

TITLE 8 SOCIAL SERVICES
CHAPTER 300 MEDICAID GENERAL INFORMATION
PART 17 CONFLICT OF INTEREST

8.300.17.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.300.17.1 NMAC - Rp 8.300.17.1 NMAC, 7/1/2024]

8.300.17.2 SCOPE: The rule applies to the general public.
[8.300.17.2 NMAC - Rp 8.300.17.2 NMAC, 7/1/2024]

8.300.17.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended, and by the state health care authority pursuant to state statute. See Section 27-2-12 et seq. NMSA 1978 (Repl. Pamp. 1991). 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.
[8.300.17.3 NMAC - Rp 8.300.17.3 NMAC, 7/1/2024]

8.300.17.4 DURATION: Permanent.
[8.300.17.4 NMAC - Rp 8.300.17.4 NMAC, 7/1/2024]

8.300.17.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[8.300.17.5 NMAC - Rp 8.300.17.5 NMAC, 7/1/2024]

8.300.17.6 OBJECTIVE: The objective of these regulations is to provide policies for the service portion of the New Mexico medicaid program. These policies describe eligible providers, covered services, noncovered services, utilization review, and provider reimbursement.
[8.300.17.6 NMAC - Rp 8.300.17.6 NMAC, 7/1/2024]

8.300.17.7 DEFINITIONS: [RESERVED]

8.300.17.8 MISSION STATEMENT: The mission of the New Mexico medical assistance division (MAD) is to maximize the health status of medicaid-eligible individuals by furnishing payment for quality health services at levels comparable to private health plans.
[8.300.17.8 NMAC - Rp 8.300.17.8 NMAC, 7/1/2024]

8.300.17.9 CONFLICT OF INTEREST: To prevent any former employee of the medical assistance division (MAD) from using privileged information or asserting improper influence, statutory provisions have been adopted. See Section 10-16-16 NMSA 1978 (Repl. Pamp. 1991):

A. An employee with “responsibility” must not act as agent or attorney for any other person or business in connection with a judicial or administrative proceeding, application, ruling, contract, claim or other matter relative to the medicaid program for 24 months following the date on which they cease to be an employee.

(1) Employee with “responsibility” refers to an employee who is directly involved in or has a significant part in the medicaid decision-making, regulatory, procurement or contracting process.

(2) This provision applies to employees with responsibility for investigating, making rulings or otherwise being substantially or directly involved with activities during their last year of employment with the agency.

(3) This provision also applies to activities which were actually pending and under the employee’s responsibility within that period.

B. The secretary of the HCA (secretary), income support division director, administrative services division or medical assistance director or their deputies must not participate in any judicial or administrative proceeding, application, ruling, contract, claim or other matter relating to medicaid and pending before MAD for 12 months following the date they cease to be an employee.

C. An employee with responsibility must not participate in any judicial or administrative proceeding, application, ruling, contract, claim or other matter relating to medicaid which involves their spouse, minor child or any business in which they have financial interest, unless prior to each participation:

- (1) the employee fully discloses the relationship or financial interest in writing to the secretary; and
- (2) a written determination is made by the secretary that the disclosed employee relationship or financial interest is too remote or inconsequential to affect the integrity of the employee's services.
[8.300.17.9 NMAC - Rp 8.300.17.9 NMAC, 7/1/2024]

8.300.17.10 PENALTIES: Violation of any of the above provisions by an employee is grounds for dismissal, demotion or suspension. A former employee who violates any of the provisions is subject to assessment by the HCA of a civil monetary penalty of \$250 for each violation. MAD shall mitigate any harmful effect from improper disclosure of individually identifiable health information in accordance with 45 CFR Section 164.530(f). Any employee or former employee who violates these provisions may also be subject to criminal prosecution. See Section 10-16-17 NMSA 1978 (Cum. Supp. 1993).
[8.300.17.10 NMAC - Rp 8.300.17.10 NMAC, 7/1/2024]

8.300.17.11 APPEAL PROCESS: A request for appeal from the imposition of an administrative sanction must be made to the secretary within 30 days of the date on the written notification of a penalty assessment. Unless a proper request is received by the secretary within the 30 day limit, the HCA findings are considered a final and binding administrative determination.
[8.300.17.11 NMAC - Rp 8.300.17.11 NMAC, 7/1/2024]

HISTORY OF 8.300.17 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

ISD 301.2000, Provider Agreement, filed 12/21/1979.

ISD 301.2000, Provider Agreement, filed 12/4/1980.

MAD Rule 301, Procedures and Requirements for Provider Participation, filed 11/8/1989.

SP-004.2900, Section 4, General Program Administration Conflict of Interest Provisions, filed 3/5/1981.

ISD 301.3000, Confidentiality, filed 12/21/1979.

ISD 301.4000, Public Disclosure of Information, filed 1/7/1980.

ISD 301.4000, Public Disclosure of Information, filed 11/24/1980.

History of Repealed Material:

MAD Rule 301, Procedures and Requirements for Provider Participation, filed 11/8/1989 - Repealed effective 2/1/1995.

8.300.17 NMAC - Conflict Of Interest (filed 6/16/2003) Repealed effective 7/1/2024.

Other: 8.300.17 NMAC - Conflict Of Interest (filed 6/16/2003) Replaced by 8.300.17 NMAC - Conflict Of Interest effective 7/1/2024.