied, the medical provider will be notified with a decision for EMSNC form, MAD 778 or its successor.

(3) If an application is denied or an application for coverage is not filed by the last day of the third month following the month in which the presumed emergency services were received, the non-citizen recipient is responsible for payment of the provider bill.

(4) If reimbursement for services is denied by MAD or its designee, the non-citizen is responsible for payment and can be billed directly for payment by the provider.

[2/1/1995; 8.325.10.12 NMAC - Rn, 8 NMAC 4.MAD.769.3 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020; A, 1/1/2022]

**8.325.10.13 COVERAGE CRITERIA:**

**A.** “Emergency” as defined for EMSNC includes labor and delivery including inductions and cesarean sections, as well as any other medical condition, manifesting itself with acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (1) the recipient’s death;
- (2) placing the recipient’s health in serious jeopardy;
- (3) serious impairment to bodily functions; or
- (4) serious dysfunction of any bodily organ or part.

**B.** Services are covered only when necessary to treat or evaluate a condition meeting the definition of emergency and are covered only for the duration of that emergency.

**C.** Labor and delivery services provided by an out of state border hospital or emergency transfers from an in state acute care hospital to a border acute care hospital are covered. The out of state border provider must be enrolled with the New Mexico medicaid program.

**D.** After delivery, a child can have legally documented or citizenship status because of its birth in the United States and, therefore, is not eligible for EMSNC. The child may be eligible for another MAD category of eligibility on his or her own.

**E.** Determination of coverage is made by MAD or its designee.

[2/1/1995; 8.325.10.13 NMAC - Rn, 8 NMAC 4.MAD.769.4 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020; A, 1/1/2022]

**8.325.10.14 RESIDENCE:** To meet the categorical eligibility requirements, a recipient who is a non-citizen must be a resident of the state of New Mexico in accordance with 8.200.410.14 and 8.291.410.15 NMAC.

[2/1/1995; 8.325.10.14 NMAC - Rn, 8 NMAC 4.MAD.769.5, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020]

**8.325.10.15 NONCOVERED SERVICES:** MAD does not cover any medical service that is not necessary to treat or evaluate a condition for an individual who is a non-citizen that does not meet the definition of EMSNC emergency. Additionally, MAD does not cover the following specific services:

- A. long term care;
- B. organ transplants;
- C. rehabilitation services;
- D. elective surgical procedures;
- E. psychiatric or psychological services;
- F. durable medical equipment or supplies;
- G. eyeglasses;
- H. hearing aids;
- I. outpatient prescriptions;
- J. podiatry services;
- K. prenatal and postpartum care;
- L. well child care;
- M. routine dental care;
- N. routine dialysis services;
- O. any medical service furnished by an out-of-state provider;
- P. non-emergency transportation; and
- Q. preventive care.

[2/1/1995; 8.325.10.15 NMAC - Rn, 8 NMAC 4.MAD.769.6 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020; A, 1/1/2022]

**8.325.10.16 UTILIZATION REVIEW:** Claims for services furnished to a non-citizen recipient are reviewed by MAD or its designee before payment to determine if the circumstances warrant coverage.

**A. Eligibility determination:** A non-citizen recipient who requests MAD coverage for services must meet specific categorical eligibility requirements. Eligibility determinations by local county ISD offices must be made before the review for medical necessity.

**B. Reconsideration:** A provider and the non-citizen recipient are given notice of the denial when the EMSNC emergency criteria are not met. A provider who is dissatisfied with a medical necessity decision by MAD, its UR contractor or a MAD designee, can request a reconsideration. A non-citizen recipient who is dissatisfied with a medical necessity decision by MAD, its UR contractor or a MAD designee, can request the provider to pursue reconsideration on his or her behalf. Requests for reconsiderations must be in writing and received by MAD, its UR contractor or a MAD designee within 30 calendar days after the date on the initial notice of action. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions*. A non-citizen recipient can also request a hearing. See 8.352.2 NMAC, *Claimant Hearings*.

[2/1/1995; 8.325.10.16 NMAC - Rn, 8 NMAC 4.MAD.769.7 & A, 12/1/2003; A, 10/15/2008; A, 11/15/2010; A, 5/1/2020; A, 1/1/2022]

**8.325.10.17 REIMBURSEMENT:** Reimbursement is made according to the rules applicable to the provider rendering the service.

[2/1/1995; 8.325.10.17 NMAC - Rn, 8 NMAC 4.MAD.769.8, 12/1/2003; A, 10/15/2008]

**HISTORY OF 8.325.10 NMAC: [RESERVED]**