

TITLE 8 SOCIAL SERVICES
CHAPTER 309 ALTERNATIVE BENEFIT PROGRAM
PART 4 MAD ADMINISTERED BENEFITS AND LIMITATION OF SERVICES

8.309.4.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.309.4.1 NMAC - N, 1/1/2014; A, 7/1/2024]

8.309.4.2 SCOPE: This rule applies to the general public.
[8.309.4.2 NMAC - N, 1/1/2014]

8.309.4.3 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 Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq. 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.
[8.309.4.3 NMAC - N, 1/1/2014; A, 7/1/2024]

8.309.4.4 DURATION: Permanent.
[8.309.4.4 NMAC - N, 1/1/2014]

8.309.4.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.309.4.5 NMAC - N, 1/1/2014]

8.309.4.6 OBJECTIVE: The objective of this rule is to provide instructions for the service portion of the New Mexico medical assistance division programs.
[8.309.4.6 NMAC - N, 1/1/2014]

8.309.4.7 DEFINITIONS: [RESERVED]

8.309.4.8 MISSION STATEMENT: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.309.4.8 NMAC - N, 1/1/2014]

8.309.4.9 ALTERNATIVE BENEFITS PLAN SERVICES WITH LIMITATIONS (ABP): The medical assistance division (MAD) category of eligibility “other adults” has an alternative benefit plan (ABP). MAD covers ABP specific services for an ABP eligible recipient. Services are made available through MAD under a benefit plan similar to services provided by commercial insurance plans. ABP benefits include preventive services and treatment services. An ABP eligible recipient: (1) has limitations on specific benefits; (2) does not have all standard medicaid state plan benefits available; and (3) has some benefits, primarily preventive services, that are available only to an ABP eligible recipient. All early and periodic screening, diagnosis and treatment (EPSDT) program services are available to an ABP eligible recipient under 21 years. ABP services for an ABP eligible recipient under the age of 21 years not subject to the duration, frequency, and annual or lifetime benefit limitations that are applied to an ABP eligible recipient 21 years of age and older. A MAD ABP provider and ABP eligible recipient have rights and responsibilities as described in chapters 349 through 352 of Title 8 NMAC, Social Services. Long term care in a nursing facility (NF), mi via and community benefits are not available to an ABP eligible recipient.
[8.309.4.9 NMAC - N, 1/1/2014]

8.309.4.10 ALTERNATIVE BENEFITS PLAN GENERAL BENEFITS FOR ABP-EXEMPT ELIGIBLE RECIPIENTS (ABP-exempt): An ABP eligible recipient who self-declares he or she has a qualifying condition is evaluated by the MAD utilization review (UR) contractor for determination of whether he or she meets the qualifying condition. An ABP-exempt eligible recipient may select to no longer utilize his or her ABP benefits package. Instead, the ABP-exempt eligible recipient would then utilize the standard medicaid state plan benefit package. See Section 19 of this rule for detailed descriptions of the standard medicaid state plan benefits. Long term care in a nursing facility (NF), mi via and community benefits are available to an eligible ABP-exempt recipient when all conditions for accessing those services are met.

[8.309.4.10 NMAC - N, 1/1/2014]

8.309.4.11 MAD ABP GENERAL PROGRAM DESCRIPTION: The ABP benefits and services are detailed in Sections 12 through 17 of this rule. The ABP-exempt benefits and services are detailed in Section 19 of this rule.

[8.309.4.11 NMAC - N, 1/1/2014]

8.309.4.12 GENERAL ABP COVERED SERVICES:

A. Ambulatory surgical services: The benefit package includes surgical services rendered in an ambulatory surgical center setting as detailed in 8.324.10 NMAC.

B. Anesthesia services: The benefit package includes anesthesia and monitoring services necessary for the performance of surgical or diagnostic procedures as detailed 8.310.2 NMAC.

C. Audiology services: The benefit package includes audiology services as detailed in 8.310.2 and 8.324.5 NMAC with some limitations. For a ABP eligible recipient 21 years and older, audiology services are limited to hearing testing or screening when part of a routine health exam and are not covered as a separate service. Audiologist services, hearing aids and other aids are not covered for an ABP recipient.

D. ABP eligible recipient transportation: The benefit package covers expenses for transportation, meals, and lodging it determines are necessary to secure MAD covered medical or behavioral health services for an ABP eligible recipient in or out of his or her home community as detailed in 8.310.2 NMAC.

E. Dental Services: The benefit package includes dental services as detailed in 8.310.2 NMAC.

F. Diagnostic imaging and therapeutic radiology services: The benefit package includes medically necessary diagnostic imaging and radiology services as detailed in 8.310.2 NMAC.

G. Dialysis services: The benefit package includes medically necessary dialysis services as detailed in 8.310.2 NMAC. A dialysis provider shall assist an ABP eligible recipient in applying for and pursuing final medicare eligibility determination.

H. Durable medical equipment and medical supplies: The benefit package includes:

(1) durable medical equipment as detailed in 8.310.2 NMAC;

(2) covered prosthetic and orthotic services as detailed in 8.310.2 NMAC and 8.324.5

NMAC; and

(3) medical supplies as detailed in 8.310.2 NMAC with some limitations; for an ABP eligible recipient 21 years of age and older the only medical supplies that are covered:

(a) diabetic supplies, such as reagents, test strips, needles, test tapes, and alcohol

swabs; and

(b) medical supplies that are a necessary component of durable medical equipment, medical supplies applied as part of a treatment in a practitioner's office, outpatient hospital, residential facility, as a home health service and in other similar settings are covered as part of a service (office visit), which are not reimbursed separately; and

(c) family planning supplies.

I. Emergency and non-emergency transportation services: The benefit package includes transportation service such as ground ambulance, or air ambulance in an emergency and when medically necessary, taxicab and handivan, commercial bus, commercial air, meal and lodging services as indicated for medically necessary physical and behavioral health services as detailed in 8.324.7 NMAC. Non-emergency transportation is covered only when an ABP eligible recipient does not have a source of transportation available and when the ABP eligible recipient does not have access to alternative free sources. MAD or its UR contractor shall coordinate efforts when providing transportation services for an ABP eligible recipient requiring physical or behavioral health services.

J. Home health services: The benefit package for an ABP eligible recipient as detailed in 8.325.9 NMAC with some limitations. For an ABP eligible recipient 21 years of age and older, home health services are limited to 100 visits annually that do not exceed four hours-per-visit.

K. Hospice services: The benefit package for an ABP eligible recipient as detailed in 8.325.4 NMAC.

L. Hospital outpatient service: The benefit package includes hospital outpatient services for preventive, diagnostic, therapeutic, rehabilitative or palliative medical or behavioral health services as detailed in 8.311.2 and 8.321.2 NMAC.

M. Inpatient hospital services: The benefit package includes hospital inpatient acute care, procedures and services for the eligible recipient as detailed in 8.311.2 NMAC and inpatient rehabilitation hospitals detailed in 8.311.2 NMAC. Long-term acute care hospitals (extended care hospitals) are covered only as a

temporary step-down level of care (LOC) following the eligible recipient's discharge from a hospital prior to being discharged to home.

N. Laboratory services: The benefit package includes laboratory services provided according to the applicable provisions of Clinical Laboratory Improvement Act (CLIA) as detailed in 8.310.2 NMAC. Additionally, ABP diagnostic testing coverage includes physical measurements and performance testing, such as cardiac stress tests and sleep studies.

O. Physical health services: The benefit package includes primary, primary care in a school-based setting, family planning and specialty physical health services provided by a licensed practitioner performed within the scope of practice; see 8.310.2 and 8.310.3 NMAC. Benefits also include:

(1) an out of hospital birth and other related birthing services performed by a certified nurse midwife or a direct-entry midwife licensed by the state of New Mexico, who is either validly contracted with and fully credentialed by or validly contracted with HSD and participates in MAD birthing options program as detailed in 8.310.2 NMAC; and

(2) bariatric surgery is limited to one per lifetime; meeting additional criteria to assure medical necessity may be required prior to accessing services.

P. Rehabilitation and habilitation services: The benefit package includes rehabilitative and habilitative services as detailed in 8.323.5 NMAC. For an eligible recipient 21 years and older there are service limitations listed below:

(1) cardiac rehabilitation is limited to 36 visits per cardiac event;

(2) pulmonary rehabilitation is limited to short-term therapy as defined in Paragraph (3) below; and

(3) physical and occupational therapies and speech and language pathology:

(a) are short-term therapies that produce significant and demonstrable improvement within the two-month period of the initial date of treatment; and

(b) the short-term therapy may be extended beyond the initial two month period for one additional period of up to two months dependent upon the MAD UR contractor, only if such services can be expected to result in continued significant improvement of the ABP eligible recipient's physical condition within the extension period.

(4) nursing facility (NF) and acute long term care facility stays only as a temporary step-down LOC from a hospital prior to the eligible recipient's discharge to home.

Q. Private duty nursing: For an eligible recipient under 21 years of age, private duty nursing services are covered under EPSDT program. See Section 18 of this rule for a detailed description. For recipients age 21 and older, private duty nursing is only available through the home health benefit. See Subsection J of this section and 8.325.9 NMAC.

R. Tobacco cessation services: The benefit package includes cessation sessions as described in 8.310.2 NMAC but is not limited to EPSDT or pregnant women.

S. Transplant services: The following transplants are covered in the benefit package as long as the indications are not considered experimental or investigational: heart transplants, lung transplants, heart-lung transplants, liver transplants, kidney transplants, autologous bone marrow transplants, allogeneic bone marrow transplants and corneal transplants. For an ABP eligible recipient 21 years or older, there is a lifetime limitation two transplants. See 8.325.6 NMAC for guidance whether MAD has determined if a transplant is experimental or investigational.

T. Vision: The benefit package includes specific vision care services that are medically necessary for the diagnosis of and treatment of eye diseases for an ABP eligible recipient as detailed in 8.310.2 NMAC. All services must be furnished within the scope and practice of the medical professional as defined by state law and in accordance with applicable federal, state and local laws and rules. For an ABP eligible recipient 21 years or older, the service limitations are:

(1) coverage is limited to one routine eye exam in a 36-month period; and

(2) MAD does not cover refraction or eyeglasses other than for aphakia following removal of the lens.

[8.309.4.12 NMAC - N, 1/1/2014; A, 10-15-14]

8.309.4.13 PHARMACY SERVICES: The benefit package includes pharmacy and related services, as detailed in 8.324.4 NMAC.

[8.309.4.13 NMAC - N, 1/1/2014]

8.309.4.14 REPRODUCTIVE HEALTH SERVICES: The benefit package includes reproductive health services as detailed in 8.310.2 NMAC.
[8.309.4.14 NMAC - N, 1/1/2014]

8.309.4.15 PREVENTATIVE PHYSICAL HEALTH SERVICES: The benefit package includes the current national standards for preventive health services including behavioral health preventive services. Standards are derived from several sources, including the United States preventive services task force, the centers for disease control and prevention; and the American college of obstetricians and gynecologists. Unless an ABP eligible recipient refuses and the refusal is documented, MAD shall make available the preventive health services or screens or document that the services (with the results) were provided by other means. The MAD provider shall document medical reasons not to perform these services for an individual ABP eligible recipient. ABP eligible recipient refusal is defined to include refusal to consent to and refusal to access care.

A. Initial assessment: A MAD ABP provider may assist the ABP eligible recipient with inquires to the MAD UR contractor for a NF assessment.

B. Prenatal care and screenings: The benefit package includes prenatal care and related services, as detailed in 8.310.2 NMAC.

C. Preventive medicine and supplements:

(1) An ABP eligible recipient can receive supplements detailed below as medically indicated:
(a) aspirin to prevent cardiovascular disease for a female between the ages of 45 to 79 years when the potential benefit of a reduction of ischemic strokes outweighs the potential harm of an increase in gastrointestinal hemorrhage;

(b) aspirin to prevent cardiovascular disease for a male between the ages of 45 to 79 years when the potential benefit due to a reduction in myocardial infarctions outweighs the potential harm due to an increase in gastrointestinal hemorrhage;

(c) vitamin D supplementation to prevent falls in a community-dwelling for an ABP eligible recipient 65 years of age and older who is at increased risk for falls;

(d) folic acid supplementation for all female ABP eligible recipients who are planning or are capable of pregnancy to take a daily supplement containing 0.4 to 0.8 mg of folic acid;

(e) iron supplementation for all asymptomatic ABP eligible recipients between the ages of six to 12 months who are at increased risk for iron deficiency anemia; and

(f) breast cancer preventive medication, such as chemoprevention, is made available.

(2) The MAD provider will discuss with a female ABP eligible recipient who is at high risk for breast cancer and at low risk for adverse effects of chemoprevention. The PCP will provide information to the ABP eligible recipient of the potential benefits and harms of chemoprevention.

D. Screens and preventative screens: screens and preventative screens include in the recommendation of the United States preventative services task force A and B recommendations are included in the benefit package.

[8.309.4.15 NMAC - N, 1/1/2014]

8.309.4.16 TELEMEDICINE SERVICES: The benefit package includes telemedicine services as detailed in 8.310.2 NMAC.
[8.309.4.16 NMAC - N, 1/1/2014]

8.309.4.17 BEHAVIORAL HEALTH SERVICES: The benefit package includes the behavioral health services as detailed in 8.321.2 NMAC.
[8.309.4.17 NMAC - N, 1/1/2014]

8.309.4.18 EARLY AND PERIODIC SCREENING DIAGNOSIS AND TREATMENT SERVICES (EPSDT): The benefit package includes the delivery of the federally mandated EPSDT program services [42 CFR Section 441.57] provided by a primary care provider (PCP) as detailed in 8.320.2 NMAC. These include the ABP benefit services found in Sections 12 through 17 of this rule.

A. General physical health EPSDT services: MAD makes available access to early intervention programs and services for an ABP eligible recipient identified in an EPSDT screen as being at-risk for developing or having a severe emotional, behavioral or neurobiological disorder. Unless otherwise specified in a service rule, EPSDT services are for an ABP eligible recipient under 21 years of age. For detailed description of each service,

see 8.320.2 and for school based health services, see 8.320.6 NMAC. Additional NMAC citations may be included as reference.

B. Behavioral health EPSDT services: The benefit package includes services provided by a behavioral health practitioner for an ABP eligible recipient. See 8.321.2 NMAC for a detailed description of each service. MAD makes available access to early intervention programs and services for an ABP eligible recipient identified in his or her EPSDT screen as being at-risk for developing or having a severe emotional, behavioral or neurobiological disorder.

[8.309.4.18 NMAC - N, 1/1/2014]

8.309.4.19 ABP-EXEMPT ELIGIBLE RECIPIENT GENERAL BENEFIT DESCRIPTION: An ABP eligible recipient with a qualifying condition may select ABP-exempt utilizing the standard medicaid state plan benefits. All services, services limitations and co-payments that apply to full benefit medicaid recipients are available to APB-exempt recipients. An ABP-exempt recipient does not have access to the benefits that are only apply to ABP recipients. The ABP co-payments do not apply to an ABP-exempt recipient. The limitations on services that apply only to ABP-recipients do not apply to ABP-exempt recipients. The following chapters of Title 8 Social Services NMAC provide more detailed descriptions of services.

A. Chapter 301 *medicaid general benefit description*;
B. Chapter 302 *medicaid general provider policies*;
C. Chapter 310 *health care professional services*;
D. Chapter 311 *hospital services*;
E. Chapter 312 *long term care-nursing services*, with the exceptions detailed in Section 10 of this rule);

F. Chapter 313 *long-term care facilities -intermediate care facilities*;
G. Chapter 314 *long-term care services-waivers*;
H. Chapter 320 *early and periodic screening, diagnosis and treatment (EPSDT)*;
I. Chapter 321 *behavioral health services*;
J. Chapter 324 *adjunct services*;
K. Chapter 325 *specialty services*; and
L. Chapter 326 *case management services*.

[8.309.4.19 NMAC - N, 1/1/2014]

8.309.4.20 ABP AND ABP-EXEMPT ELIGIBLE PROVIDERS: Health care to an ABP eligible recipient is furnished by a variety of providers and provider groups. Refer to the MAD NMAC specific service rules for detailed description of unique provider requirements. For general information, see 8.310.2 and 8.310.3 NMAC.

[8.309.4.20 NMAC - N, 1/1/2014]

8.309.4.21 ABP AND ABP-EXEMPT NONCOVERED SERVICES: MAD does not cover certain procedures, services, or miscellaneous items. Refer to the NMAC specific service rules for detailed description of unique noncovered services. For general information, see 8.310.2 NMAC for physical health noncovered services, 8.320.2 NMAC for EPSDT noncovered services, 8.320.6 for noncovered school-based health services, and 8.321.2 NMAC for behavioral health noncovered services.

[8.309.4.21 NMAC - N, 1/1/2014]

8.309.4.22 ABP AND ABP-EXEMPT PRIOR AUTHORIZATION AND UTILIZATION REVIEW: All MAD services are subject to UR for medical necessity and program compliance. Refer to the NMAC specific service rule for detailed description of the service's prior authorization and utilization review requirements. For general information, see 8.310.2 and 8.310.3 NMAC.

[8.309.4.22 NMAC - N, 1/1/2014]

8.309.4.23 ABP AND ABP-EXEMPT RECIPIENT RESPONSIBILITIES: Services provided may be subject to cost sharing requirements. Please see 8.302.2 NMAC for more information on any required recipient co-payments.

[8.309.4.23 NMAC - N, 1/1/2014]

HISTORY OF 8.309.4 NMAC: [RESERVED]