TITLE 8 SOCIAL SERVICES
CHAPTER 308 MANAGED CARE PROGRAM
PART 14 CO-PAYMENTS

8.308.14.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.308.14.1 NMAC - Rp, 8.308.14.1 NMAC, 10/1/2017; A, 7/1/2024]

8.308.14.2 SCOPE: This rule applies to the general public.
[8.308.14.2 NMAC - Rp, 8.308.14.2 NMAC, 10/1/2017]

8.308.14.3 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 Section 27-1-12 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.
[8.308.14.3 NMAC - Rp, 8.308.14.3 NMAC, 10/1/2017; A, 7/1/2024]

8.308.14.4 DURATION: Permanent.
[8.308.14.4 NMAC - Rp, 8.308.14.4 NMAC, 10/1/2017]

8.308.14.5 EFFECTIVE DATE: October 1, 2017, unless a later date is cited at the end of a section.
[8.308.14.5 NMAC - Rp, 8.308.14.5 NMAC, 10/1/2017]

8.308.14.6 OBJECTIVE: The objective of this rule is to provide instructions for the service portion of the New Mexico medical assistance programs (MAP).
[8.308.14.6 NMAC - Rp, 8.308.14.6 NMAC, 10/1/2017]

8.308.14.7 DEFINITIONS: Co-payment: A co-payment is a fixed dollar amount that a medicaid recipient must pay directly to a provider for a service, visit or item. A co-payment is to be paid at the time of service or receipt of the item.
[8.308.14.5 NMAC - Rp, 8.308.14.7 NMAC, 10/1/2017]

8.308.14.8 [RESERVED]
[8.308.14.8 NMAC - Rp, 8.308.14.8 NMAC, 10/1/2017]

8.308.14.9 CO-PAYMENTS IN THE MEDICAID MANAGED CARE PROGRAM: The medical assistance division (MAD) imposes co-payment provisions on certain members, certain categories of eligibility and on certain services. The member's HSD contracted managed care organization (MCO) is required to impose co-payments as directed by MAD at 8.302.2 NMAC and in accordance with federal regulations.

A. General requirements regarding co-payments:

(1) The MCO or its contracted providers may not deny services for a member's failure to pay the co-payment amounts.

(2) The MCO must take measures to educate and train both its contracted providers and members on co-payment requirements.

(3) The MCO shall not impose co-payment provisions on certain services that, in accordance with federal regulations, are always exempt from co-payment provisions. See 42 CFR 447.56, *limitations on premiums and cost sharing* and 8.302.2 NMAC.

(4) The MCO shall not impose co-payment provisions on certain member categories of eligibility that, in accordance with federal and state regulations and rules, are exempt from cost-sharing provisions.

(5) Payments to MCO contracted providers: In accordance with 42 CFR 447.56, *limitations on premiums and cost sharing*, the MCO must reduce the payment it makes to a contracted provider by the amount of the member's applicable co-payment obligation, regardless of whether the provider has collected the payment.

(6) At the direction of MAD, the MCO must report all co-payment amounts collected.

(7) The MCO may not impose more than one type of co-payment for any service, in accordance with 42 CFR 447.52.

(8) The MCO must track, by month, all co-payments collected from each individual member in the household to ensure that the household does not exceed the aggregate limit (cap). The cap is five percent of countable household income for all individual members in a household, calculated as applicable for a quarter. The MCO must be able to provide each household member, at his or her request, with information regarding co-payments that have been applied to claims for the member.

(9) The MCO must report to the provider when a co-payment has been applied to the provider's claim and when a co-payment was not applied to the provider's claim. The MCO shall be responsible for assuring the provider is aware that:

(a) the provider shall be responsible for refunding to the member any co-payments the provider collects after the member has reached the co-payment cap (five percent of the member's household income, calculated on a quarterly basis) which occurs because the MCO was not able to inform the provider of the exemption from co-payment due to the timing of claims processing;

(b) the provider shall be responsible for refunding to the member any co-payments the provider collects for which the MCO did not deduct the payment from the provider's payment whether the discrepancy occurs because of provider error or MCO error; and

(c) failure to refund a collected co-payment to a member and to accept full payment from the MCO may result in a credible allegation of fraud, see 8.351.2 NMAC.

[8.308.14.9 NMAC - Rp, 8.308.14.9 NMAC, 10/1/2017]

8.308.14.10 MEMBER RIGHTS AND RESPONSIBILITIES:

A. When a MAD benefit has a co-payment assigned for a MAP category of eligibility, the eligible recipient will at the time of service make payment or make arrangements with the provider for payment at a later date.

B. A member shares the responsibility to track his or her co-payments for each quarter. The member has the right to request from his or her MCO at any time an account of his or her household's co-payment total per quarter. If the member believes he or she has met the household's out-of-pocket (OOP) limit, he or she may request that the provider wait to charge future co-payments if the member has contacted his or her MCO to determine if the OOP limit has been met.

C. If a member had reached his or her household OOP limit but was not aware of it at the time the member paid a co-payment, the provider must refund the member the co-payment.

(1) The provider must refund the member within 10 working days after the member requests a reimbursement of the paid co-payment or the member's MCO notifies the provider that the member's OOP limit has been met.

(2) The member may notify verbally or in writing his or her MCO of the provider's failure to refund the co-payment within the required timeframe.

(3) Failure of the MCO to intervene to have its contracted provider refund the co-payment within 10 working days of the member notifying the MCO constitutes a MCO adverse action and the member may file a MCO appeal and if applicable, a HSD administrative hearing. See 8.308.15 and 8.352.2 NMAC for detailed information.

(4) The member may also contact the HSD office of inspector general after he or she has complied with Paragraph (2) and (3) above to report the provider's refusal to refund the member's co-payment as such action may result in a credible allegation of fraud.

[8.308.14.10 NMAC - N, 10/1/2017]

8.308.14.11 CO-PAYMENT AMOUNTS IN MANAGED CARE PROGRAMS: Medicaid co-payment amounts and the application of co-payments are determined by MAD. See 42 CFR 447.56, *limitations on premiums and cost sharing*, and 8.302.2 NMAC.

[8.308.14.11 NMAC - Rp, 8.308.14.11 NMAC, 10/1/2017]

HISTORY OF 8.308.14 NMAC: [RESERVED]

History of Repealed Material:

8.308.14 NMAC, Cost Sharing, filed 12/17/2013 - Repealed effective 10/1/2017.

NMAC History:

8.308.14 NMAC, Cost Sharing, filed 12/17/2013 was replaced by 8.308.14 NMAC, Co-Payments effective 10/1/2017.