

This rule was filed as 13 NMAC 10.6.

TITLE 13 INSURANCE
CHAPTER 10 HEALTH INSURANCE
PART 6 PREPAID DENTAL PLANS

13.10.6.1 ISSUING AGENCY: New Mexico State Corporation Commission [Public Regulation Commission], Department of Insurance, Post Office Box 1269, Santa Fe, NM 87504-1269.
[7/1/97; Recompiled 11/30/01]

13.10.6.2 SCOPE:
A. This rule applies to all prepaid dental organizations in the state of New Mexico.
B. The health services division may issue further rules in areas of its responsibilities from time to time and those rules must be considered when interpreting this rule.
[11/20/79; Recompiled 11/30/01]

13.10.6.3 STATUTORY AUTHORITY: Sections 59A-2-9 NMSA 1978.
[7/1/97; Recompiled 11/30/01]

13.10.6.4 DURATION: Permanent.
[7/1/97; Recompiled 11/30/01]

13.10.6.5 EFFECTIVE DATE: November 20, 1979, unless a later date is cited at the end of a section or paragraph. Repromulgated in NMAC format effective July 1, 1997.
[7/1/97; Recompiled 11/30/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

13.10.6.6 OBJECTIVE: The purpose of this rule is to specify the requirements for prepaid dental organizations in accordance with the Prepaid Dental Plan Law, Section 59A-48-1 NMSA 1978 et seq.
[7/1/97; Recompiled 11/30/01]

13.10.6.7 DEFINITIONS: For the purpose of this rule:
A. “**Agent**” means a person appointed by a prepaid dental plan to transact business in this state to act as its representative in any given locality for the purpose of soliciting members to be enrolled by contract providing dental care.
B. “**Director of the health services division**” means the chief officer of the health services division of the department of health of the state of New Mexico.
[11/20/79; Recompiled 11/30/01]

13.10.6.8 LICENSING OF PREPAID DENTAL PLANS: For the protection of the public in New Mexico, the superintendent will issue, renew and permit to exist any prepaid dental plan to enroll members in a group to provide a prepaid dental plan in compliance with the provisions of Section 59A-48-1 NMSA 1978 et seq., with respect to the requirements in this rule.
[11/20/79; Recompiled 11/30/01]

13.10.6.9 GENERAL REQUIREMENTS AND COMPLIANCE:
A. Where this rule requires a prepaid dental plan to have policies, procedures, plans, class specification, orders, reports, minutes of meetings, contracts, agreements, records, duty schedules, or other such items, such requirement means written documents compiled and indexed in one or more manuals which shall be readily available for examination by the superintendent or the director of the health services division or their representatives.
B. Any prepaid dental plan submitting an application for a certificate of authority to the superintendent shall, at the same time, submit to the director of the health services division a plan of compliance

detailing the manner in which the prepaid dental plan will comply with the requirements of the rules of the department of insurance and the health services division.

C. The prepaid dental plan shall be cleared by the director of the health services division first before it may be approved for a certificate of authority by the superintendent.
[11/20/79; Recompiled 11/30/01]

13.10.6.10 PREPAID DENTAL PLAN CERTIFICATION:

A. The prepaid dental plan shall submit a statement describing its proposed dental care plan, facilities, and personnel to the director of the health services division for certification. The statement shall indicate the manner which the prepaid dental plan will comply with the following requirements:

(1) The prepaid dental plan shall have an organized system for the delivery of those dental care services. The system shall include general dentists, and may include specialists, licensed dental hygienists and other professional and technical personnel. The system shall include a procedure which promotes a continuing relationship to be established between a member and the same general dentist and a procedure for effective referrals to assure continuity of care to members.

(2) The prepaid dental plan shall list (using full-time equivalents for providers) the proposed or actual:

(a) names of members enrolled and whether they have elected dependent coverage;
(b) dentist staffing for the projected enrollment, identifying board of eligibility or certification of each dentist listed when such identification exist; in lieu of such identification all staff dentists will be considered general dentists;

(c) dental support staff by number and type;
(d) provision for providing specialty dental services.

(3) All care provided by the prepaid dental plan whether provided by its own personnel or on a contract basis shall be by licensed practitioners of the healing arts when such licensure is required by law and shall otherwise be in accordance with applicable laws and rules.

(4) Emergency dental services described in 13 NMAC 10.6.11.1 [now Subsection A of 13.10.6.11 NMAC] shall be available for enrolled members on a seven day per week and 24 hours per day basis.

B. Dental services provided on a continuing basis by other than organization employees shall be covered by written service agreements which specify the terms and conditions upon which they will provide any or all of those dental services contained in 13 NMAC 10.6.11 [now 13.10.6.11 NMAC].
[11/20/79; Recompiled 11/30/01]

13.10.6.11 MINIMUM BENEFITS: All plans shall include at least the following basic dental services which shall be covered by the prepaid charges set forth in the evidence of coverage. If other dental services will be available to eligible members on a voluntary basis, they must be listed in the plan. Dental services not included in the plan shall be shown as exclusions.

A. **Emergency services:** Emergency dental services are those necessary to control bleeding, relieve pain, and eliminate acute infection.

B. **Diagnostic services:** Diagnostic dental services are those services necessary to identify dental abnormalities. They shall include but need not be limited to radiographs and clinical examination.

C. **Preventive services:** Preventive dental services shall include but need not be limited to oral prophylaxis, the application of topical fluorides when applicable, and a viable maintenance care recall system accompanied by evidence that this recall system is fully implemented.

D. **Therapeutic services:** Therapeutic services shall include:
(1) pulp therapy for permanent and primary teeth exclusive of root canal therapy,
(2) restoration of carious (decayed) permanent and primary teeth with materials other than cast restorations,
(3) routine tooth extractions.

E. **Out of area care:** In the event a member requires emergency dental services as defined in 13 NMAC 10.6.11.1 [now Subsection A of 13.10.6.11 NMAC] while located outside the geographic area served by the plan and the member pays for such services, reimbursement shall become the responsibility of the dental service provider from which the patient has elected to receive care under the contract.
[11/20/79; Recompiled 11/30/01]

13.10.6.12 GEOGRAPHIC AREA STATEMENT:

A. The prepaid dental plan shall submit a statement which describes the geographic area or areas to be served.

(1) A geographic area should be reasonably contiguous and one within which services offered and provided will be reasonably accessible to members and prospective members.

(2) The organization shall attach a map or maps to the statement on which are indicated the boundaries of the proposed geographic area or areas and the locations of all facilities in which dental care will be provided by contractors to the organization.

(3) All advertising matter and sales material provided to prospective enrollees must include a description on the geographic area or areas in terms readily understandable by the general public.

B. The director of the health services division shall not disapprove any plan on the basis its proposed geographic area includes all or part of any geographic area served or proposed to be served by any other plan.
[11/20/79; Recompiled 11/30/01]

13.10.6.13 CHIEF EXECUTIVE OFFICER OF PREPAID DENTAL PLAN:

A. The prepaid dental plan shall appoint a designated representative who shall have appropriate education and/or experience to qualify him for the management of the organization. The prepaid dental plan shall define in writing, the authority and duties of the chief executive officer. The chief executive officer shall be appointed representative of the prepaid dental plan and shall be the executive officer of the prepaid dental plan. The person shall be responsible for implementation of established policies in the operation of the organization and for providing liaison between prepaid dental plan providers of dental care and providers of other services for the prepaid dental plan. The person shall be in charge of the management of the prepaid dental plan and shall be authorized and empowered to carry out the provisions of this article and shall be charged with the responsibility of doing so. The chief executive officer shall establish in writing a plan indicating the line of authority during periods of his absence.

B. When there is a change of chief executive officer, the prepaid dental plan shall notify the director of the health services division and the superintendent within ten days after the effective date of change.

C. The prepaid dental plan shall require providers to assure that all employees and health practitioners covered by service agreements are adequately knowledgeable and qualified to perform the duties assigned to them through employment or by contract.
[11/20/79; Recompiled 11/30/01]

13.10.6.14 DENTAL DIRECTOR:

A. The prepaid dental plan shall designate a New Mexico licensed dentist as dental director.

B. The dental director shall be responsible for planning and implementing the method for the continuing review and evaluation of dental care provided and the continuing education of the providers of dental services. The dental director may also serve as the chief executive officer provided he has appropriate education and/or experience to qualify him for the management of the organization.

C. The dental director's responsibility shall include, but not be limited to:

(1) supervision including performance planning and evaluation of dental staff.

(2) coordination of activities of dental staff.

(3) development of dental care policies.
[11/20/79; Recompiled 11/30/01]

13.10.6.15 DENTAL RECORDS:

A. The prepaid dental plan shall assure that a unit dental record system capable of readily providing necessary clinical information is maintained.

B. The dental record shall be maintained at the appropriate provider facility in accordance with acceptable professional standards and shall include records covering all symptoms presented, diagnosis made and dental treatment provided to each member of the prepaid dental plan by its provider group(s) during the term of his membership. This requirement applies to all dental services provided to members whether provided by employees of the organization or nonemployees (contractors) at the request of the prepaid dental plan.

C. Dental records shall be confidential and shall not be disclosed except upon release by the patient, subpoena or court order.

D. Pursuant to the requirements of Section 59A-48-1 NMSA 1978 et seq., the dental records of the prepaid dental plan's provider group(s) shall be made available for review by representatives of the health services division or the superintendent. During routine surveys, the health services division or the superintendent or their representatives will review dental records of members of the prepaid dental plan on a random sample basis. On complaint or special investigations, specific dental records will be reviewed. Confidentiality of patient records shall be maintained.

E. If the member discontinues membership in the prepaid dental plan it shall furnish, upon his request, copies of his records. A reasonable charge may be made for these copies based upon the cost of duplicating them.

[11/20/79; Recompiled 11/30/01]

13.10.6.16 QUALITY ASSURANCE:

A. The prepaid dental plan shall provide an effective method for a continuing review and evaluation of the dental care provided to ensure that treatment and level of care were appropriate and adequate, that the quality of dental care provided met with acceptable standards, and that corrective action occurred or will occur if indicated.

B. There shall be a quality assurance committee appointed by the prepaid dental plan consisting of the chief executive officer or his designee, the dental director, practitioners of the dental healing arts, allied health professionals, and consumers who shall be members of the plan. Services performed by practitioners of the dental healing arts shall be reviewed and evaluated by members of this committee and evaluated by colleagues within their disciplines. The committee shall adopt administrative procedures covering frequency of meetings, types of records to be kept, and arrangements for committee reports and their dissemination.

C. The plan shall submit for approval of the director of the health services division a quality assurance plan which shall include procedures to be used for each of the following:

- (1) establishment of standards for dental care at equivalent to those utilized by the professional standards review organization for medicare and medicaid reimbursement;
- (2) surveillance of care provided;
- (3) analysis of problems identified;
- (4) correction of deficiencies including a time schedule for correction of the deficiencies;
- (5) follow-up (periodic reassessment of the plan).

[11/20/79; Recompiled 11/30/01]

HISTORY OF 13.10.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: INS 79-2, Regulations Governing the Licensing of Prepaid Dental Plan Organizations and Agents, filed 10/18/79.

History of Repealed Material: [RESERVED]