

**BEFORE THE SECRETARY OF THE NEW MEXICO HUMAN SERVICES
DEPARTMENT**

**IN THE MATTER OF REMOVAL OF)
PRIOR AUTHORIZATION BARRIERS)
TO PATIENT TRANSFERS FROM ACUTE)
CARE FACILITIES TO SKILLED NURSING)
AND LONG-TERM CARE FACILITIES)
_____)**

NOTICE AND EMERGENCY ORDER

NOTICE IS HEREBY GIVEN to all Medicaid Managed Care Organizations (MCO) providing Medicaid services on the behalf of and through the New Mexico Human Services Department (HSD). Pursuant to Executive Order 2020-004 issued by Governor Michelle Lujan Grisham (“Governor”) on March 11, 2020 (renewed through December 17, 2021), pursuant to the powers conferred under Section 9-8-6 (B)(6) NMSA 1978, to the Secretary of the New Mexico Human Services Department **HEREBY FINDS, CONCLUDES AND ORDERS:**

FINDINGS AND CONCLUSIONS: The Secretary of the HSD takes administrative notice of the following:

1. On March 11, 2020, the Governor proclaimed a public health emergency relating to the occurrence and spread of COVID-19 in New Mexico. Subsequent orders of the Governor extended the emergency declaration through December 17, 2021.
2. On October 18, 2021, the Governor issued Executive Order 2021-059 (“EO 2021-059”), recognizing that health care providers, including Acute Care Facilities (“ACFs”), may need to implement crisis care standards to address the treatment needs of patients because of increased care demands resulting from COVID-19 infections. On that same date, and pursuant to EO 2021-059, the New Mexico Department of Health adopted a Public Health Emergency Order regarding crisis care standards.
3. Increased demand for in-patient care resulting from COVID-19 infections has caused ACFs in New Mexico to expand their inpatient and intensive care units far beyond normal capacity to care for patients infected with COVID-19 and normal patient loads. At least six New Mexico ACFs have declared that they are operating under crisis standards of care due to unprecedented

patient loads and needs.

4. After a patient who receives treatment in an ACF stabilizes, a skilled nursing or long-term care facility may be able to provide that patient with any necessary ongoing in-patient care. When medically appropriate, transferring a patient from an ACF to a skilled nursing or long-term care facility frees capacity in the ACF.

5. MCO's providing services under Medicaid typically require prior authorization for a patient to be transferred to, or treated in, a skilled nursing or long-term care facility. Failure to obtain the required prior authorization from a patient's health plan may result in non-payment of charges for care provided by the skilled nursing or long-term care facility.

6. Medicaid regulations and policies typically require prior authorization requests within specified time frames. These prior authorization time allowances, and routine prior authorization processing practices, are delaying patient transfers from ACFs, contributing to ACF capacity constraints, and contributing to ACFs' need to implement crisis care standards.

7. Eliminating prior authorization requirements for the discharge and transfer of inpatients at ACFs to appropriate lower levels of care at skilled nursing or long-term care facilities will eliminate transfer delays inherent in the prior authorization process and free-up essential ACF capacity to deliver care that is unavailable in other settings.

8. In addition, it is imperative that Managed care organizations instruct their non-medical transportation providers to prioritize hospital discharge pickups within 24 hours of the request so that there is no delay in transfers.

9. Pursuant to Section 9-8-6 (B)(6), the Secretary of HSD has authority to issue orders and instructions to assure implementation and administration of the Medicaid program in an effective and orderly manner, including during a declared emergency.

IT IS THEREFORE ORDERED:

A. All MCO's subject to this Order shall immediately suspend any prior authorization requirement relating to the discharge and transfer of any patient from an ACF to a skilled nursing or long-term care facility. MCO's subject to this Order may require notification of discharge and transfer to be provided within 10-calendar days of a patient's admission to a skilled nursing or long-term care facility, and may engage in care management functions, including utilization

review, upon receiving such notice. However, for patients admitted for skilled care, an initial length of stay may be assumed by the skilled nursing facility to be 10 calendar days, and utilization review efforts should not be directed in a manner that unilaterally shortens this 10 day stay period. Managed care organizations must instruct their non-medical transportation providers to prioritize hospital discharge pickups within 24 hours of the request. MCO's must monitor non-medical transport contractors for compliance with this requirement.

- B. This suspension Order shall continue until the declared end of the public health emergency, or until the Secretary of HSD enters a termination, whichever first occurs.
- C. This Order is effective immediately.

ISSUED this 7 day of December, 2021.



David R. Scrase, M.D.
Secretary of the New Mexico Human
Services Department