

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

8.325.10.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.325.10.1 NMAC - Rp 8.325.10.1 NMAC, 7/1/2024]

8.325.10.2 SCOPE: The rule applies to the general public.
[8.325.10.2 NMAC - Rp 8.325.10.2 NMAC, 7/1/2024]

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. Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (HCA) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.325.10.3 NMAC - Rp 8.325.10.3 NMAC, 7/1/2024]

8.325.10.4 DURATION: Permanent.
[8.325.10.4 NMAC - Rp 8.325.10.4 NMAC, 7/1/2024]

8.325.10.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[8.325.10.5 NMAC - Rp 8.325.10.5 NMAC, 7/1/2024]

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.
[8.325.10.6 NMAC - Rp 8.325.10.6 NMAC, 7/1/2024]

8.325.10.7 DEFINITIONS: [RESERVED]

8.325.10.8 MISSION STATEMENT: To reduce the impact of poverty on people living in New Mexico and to assure low income and individuals with disabilities in New Mexico equal participation in the life of their communities.
[8.325.10.8 NMAC - Rp 8.325.10.8 NMAC, 7/1/2024]

8.325.10.9 EMERGENCY MEDICAL SERVICES FOR NON-CITIZENS: The New Mexico 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 MAD eligibility 42 CFR 440.255(c).
[8.325.10.9 NMAC - Rp 8.325.10.9 NMAC, 7/1/2024]

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 HCA/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HCA 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 HCA 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.
[8.325.10.10 NMAC - Rp 8.325.10.10 NMAC, 7/1/2024]

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 HCA, the provider must follow that contractor's instructions for billing and for authorization of services.

B. A provider may encourage an individual to apply for emergency medical services for non-citizens (EMSA) eligibility at a county office when the provider believes the service may qualify as an EMSA 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 EMSA 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.

[8.325.10.11 NMAC - Rp 8.325.10.11 NMAC, 7/1/2024]

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 at the local county ISD office and for providing all necessary documentation to prove that they meet the applicable eligibility criteria.

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

(2) A non-citizen recipient is responsible for notifying providers of the approval or denial of an application.

(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 alleged 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, the individual is responsible for payment and can be billed directly for payment by the provider.

[8.325.10.12 NMAC - Rp 8.325.10.12 NMAC, 7/1/2024]

8.325.10.13 COVERAGE CRITERIA:

A. "Emergency" as defined for EMSA includes labor and delivery including inductions and cesarean sections, as well as any other medical condition, manifesting itself with acute symptoms of sufficient severity such that the absence of immediate emergency medical attention could reasonably be expected to result in one of the following:

- (1) the non-citizen recipient's death;
- (2) placement of the non-citizen recipient's health in serious jeopardy;
- (3) serious impairment of 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. 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 emergency services for non-citizens. The child may be eligible for another MAD category of eligibility on their own.

D. Determination of coverage is made by MAD or its designee.

[8.325.10.13 NMAC - Rp 8.325.10.13 NMAC, 7/1/2024]

8.325.10.14 SERVICE LIMITATIONS: To meet the categorical eligibility requirements, a recipient who is a non-citizen must be a resident of the state of New Mexico. Proof of residence must be furnished by the non-citizen to the local county ISD office. An individual traveling through New Mexico, entering the United States

through New Mexico en route to another destination, visiting in New Mexico or touring New Mexico with a tourist visa does not meet the residence requirement.

[8.325.10.14 NMAC - Rp 8.325.10.14 NMAC, 7/1/2024]

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 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.

[8.325.10.15 NMAC - Rp 8.325.10.15 NMAC, 7/1/2024]

8.325.10.16 UTILIZATION REVIEW: Claims for services to a recipient who is a non-citizen 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 are given notice of the denial when the EMSA emergency criteria are not met. A non-citizen recipient can request a re-review and reconsideration of denied coverage of the service. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions*. A non-citizen recipient can also request a hearing. See 8.52.2 NMAC, *Recipient Hearings*.

[8.325.10.16 NMAC - Rp 8.325.10.16 NMAC, 7/1/2024]

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

[8.325.10.17 NMAC - Rp 8.325.10.17 NMAC, 7/1/2024]

HISTORY OF 8.325.10 NMAC: [RESERVED]

History of Repealed Material:

8.325.10 NMAC, Emergency Medical Services For Aliens, filed 11/14/2003 - Repealed effective 7/1/2024.

Other: 8.325.10 NMAC, Emergency Medical Services For Aliens, filed 11/14/2003 Replaced by 8.325.10 NMAC, Emergency Medical Services For Aliens, effective 7/1/2024.