MEDICAID SERVICES MANUAL
TRANSMITTAL LETTER

June 26, 2018

TO: CUSTODIANS OF MEDICAID SERVICES MANUAL

FROM: LYNNE FOSTER, CHIEF OF DIVISION COMPLIANCE

SUBJECT: MEDICAID SERVICES MANUAL CHANGES
CHAPTER 100 – MEDICAID PROGRAM

BACKGROUND AND EXPLANATION

Revisions to Medicaid Services Manual (MSM) Chapter 100 – Medicaid Program – Authority is added to include the statutes and regulations for citizenship/lawfully residing persons.

Entities Financially Affected: All Medicaid enrolled providers.

Financial Impact on Local Government: None.

These changes are effective June 27, 2018.

MATERIAL TRANSMITTED	MATERIAL SUPERSEDED
CL 31889 MSM CH 100 – MEDICAID PROGRAM	MTL 14/17 MSM CH 100 – MEDICAID PROGRAM

Manual Section	Section Title	Background and Explanation of Policy Changes, Clarifications and Updates
100.1(A)(19)	**Authority**	Adding Authority; Citizenship/Lawfully Residing: Statute SSA 2105(c)(9); SSA 2107(e)(1)(M); CHIPRA 2009 Sections 211 and 214; 8 U.S.C. Sections 1612, 1613 and 1641; 42 CFR §457.320(b)(6), (d) and (e); and §457.380(b).

4. authorized agents, authorized users or managing employees acting with authority on behalf of an individual, group, entity and/or owner.

100.1 AUTHORITY

The Medicaid program in Nevada is authorized to operate under the DHHS and the DHCFP per Nevada Revised Statutes (NRS) Chapter 422. Nevada Medicaid has a federally approved State Plan to operate a Medicaid program under Title XIX of the Social Security Act (SSA). Regulatory and statutory oversight of the program is found in Chapter 42 of the Code of Federal Regulations (CFRs) as well as Chapter 422 of the NRS.

This Medicaid Services Manual (MSM) along with the Medicaid Operations Manual (MOM) is the codification of regulations adopted by Nevada Medicaid based on the authority of NRS 422.2368, following the procedure at NRS 422.2369. These regulations supplement other Medicaid program requirements including laws, all applicable Federal requirements and requirements in the Nevada State Plan for Medicaid. The regulations provide the additional conditions which limit Medicaid providers' program participation and payment. The regulations also provide additional limitations on services provided to Medicaid recipients. The Division administrator has authority under NRS 422.2356 to establish policies and exceptions to policy for administration of the programs under Medicaid.

A. Below is a list (not all inclusive) of specific Authorities:

1. Eligibility for Medicaid assistance is regulated by Section 1901(a) of the SSA, 42 CFR, Part 435, and Nevada Medicaid State Plan Section 2.1.

2. Payment for Medicaid services is regulated by Sections 1902(a) and 1923 of the SSA, 42 CFR, Part 447, and Nevada Medicaid State Plan Sections 4.19 and 4.21.

3. Provider contracts/relations are regulated by 42 CFR 431, Subpart C; 42 CFR Part 483 and Nevada Medicaid State Plan Section 4.13.

4. Safeguarding and disclosure of information on applicants and recipients is regulated by 42 United States Code (USC) 1396a(a)(7), and the associated regulations: 42 CFR 431, Subpart F; the Health Insurance Portability and Accountability Act (HIPAA) and associated regulations: 45 CFR 160, 162 and 164 and the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009; Nevada Medicaid State Plan Section 4.3, and NRS 422.290. Penalties for unauthorized use or disclosure of confidential information are found within the HITECH Act and NRS 193.170.

5. Prohibition against reassignment of provider claims is found in 42 CFR 447.10 and Nevada Medicaid State Plan Section 4.21.

6. Exclusion and suspension of providers is found in 42 CFR 1002.203 and Nevada Medicaid State Plan 4.30.

7. Submission of accurate and complete claims is regulated by 42 CFR 455.18 and 444.19.

8. Nevada Medicaid assistance is authorized pursuant to State of NRS, Title 38, Public Welfare, Chapter 422, Administration of Welfare Programs.

9. Third Party Liability (TPL) policy is regulated by Section 1902 of the SSA, 42 CFR, Part 433, Subpart D, and the Nevada Medicaid State Plan Section 4.22.

10. Assignment of insurance benefits by insurance carriers is authorized pursuant to State in NRS, Title 57, Insurance, based on the type of policy.

11. Subrogation of medical payment recoveries is authorized pursuant to NRS 422.293.

12. "Advance Directives" are regulated by 42 CFR 489, Subpart I.

13. Worker's compensation insurance coverage is required for all providers pursuant to NRS Chapter 616A through 616B.

14. Section 1902(a)(68) of the SSA establishes providers as 'entities' and the requirement to educate their employees, contractors and agents on false claims recovery, fraud and abuse.

15. Offering gifts and other inducements to beneficiaries is prohibited pursuant to Section 1128A(a)(5) of the SSA, enacted as part of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

16. Section 6401(b) of the Affordable Care Act (ACA) amended Section 1902 of the SSA to require states to comply with procedures established by the Secretary of Health and Human Services for screening providers and suppliers. Section 6401(c) of the ACA amended Section 2107(e) of the SSA to make the provider and supplier screening requirement under Section 1902 applicable to the Children's Health Insurance Program (CHIP). The Centers for Medicare & Medicaid Services (CMS) implemented these requirements with federal regulations at 42 CFR 455 Subpart E.

17. Provider Categorical Risk Levels are assigned, in part, under 42 CFR §424.518.

18. Enhanced provider screening can be found under 42 CFR §455.432 for site visits and 42 CFR §455.434 for criminal background checks.

19. Citizenship/Lawfully Residing: Statute SSA 2105(c)(9); SSA 2107(e)(1)(M); CHIPRA 2009 Sections 211 and 214; 8 U.S.C. Sections 1612, 1613 and 1641; 42 CFR §457.320(b)(6), (d) and (e); and §457.380(b).

100.2 CONFIDENTIAL INFORMATION

All individuals have the right to a confidential relationship with the DHCFP. All information maintained on Medicaid and CHIP applicants and recipients ("recipients") is confidential and must be safeguarded.

Handling of confidential information on recipients is restricted by 42 CFR§ 431.301 – 431.305, the HIPAA of 1996, the HITECH Act of 2009, NRS 422.290, and the Medicaid State Plan, Section 4.3.

Any ambiguity regarding the definition of confidential information or the release thereof will be resolved by the DHCFP, which will interpret the above regulations as broadly as necessary to ensure privacy and security of recipient information.

A. Definition of Confidential Information

For the purposes of this manual, confidential information includes:

1. Protected Health Information (PHI)

a. All *individually identifiable health information* held or transmitted by the DHCFP or its business associates, in any form or media, whether electronic, paper or oral.

1. "Individually identifiable health information" is information, including demographic data, that relates to:

a. the individual's past, present or future physical or mental health or condition;

b. the provision of health care to the individual;

c. the past, present or future payment for the provision of health care to the individual; or

d. identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual.

b. Information which does not meet the requirements of de-identified data defined in 45 CFR 164 § 514(b). This includes all elements of dates (such