

Title 23: Division of Medicaid

Part 223: Early and Periodic Screening, Diagnosis and Treatment (EPSDT)

Chapter 4: Private Duty Nursing

Rule 4.1: Definitions

The Division of Medicaid defines:

- A. A medically necessary early and periodic screening, diagnosis and treatment (EPSDT) service as a service necessary to correct or ameliorate the individual child's physical or mental condition with the determination made on a case-by-case basis taking into account the particular needs of the child.
- B. EPSDT-eligible beneficiary as a beneficiary who meets the requirements of the federally mandated EPSDT program.
- C. Private duty nursing (PDN) as skilled nursing care services for EPSDT-eligible beneficiaries who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of a hospital or skilled nursing facility.
- D. Skilled nursing care as a service requiring high-level skills of a registered nurse (RN) or licensed practical nurse (LPN) to provide curative, restorative, and preventative care. These services are rendered under the supervision of an RN and according to a plan of care and treatment created in consultation with the beneficiary's care team and approved by the beneficiary's physician.

Source: 42 U.S.C. §1396d; 42 C.F.R. Part 441; 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.2: Provider Requirements

A. Private duty nursing (PDN) providers must:

1. Have a Division of Medicaid approved PDN proposal package.
1. Establish a provider agreement with the Mississippi Division of Medicaid.
2. Satisfy all requirements in accordance with Part 200, Rule 4.8 and must provide to the Division of Medicaid:
 - a) A National Provider Identifier (NPI) verification from National Plan and Provider Enumeration System (NPPES), and

- b) Written confirmation from the Internal Revenue Service (IRS) confirming the provider's tax identification number and legal business name,
- 3. Demonstrate prior successful health care delivery for at least one (1) year,
- 4. Operate from a business office that is a dedicated professional location and not part of a residence,
- 5. Disclose ownership information,
- 6. Maintain auditable medical records on each beneficiary in the provider's business location, and
- 7. Maintain the highest level of ethical standard in its business practices and adopt written standard of ethical practice, which must include:
 - a) Neither the owner nor any PDN provider employee shall knowingly mislead a patient, family member or caretaker concerning services, charges, or use of equipment.
 - b) Neither the owner nor any PDN provider employee shall misuse or misappropriate any property-real or personal-belonging to any patient, family member or caretaker.
 - c) Neither the owner nor any PDN provider employee shall knowingly and actively recruit a patient under the care of another PDN provider.
 - d) No employee or patient of a PDN provider shall be coerced into participating in provider fund raising activities.
 - e) The PDN provider shall accept patient referrals in a professional manner with no remuneration provided to the referring party.
 - f) Patient clinical records, administrative records, and financial records shall not be falsified by any individual for any reason.

B. PDN providers must, at a minimum:

- 1. Conduct licensure checks with the Mississippi Board of Nursing, prior to employment and yearly thereafter.
- 2. Conduct background and abuse registry checks including,
 - a) National criminal background check with fingerprints, including review of both state and federal databases, on all employees or volunteers prior to employment and every two (2) years thereafter, and maintain the record of the checks in the employee's personnel file.

- b) Conduct registry checks, prior to employment and monthly thereafter, to ensure employees are not listed on the Mississippi Nurse Aide Abuse Registry or listed on the Office of Inspector General's Exclusion Database and maintain the record of the checks in the employee's personnel file.
- 3. Not have been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
- 4. Not employ individuals or volunteers who have been, convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
- 5. Provide each employee a thorough orientation to their position, the provider, policies and objectives, the functions of other personnel and how they relate to each other in caring for the beneficiary, standards of ethical practice, confidentiality and patient's rights. All PDN providers must comply with the Centers for Disease Control and/or the Mississippi Department of Health regarding baseline and routine employee TB testing and education.
- 6. Provide mandatory annual in-service to RNs and LPNs including, but not limited to:
 - a) Beneficiary's rights,
 - b) Requirements to report suspected abuse, neglect, or exploitation immediately and how to report to the appropriate authority,
 - c) Requirements under Health Insurance Portability and Accountability Act (HIPAA) of 1996 and other relevant laws affecting privacy,
 - d) Infection control, and
 - e) Emergency procedures.
- 7. Ensure Full-time and part-time nurses employed by the PDN provider complete a minimum of twelve (12) hours of pertinent continuing education programs per year.
- 8. Employ a supervising RN who does not provide direct patient care and must:
 - a) Conduct a home evaluation visit prior to the initiation of services in the primary residence,

- b) Complete the plan of care (POC) and revise as needed,
- c) Initiate appropriate preventive and rehabilitative nursing procedures,
- d) Inform the primary care physician of any changes in the beneficiary's condition and needs when appropriate,
- e) Assign nurses to provide PDN services according to their licensure training, and level of experience,
- f) Make a supervisory home visit at least:
 - (1) Monthly with the servicing LPN present, and
 - (2) Every other week with the servicing CNA alternately present and absent.
- g) Document the following during the supervisory visit:
 - 1) PDN services are provided according to the plan of care,
 - 2) The beneficiary's and/or beneficiary representative's satisfaction level with the PDN services, and
 - 3) That the plan of care has been reviewed and updated with the most current physician's orders.
- h) Make a home visit in addition to the monthly visit when:
 - 1) The beneficiary's condition has changed,
 - 2) The beneficiary's health, safety, or welfare is potentially at risk, and
 - 3) Requested by the Division of Medicaid or designee.
- i) Make a monthly telephone contact with the beneficiary's guardian or legal representative to ensure satisfaction with services provided.
- h) Use a person-centered approach to PDN services and ensure personal goals of the beneficiary are respected,
- i) Ensure freedom of choice of providers and/or services is given to the beneficiary, the beneficiary's guardian or legal representative as long as the provider is not an immediate family member or a resident of the beneficiary's home,
- j) Educate the beneficiary and family/caregiver(s) in meeting nursing and related goals,

- k) Ensure services are provided in a manner that is in the best interest of the beneficiary and does not endanger the beneficiary's health, safety, or welfare;
 - l) Recommend staff changes when needed,
 - m) Report to the Division of Medicaid any unethical or incompetent practices that jeopardize public safety or cause a risk of harm to beneficiaries, including household issues that may jeopardize the safety of the PDN, and
 - n) Ensure that all nurses and caregivers are aware that timesheets must be accurate with arrival and departure time of the nurse.
 - 9. Ensure that an emergency preparedness plan is in place for each beneficiary receiving services,
 - 10. Ensure that no immediate family member or person residing in the home with the beneficiary is providing PDN services submitted for Medicaid reimbursement,
- C. An RN or LPN providing PDN services must:
- 1. Be employed by a Mississippi Medicaid enrolled PDN provider,
 - 2. Maintain a current Mississippi nursing license, and
 - 3. Practice within the scope of their license, and
 - 4. Have at least one (1) year of experience providing the type of care required by the beneficiary's medical needs.
- D. PDN providers must provide beneficiaries a written notice at least thirty (30) days prior to the discontinuation of services or closure of the PDN provider except when the requirements of Miss. Admin. Code Title 23, Part 223, Rule 3.5.C. are met.
- 1. PDN providers must assist with the beneficiary's transition to another provider.
 - 2. PDN providers who fail to provide proper written notice will not be reimbursed for services provided during the thirty (30) day period the beneficiary should have been notified.
- E. PDN providers must require all employees to report incidents and/or accidents that result or could have resulted in harm to the beneficiary and/or employee to the direct supervisor immediately and to the Division of Medicaid within twenty-four (24) hours.
- F. All PDN providers and their employees must immediately report in writing to the Division of Medicaid Office of Medical Services, the Mississippi Department of Human Services

(MDHS), and any other entity required by federal or state law, all alleged or reported instances the following:

1. Abuse,
2. Neglect,
3. Exploitation,
4. Suspicious death, or
5. Unauthorized use of restraints, seclusion or restrictive interventions.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.3: Covered Services

- A. The Division of Medicaid covers medically necessary private duty nursing (PDN) services only for early and periodic screening, diagnosis and treatment (EPSDT)-eligible beneficiaries when:
1. Ordered and directed by the beneficiary's primary physician or appropriate physician specialist.
 2. Prior authorized by the Division of Medicaid or designee.
 3. The required service(s) exceed the level of services provided through the home health benefit.
 4. Post-acute inpatient skilled nursing care is not appropriate, does not meet the beneficiary's care needs, or is not available.
 5. Provided in a setting in which the beneficiary's normal life activities take place.
 6. All medical and home environment criteria are met.
 7. Are directly related to the beneficiary's illness or disability.
 8. Services can be safely provided by only one (1) nurse and do not require the assistance of a second (2nd) nurse.
 9. The plan of care (POC) includes multiple skilled nursing functions and is not limited to just one (1) skilled nursing function, such as for the administration of a nasogastric or gastrostomy feeding.

10. The beneficiary:
 - a) Is medically stable to receive nursing care managed safely in a non-institutional setting where normal life activities take place,
 - b) Has a documented illness or disability of such severity and/or complexity that it requires prescribed care that can only be provided by an RN or LPN, and
 - c) Requires more individual and continuous care than is available from a visiting nurse through intermittent home health care or custodial care.
11. The home environment is conducive to appropriate growth and development for the beneficiary's age group and is conducive to the provision of appropriate medical care.
12. There must be at least one (1) parent or other caregiver capable of and willing to be trained to assist in the provision of care for the beneficiary and the parent or caregiver must:
 - a) Provide evidence of parental or family involvement, and an appropriate home situation including, but not limited to, a physical environment and geographic location for the beneficiary's medical safety.
 - b) Have a reasonable plan for an emergency situation including, but not limited to:
 - 1) Power and equipment backup for those with a life-support device,
 - 2) Access to a working telephone, and
 - 3) Available transportation adequate to safely transport the beneficiary.
 - c) Comply with the plan of care, physician office appointments and/or other ancillary services.
- B. The level of care required to meet the beneficiary's needs is determined by the referring physician.
- C. PDN services are covered only when provided:
 1. By an RN or LPN:
 - a) With a current Mississippi license acting within the scope-of-practice, and
 - b) Employed by a PDN provider,
 2. Under the direction of the beneficiary's physician, and

3. In a non-institutional setting where normal life activities take place.

D. PDN services are covered:

1. On short-term basis for beneficiaries in need of parent and/or caregiver training in order to reside in the home and community, or
2. On a long-term basis for beneficiaries that require substantial and complex care that exceeds the level of service available from the home health benefit in order to remain in the home and community setting.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.4: Prior Authorization and Concurrent Reviews

A. Private duty nursing (PDN) providers must submit a prior authorization request to the Division of Medicaid or designee prior to the initiation of PDN services which must include, at a minimum, the following:

1. A signed physician or specialist's order for PDN and a signed initial Plan of Care (POC),
2. Beneficiary diagnosis(es),
3. Skilled teaching/instructions to be provided to a family member or caregiver(s),
4. Treatment plan/physician orders specifying each skill to be performed including whether the service(s) require a registered nurse (RN) or a licensed practical nurse (LPN),
5. Expected duration of service,
6. Identification of any other home care services, including the hours, days, and times of these services being provided, including, but limited to:
 - a) Case management,
 - b) Physical therapy,
 - c) Speech therapy,
 - d) Occupational therapy,
 - e) Respiratory therapy,

- f) Respite,
 - g) Hospice, and/or
 - h) Personal care attendant.
- 7. When PDN medical necessity criteria are no longer met, a plan:
 - a) For reducing and discontinuing PDN hours, and
 - b) To transition the beneficiary to the most appropriate setting.
- B. The PDN provider must submit a recertification of PDN services, every six (6) months indicating the number of hours per day or week and the duration of the request to the Division of Medicaid, or designee and include the following:
 - 1. An updated POC,
 - 2. Progress notes,
 - 3. Monthly summaries, and
 - 4. Nursing visit notes.
- C. The PDN provider cannot bill the beneficiary for hours when the provider failed to seek certification/recertification in a timely manner.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.5: Discontinuation of Private Duty Nursing (PDN) Services

Private duty nursing (PDN) services will be discontinued when one (1) or more of the following is met:

- A. When all of the following exist:
 - 1. Beneficiary's condition is clinically stable,
 - 2. The licensed nurses' skills are not required to provide ongoing nursing assessment and/or treatment,
 - 3. Beneficiary demonstrates the ability to carry out self-management,
 - 4. Caregiver(s) demonstrates the ability to carry out management of the beneficiary's

condition, and

5. When the transition is complete.

B. The beneficiary's care and needs can be met through custodial care.

C. When home-based care is unsafe and:

1. The PDN provider immediately reports the unsafe environment or imminent danger to the beneficiary, caregiver or provider to the Division of Medicaid, the beneficiary's physician and all appropriate authorities including, but not limited to:
 - a) Local law enforcement,
 - b) The Mississippi Department of Child Protection Services, and/or
 - c) Other appropriate authorities designated in state or federal law.
2. The PDN provider has assisted the beneficiary in transitioning to a safe environment to the extent possible without endangering the beneficiary, caregiver or service provider.
3. The PDN provider has made every effort to transition the beneficiary to a safer environment.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.6: Non-Covered Services

- A. The Division of Medicaid does not cover private duty nursing (PDN) services solely for the convenience of the child, the parents or the caregiver.
- B. Non-covered PDN services include, but are not limited to:
 1. PDN services solely for:
 - a) Nasogastric or gastrostomy feedings,
 - b) Apnea monitoring,
 - c) Home dialysis,
 - d) Intravenous (IV) infusion of total parenteral nutrition (TPN) or hyperalimentation,
 - e) IV infusion of fluids for hydration or,

- f) Therapy maintenance.
 - 2. PDN services provided by those individuals described in Miss. Admin. Code Part 200, Rule 2.2.A.,
 - 3. For the sole purpose of escorting beneficiaries outside of the home for visits to a physician's office or school, and/or
 - 4. Skilled nursing services which could be provided through the home health benefit.
- C. Only one (1) service is covered if PDN and personal care services (PCS) are provided at the same time to the same beneficiary.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 4.7: Denial of Services and Appeals

- A. The Division of Medicaid or designee will issue a written denial to the private duty nursing (PDN) provider providing PDN services when the beneficiary no longer meets the medical and/or home environment criteria for PDN services.
- B. The denial of services is effective thirty (30) days following the date the provider receives the written decision.
- C. The beneficiary has the right to request an administrative hearing if he/she disagrees with the denial. [Refer to Miss. Admin. Code Part 300, Rule 1.3]

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.8: Reimbursement

[Reserved]

Rule 4.9: Documentation Requirements

- A. Nurses providing private duty nursing (PDN) services must document all nursing care rendered during each shift including, but not limited to:
 - 1. Current physician's orders,
 - 2. Medications administered and response,

3. Treatments administered and response,
 4. Any other professional nursing skills provided during the shift,
 5. Narrative skilled nursing services notes including accurate dates and times of services and documentation that a copy was given to parent and/or legal guardian or caregiver, and
 6. Any significant changes in the beneficiary's condition,
- B. Weekly timesheets must be maintained for each nurse providing PDN services that include:
1. The date the services were provided,
 2. Begin and end times of services and a list of services provided during that time,
 3. The dated signature of the nurse, and
 4. The dated signature of the beneficiary's guardian or legal representative.
- C. The PDN provider must establish and maintain a permanent, legible medical record for each beneficiary at the provider's office which must include, at a minimum, the following:
1. Physician orders updated and signed by the physician every six (6) months,
 2. Current physician's treatment plan updated every six (6) months,
 3. Nursing plan of care (POC) based on the diagnosis(es), clinical and social status of the beneficiary including measurable goals updated every six (6) months,
 4. Documentation of changes in clinical status and/or significant occurrences,
 5. Weekly progress notes,
 6. Monthly summaries must include the following, at a minimum:
 - a) Nursing skills provided,
 - b) Progress or lack of progress toward goals,
 - c) Clinical and social status of the beneficiary,
 - d) Current medications and treatments and changes made during the month, and
 - e) Changes in the POC.

7. Information regarding other home care services being provided to the beneficiary including:
 - a) The specific services provided,
 - b) Date and times of services, and
 - c) The providers of the services.
 8. Copies of all prior authorizations.
- D. All records must be maintained and retained in accordance with HIPPA and Medicaid regulations. [Refer to Part 200, Rule 1.3.]
- E. The Division of Medicaid will not reimburse PDN providers for both PDN and PCS services provided at the same time to the same beneficiary.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Chapter 5: Personal Care Services

Rule 5.1: Definitions

The Division of Medicaid defines:

- A. A medically necessary early and periodic screening, diagnosis and treatment (EPSDT) service as a service necessary to correct or ameliorate the individual child's physical or mental condition with the determination made on a case-by-case basis taking into account the particular needs of the child.
- B. EPSDT-eligible beneficiary as a beneficiary who meets the requirements of the federally mandated EPSDT program.
- C. Personal care services (PCS) as medically necessary personal care services for EPSDT-eligible beneficiaries who require assistance in order to safely perform the activities of daily living (ADLs) due to a diagnosed condition, disability, or injury. The delivery and receipt of these services must be medically necessary for the treatment of the beneficiary's condition, disability, or injury and exceed the level of care available through the home health benefit..
- D. Certified Nurse Assistant (CNA) as an individual who obtained certification through a program approved by the Mississippi Department of Health, Licensure and Certification. CNAs are the only individuals who may render personal care services. These services must be delivered under the supervision of a registered nurse (RN) pursuant to the plan of

treatment established in consultation with appropriate members of the care team under the direction of the beneficiary's physician.

Source: 42 U.S.C. §1396d; 42 C.F.R. Part 441; 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.2: Provider Requirements

A. Certified Nursing Assistants (CNAs) providing personal care services (PCS) must be hired and managed by private duty nursing (PDN) providers. PDN providers employing CNAs must:

1. Enter into a provider agreement with the Mississippi Division of Medicaid.
2. Satisfy all requirements set forth in Part 200, Rule 4.8 and must provide to the Division of Medicaid:
 - a) A National Provider Identifier (NPI) verification from National Plan and Provider Enumeration System (NPPES), and
 - b) Written confirmation from the Internal Revenue Service (IRS) confirming the provider's tax identification number and legal business name,
3. Demonstrate prior successful health care delivery for at least one (1) year,
4. Operate from a business office that is a dedicated professional location and not part of a residence,
5. Disclose ownership information, and
6. Maintain auditable medical records on each beneficiary in the provider's business location.

B. PDN providers employing CNAs must, at a minimum:

1. Conduct certification checks prior to employment and yearly thereafter.
2. Conduct background and abuse registry checks including,
 - a) National criminal background check with fingerprints on all employees or volunteers prior to employment and every two (2) years thereafter, and maintain the record of the checks in the employee's personnel file.

- b) Conduct registry checks, prior to employment and monthly thereafter, to ensure employees are not listed on the Mississippi Nurse Aide Abuse Registry or listed on the Office of Inspector General's Exclusion Database and maintain the record of the checks in the employee's personnel file.
3. Not have been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
 4. Not employ individuals or volunteers who have been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
 5. Provide mandatory annual in-service to CNAs including, but not limited to:
 - a) Beneficiary's rights, including but not limited to rights protected by HIPPA,
 - b) Requirements to report suspected abuse, neglect, or exploitation immediately and how to report to the appropriate authority,
 - c) Requirements under Health Insurance Portability and Accountability Act (HIPAA) of 1996 and other relevant laws affecting privacy,
 - d) Infection control, and
 - e) Emergency procedures.
 6. Employ a supervising registered nurse (RN) who does not provide direct patient care and must:
 - a) Conduct an initial evaluation visit prior to the initiation of services in the primary residence,
 - b) Complete the plan of care (POC) and revise as needed,
 - c) Initiate appropriate preventive and rehabilitative procedures,
 - d) Inform the primary care physician of any changes in the beneficiary's condition and needs when appropriate,

- e) Assign CNAs to provide PCS according to their certification, training, and level of experience,
 - f) Make a supervisory visit at least every other week with the servicing RN, LPN, or CNA alternately present and absent and document the following:
 - 1) PCS services are provided according to the plan of care,
 - 2) The beneficiary's and/or beneficiary representative's satisfaction level with the PCS services, and
 - 3) That the plan of care has been reviewed and updated with the most current physician's orders.
 - g) Make a home visit in addition to the monthly visit when:
 - 1) The beneficiary's condition has changed,
 - 2) The beneficiary's health, safety, or welfare is potentially at risk, and/or
 - 3) Requested by the Division of Medicaid or designee.
 - h) Use a person-centered approach to PCS and ensure personal goals of the beneficiary are respected,
 - i) Ensure freedom of choice of providers and/or services is given to the beneficiary, the beneficiary's guardian or legal representative as long as the provider is not an immediate family member or a resident of the beneficiary's home,
 - j) Educate the beneficiary and family/caregiver(s) in meeting PCS and related goals,
 - k) Ensure services are provided in a manner that is in the best interest of the beneficiary and does not endanger the beneficiary's health, safety, or welfare;
 - l) Recommend staff changes when needed,
 - m) Report to the Division of Medicaid any unethical or incompetent practices that jeopardize public safety or cause a risk of harm to beneficiaries, including household issues that may jeopardize the safety of the CNA, and
 - n) Ensure that all CNAs and caregivers are aware that timesheets must be accurate with arrival and departure time of the CNA.
7. Ensure that an emergency preparedness plan is in place for each beneficiary receiving services,

8. Ensure that no immediate family member or person residing in the home with the beneficiary is providing PCS submitted for Medicaid reimbursement,
9. Ensure certified nursing assistants employed by the PDN provider complete a minimum of twelve (12) hours of pertinent continuing education programs per year.

C. A CNA providing PCS must:

1. Be employed by a Mississippi Medicaid enrolled PDN provider that is approved to provide CNAs,
2. Maintain a current Mississippi certification as required to be a CNA per Rule 4.1.D of this chapter, and
3. Practice within the scope of their certification and training.

D. Effective January 1, 2021, all PDN providers providing PCS services must utilize a Mississippi Medicaid approved Electronic Visit Verification (EVV) system for the submission of claims. Approved EVV systems must include the:

1. Type of service performed,
2. Individual receiving the services,
3. Date of the service,
4. Location of the services,
5. Individual providing the service, and
6. Time the services begins and ends.

E. PDN providers must provide beneficiaries a written notice at least thirty (30) days prior to the discontinuation of services or closure of the PDN provider except when the requirements of Miss. Admin. Code Title 23, Part 223, Rule 3.5.C. are met.

1. PDN providers must assist with the beneficiary's transition to another provider.
2. PDN providers who fail to provide proper written notice will not be reimbursed for services provided during the thirty (30) day period the beneficiary should have been notified.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.3: Covered Services

- A. The Division of Medicaid covers medically necessary personal care services (PCS) only for early and periodic screening, diagnosis and treatment (EPSDT)-eligible beneficiaries when:
1. Ordered and directed by the beneficiary's primary physician or appropriate physician specialist.
 2. Prior authorized by the Division of Medicaid or designee.
 3. The required service(s) exceed the level of services provided through the home health benefit.
 4. Provided in a setting in which the beneficiary's normal life activities take place.
 5. All medical and home environment criteria are met.
 6. Are directly related to the beneficiary's illness or disability.
 7. Services can be safely provided by only one (1) Certified Nursing Assistant (CNA) and do not require the assistance of a second (2nd) CNA.
 8. The beneficiary:
 - a) Is medically stable to receive PCS managed safely in a non-institutional setting where normal life activities take place,
 - b) Has a documented illness or disability that requires the assistance of a CNA in order to safely perform activities of daily living, and
 - c) Requires more individual and continuous care than is available from a visiting CNA through intermittent home health care.
 9. The home environment is conducive to appropriate growth and development for the beneficiary's age group and be conducive to the provision of appropriate medical care.
 10. There must be at least one (1) parent or other caregiver capable of and willing to be trained to assist in the provision of care for the beneficiary and the parent or caregiver must:
 - a) Provide evidence of parental or family involvement and an appropriate home situation including, but not limited to, a physical environment and geographic location for the beneficiary's medical safety.
 - b) Have a reasonable plan for an emergency situation including, but not limited to:

- 1) Power and equipment backup for equipment necessary to the medical care of the beneficiary,
 - 2) Access to a working telephone, and
 - 3) Available transportation adequate to safely transport the beneficiary.
- c) Comply with the plan of care, physician office appointments and/or other ancillary services.
- B. The level of care required to meet the beneficiary's needs is determined by the referring physician.
- C. PCS services are covered only when provided:
1. By a CNA:
 - a) With a current Mississippi certification,
 - b) Employed by a private duty nursing (PDN) provider that is approved by the Division of Medicaid to provide CNAs, and
 - c) Have at least one (1) year of experience providing the type of care required by the beneficiary's medical condition.
 2. Under the supervision of an RN and at the direction of the beneficiary's physician, and
 3. In a non-institutional setting where normal life activities take place.
- D. PCS are covered:
1. On short-term basis for beneficiaries in need of parent and/or caregiver training in order to reside in the home and community, or
 2. On a long-term basis for beneficiaries that require substantial and complex care that exceeds the level of service available from the home health benefit in order to remain in the home and community setting.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.4: Prior Authorization and Concurrent Reviews

- A. Private duty nursing (PDN) providers employing Certified Nursing Assistants (CNAs) must submit a prior authorization request to the Division of Medicaid or designee at least two (2)

weeks prior to the initiation of personal care services (PCS) that must include, at a minimum, the following:

1. A signed physician or specialist's order for PCS and a signed initial Plan of Care (POC),
 2. Beneficiary diagnosis(es),
 3. Skilled teaching/instructions to be provided to a family member or caregiver(s),
 4. Treatment plan/physician orders specifying each skill to be performed,
 5. Expected duration of service,
 6. Identification of any other home care services, including the hours, days, and times of these services being provided, including, but limited to:
 - a) Case management,
 - b) Physical therapy,
 - c) Speech therapy,
 - d) Occupational therapy,
 - e) Respiratory therapy,
 - f) Respite,
 - g) Hospice, and/or
 - h) Private duty nursing.
 7. When PCS medical necessity criteria are no longer met, a plan:
 - a) For reducing and discontinuing PCS hours, and
 - b) To transition the beneficiary to the most appropriate setting.
- B. A PDN provider employing a CNA must submit a recertification to the Division of Medicaid or designee stating the necessity of PCS for each subject beneficiary every six (6) months indicating the number of hours per day or week and the duration of the request and include the following:
1. An updated POC,
 2. Progress notes,

3. Monthly summaries, and
 4. Supervisory nursing visit notes.
- C. If the required recertification information is not received before the last certified date, the hours from the last certification period up until the date of receipt of the required documentation are subject to denial.
- D. A PDN provider employing CNAs cannot bill the beneficiary for hours when the provider failed to seek certification/recertification in a timely manner.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 5.5: Discontinuation of Personal Care Services (PCS)

Personal care services (PCS) will be discontinued when one (1) or more of the following is met:

- A. When all of the following exist:
1. Beneficiary's condition is clinically stable,
 2. The Certified Nursing Assistant (CNA) skills are not required to provide assistance with activities of daily living,
 3. Beneficiary demonstrates the ability to carry out self-management,
 4. Caregiver(s) demonstrates the ability to carry out management of the beneficiary's condition, and
 5. When the transition is complete.
- B. The beneficiary's care and needs can be met through custodial care.
- C. When home-based care is unsafe and:
1. The PCS provider immediately reports the unsafe environment or imminent danger to the beneficiary, caregiver or provider to the Division of Medicaid, the beneficiary's physician and all appropriate authorities including, but not limited to:
 - a) Local law enforcement,
 - b) The Mississippi Department of Child Protection Services, and/or

- c) Other appropriate authorities designated in state or federal law.
2. The PCS provider has assisted the beneficiary in transitioning to a safe environment to the extent possible without endangering the beneficiary, caregiver or service provider.
3. The PCS provider has made every effort to transition the beneficiary to a safer environment.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.6: Non-Covered Services

- A. The Division of Medicaid does not cover personal care services (PCS) solely for the convenience of the child, the parents or the caregiver.
- B. Non-covered PCS include, but are not limited to:
 1. Skilled nursing services including, but not limited to:
 - a) Nasogastric or gastrostomy feedings,
 - b) Apnea monitoring,
 - c) Home dialysis,
 - d) Intravenous (IV) infusion of total parenteral nutrition (TPN) or hyperalimentation,
 - e) IV infusion of fluids for hydration
 - f) Medication administration, and/or
 - g) Tracheostomy care.
 2. Services provided by those individuals described in Miss. Admin. Code Part 200, Rule 2.2.A.,
 3. For the sole purpose of escorting beneficiaries outside of the home for visits to a physician's office or school, and/or
 4. Services that could be provided through the home health benefit.
- C. Only one (1) service is covered if private duty nursing (PDN) and PCS are provided at the same time to the same beneficiary.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.7: Denial of Services and Appeals

- A. The Division of Medicaid or designee will issue a written denial to the private duty nursing (PDN) provider employing the Certified Nursing Assistant (CNA) when the beneficiary no longer meets the medical and/or home environment criteria for personal care services.
- B. The denial of services is effective thirty (30) days following the date the provider receives the written decision.
- C. The beneficiary has the right to request an administrative hearing if he/she disagrees with the denial. [Refer to Miss. Admin. Code Part 300, Rule 1.3]

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.8: Reimbursement

[Reserved]

Rule 5.9: Documentation Requirements

- A. Certified Nursing Assistants (CNAs) providing personal care services (PCS) must document all care rendered during each shift including, but not limited to:
 - 1. Assistance with activities of daily living (ADL), and
 - 2. Any significant changes in the beneficiary's condition.
- B. Weekly timesheets must be maintained for each CNA providing PCS that include:
 - 1. The date the services were provided,
 - 2. Begin and end times of services and a list of services provided during that time,
 - 3. The dated signature of the CNA, and
 - 4. The dated signature of the beneficiary's guardian or legal representative.
- C. The PDN provider must establish and maintain a permanent, legible medical record for each beneficiary at the provider's office which must include, at a minimum, the following:

1. Physician orders updated and signed by the physician every six (6) months,
2. Current physician's treatment plan updated every six (6) months,
3. Plan of care (POC) based on the diagnosis(es), clinical and social status of the beneficiary including measurable goals updated every six (6) months,
4. Documentation of changes in clinical status and/or significant occurrences,
5. Weekly progress notes,
6. Monthly summaries must include the following, at a minimum:
 - a) CNA services provided,
 - b) Progress or lack of progress toward goals,
 - c) Clinical and social status of the beneficiary, and
 - e) Changes in the POC.
7. Information regarding other home care services being provided to the beneficiary including:
 - a) The specific services provided,
 - b) Date and times of services, and
 - c) The providers of the services.
8. Copies of all prior authorizations.

D. All records must be maintained and retained in accordance with HIPPA and Medicaid regulations. [Refer to Part 200, Rule 1.3, Maintenance of Records.]

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Title 23: Division of Medicaid

Part 223: Early and Periodic Screening, Diagnosis and Treatment (EPSDT)

Chapter 4: Private Duty Nursing

Rule 4.1: Definitions

The Division of Medicaid defines:

- A. A medically necessary early and periodic screening, diagnosis and treatment (EPSDT) service as a service necessary to correct or ameliorate the individual child's physical or mental condition with the determination made on a case-by-case basis taking into account the particular needs of the child.
- B. EPSDT-eligible beneficiary as a beneficiary who meets the requirements of the federally mandated EPSDT program.
- C. Private duty nursing (PDN) as skilled nursing care services for EPSDT-eligible beneficiaries who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of a hospital or skilled nursing facility.
- D. Skilled nursing care as a service requiring high-level skills of a registered nurse (RN) or licensed practical nurse (LPN) to provide curative, restorative, and preventative care. These services are rendered under the supervision of an RN and according to a plan of care and treatment created in consultation with the beneficiary's care team and approved by the beneficiary's physician.

Source: 42 U.S.C. §1396d; 42 C.F.R. Part 441; 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.2: Provider Requirements

A. Private duty nursing (PDN) providers must:

1. Have a Division of Medicaid approved PDN proposal package.
1. Establish a provider agreement with the Mississippi Division of Medicaid.
2. Satisfy all requirements in accordance with Part 200, Rule 4.8 and must provide to the Division of Medicaid:
 - a) A National Provider Identifier (NPI) verification from National Plan and Provider Enumeration System (NPPES), and

- b) Written confirmation from the Internal Revenue Service (IRS) confirming the provider's tax identification number and legal business name,
- 3. Demonstrate prior successful health care delivery for at least one (1) year,
- 4. Operate from a business office that is a dedicated professional location and not part of a residence,
- 5. Disclose ownership information,
- 6. Maintain auditable medical records on each beneficiary in the provider's business location, and
- 7. Maintain the highest level of ethical standard in its business practices and adopt written standard of ethical practice, which must include:
 - a) Neither the owner nor any PDN provider employee shall knowingly mislead a patient, family member or caretaker concerning services, charges, or use of equipment.
 - b) Neither the owner nor any PDN provider employee shall misuse or misappropriate any property-real or personal-belonging to any patient, family member or caretaker.
 - c) Neither the owner nor any PDN provider employee shall knowingly and actively recruit a patient under the care of another PDN provider.
 - d) No employee or patient of a PDN provider shall be coerced into participating in provider fund raising activities.
 - e) The PDN provider shall accept patient referrals in a professional manner with no remuneration provided to the referring party.
 - f) Patient clinical records, administrative records, and financial records shall not be falsified by any individual for any reason.

B. PDN providers must, at a minimum:

- 1. Conduct licensure checks with the Mississippi Board of Nursing, prior to employment and yearly thereafter.
- 2. Conduct background and abuse registry checks including,
 - a) National criminal background check with fingerprints, including review of both state and federal databases, on all employees or volunteers prior to employment and every two (2) years thereafter, and maintain the record of the checks in the employee's personnel file.

- b) Conduct registry checks, prior to employment and monthly thereafter, to ensure employees are not listed on the Mississippi Nurse Aide Abuse Registry or listed on the Office of Inspector General's Exclusion Database and maintain the record of the checks in the employee's personnel file.
- 3. Not have been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
- 4. Not employ individuals or volunteers who have been, convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
- 5. Provide each employee a thorough orientation to their position, the provider, policies and objectives, the functions of other personnel and how they relate to each other in caring for the beneficiary, standards of ethical practice, confidentiality and patient's rights. All PDN providers must comply with the Centers for Disease Control and/or the Mississippi Department of Health regarding baseline and routine employee TB testing and education.
- 6. Provide mandatory annual in-service to RNs and LPNs including, but not limited to:
 - a) Beneficiary's rights,
 - b) Requirements to report suspected abuse, neglect, or exploitation immediately and how to report to the appropriate authority,
 - c) Requirements under Health Insurance Portability and Accountability Act (HIPAA) of 1996 and other relevant laws affecting privacy,
 - d) Infection control, and
 - e) Emergency procedures.
- 7. Ensure Full-time and part-time nurses employed by the PDN provider complete a minimum of twelve (12) hours of pertinent continuing education programs per year.
- 8. Employ a supervising RN who does not provide direct patient care and must:
 - a) Conduct an ~~initial~~ home evaluation visit prior to the initiation of services in the primary residence,

- b) Complete the plan of care (POC) and revise as needed,
- c) Initiate appropriate preventive and rehabilitative nursing procedures,
- d) Inform the primary care physician of any changes in the beneficiary's condition and needs when appropriate,
- e) Assign nurses to provide PDN services according to their licensure training, and level of experience,

f) Make a supervisory home visit at least:

(1) Monthly with the servicing LPN present, and

(2) Every other week with the servicing CNA alternately present and absent.

~~fg)~~ ~~Make a supervisory visit at least every other week with the servicing RN, LPN, or CNA alternately present and absent and d~~Document the following during the supervisory visit:

- 1) PDN services are provided according to the plan of care,
- 2) The beneficiary's and/or beneficiary representative's satisfaction level with the PDN services, and
- 3) That the plan of care has been reviewed and updated with the most current physician's orders.

~~gh)~~ Make a home visit in addition to the monthly visit when:

- 1) The beneficiary's condition has changed,
- 2) The beneficiary's health, safety, or welfare is potentially at risk, and
- 3) Requested by the Division of Medicaid or designee.

i) Make a monthly telephone contact with the beneficiary's guardian or legal representative to ensure satisfaction with services provided.

- h) Use a person-centered approach to PDN services and ensure personal goals of the beneficiary are respected,
- i) Ensure freedom of choice of providers and/or services is given to the beneficiary, the beneficiary's guardian or legal representative as long as the provider is not an immediate family member or a resident of the beneficiary's home,

- j) Educate the beneficiary and family/caregiver(s) in meeting nursing and related goals,
 - k) Ensure services are provided in a manner that is in the best interest of the beneficiary and does not endanger the beneficiary's health, safety, or welfare;
 - l) Recommend staff changes when needed,
 - m) Report to the Division of Medicaid any unethical or incompetent practices that jeopardize public safety or cause a risk of harm to beneficiaries, including household issues that may jeopardize the safety of the PDN, and
 - n) Ensure that all nurses and caregivers are aware that timesheets must be accurate with arrival and departure time of the nurse.
9. Ensure that an emergency preparedness plan is in place for each beneficiary receiving services,
10. Ensure that no immediate family member or person residing in the home with the beneficiary is providing PDN services submitted for Medicaid reimbursement,
- C. An RN or LPN providing PDN services must:
- 1. Be employed by a Mississippi Medicaid enrolled PDN provider,
 - 2. Maintain a current Mississippi nursing license, and
 - 3. Practice within the scope of their license, and
 - 4. Have at least one (1) year of experience providing the type of care required by the beneficiary's medical needs.
- D. PDN providers must provide beneficiaries a written notice at least thirty (30) days prior to the discontinuation of services or closure of the PDN provider except when the requirements of Miss. Admin. Code Title 23, Part 223, Rule 3.5.C. are met.
- 1. PDN providers must assist with the beneficiary's transition to another provider.
 - 2. PDN providers who fail to provide proper written notice will not be reimbursed for services provided during the thirty (30) day period the beneficiary should have been notified.
- E. PDN providers must require all employees to report incidents and/or accidents that result or could have resulted in harm to the beneficiary and/or employee to the direct supervisor immediately and to the Division of Medicaid within twenty-four (24) hours.

F. All PDN providers and their employees must immediately report in writing to the Division of Medicaid Office of Medical Services, the Mississippi Department of Human Services (MDHS), and any other entity required by federal or state law, all alleged or reported instances the following:

1. Abuse,
2. Neglect,
3. Exploitation,
4. Suspicious death, or
5. Unauthorized use of restraints, seclusion or restrictive interventions.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.3: Covered Services

A. The Division of Medicaid covers medically necessary private duty nursing (PDN) services only for early and periodic screening, diagnosis and treatment (EPSDT)-eligible beneficiaries when:

1. Ordered and directed by the beneficiary's primary physician or appropriate physician specialist.
2. Prior authorized by the Division of Medicaid or designee.
3. The required service(s) exceed the level of services provided through the home health benefit.
4. Post-acute inpatient skilled nursing care is not appropriate, does not meet the beneficiary's care needs, or is not available.
5. Provided in a setting in which the beneficiary's normal life activities take place.
6. All medical and home environment criteria are met.
7. Are directly related to the beneficiary's illness or disability.
8. Services can be safely provided by only one (1) nurse and do not require the assistance of a second (2nd) nurse.
9. The plan of care (POC) includes multiple skilled nursing functions and is not limited to

just one (1) skilled nursing function, such as for the administration of a nasogastric or gastrostomy feeding.

10. The beneficiary:

- a) Is medically stable to receive nursing care managed safely in a non-institutional setting where normal life activities take place,
- b) Has a documented illness or disability of such severity and/or complexity that it requires prescribed care that can only be provided by an RN or LPN, and
- c) Requires more individual and continuous care than is available from a visiting nurse through intermittent home health care or custodial care.

11. The home environment is conducive to appropriate growth and development for the beneficiary's age group and is conducive to the provision of appropriate medical care.

12. There must be at least one (1) parent or other caregiver capable of and willing to be trained to assist in the provision of care for the beneficiary and the parent or caregiver must:

- a) Provide evidence of parental or family involvement, and an appropriate home situation including, but not limited to, a physical environment and geographic location for the beneficiary's medical safety.
- b) Have a reasonable plan for an emergency situation including, but not limited to:
 - 1) Power and equipment backup for those with a life-support device,
 - 2) Access to a working telephone, and
 - 3) Available transportation adequate to safely transport the beneficiary.
- c) Comply with the plan of care, physician office appointments and/or other ancillary services.

B. The level of care required to meet the beneficiary's needs is determined by the referring physician.

C. PDN services are covered only when provided:

1. By an RN or LPN:

- a) With a current Mississippi license acting within the scope-of-practice, and
- b) Employed by a PDN provider,

2. Under the direction of the beneficiary's physician, and
3. In a non-institutional setting where normal life activities take place.

D. PDN services are covered:

1. On short-term basis for beneficiaries in need of parent and/or caregiver training in order to reside in the home and community, or
2. On a long-term basis for beneficiaries that require substantial and complex care that exceeds the level of service available from the home health benefit in order to remain in the home and community setting.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.4: Prior Authorization and Concurrent Reviews

- A. Private duty nursing (PDN) providers must submit a prior authorization request to the Division of Medicaid or designee prior to the initiation of PDN services which must include, at a minimum, the following:
1. A signed physician or specialist's order for PDN and a signed initial Plan of Care (POC),
 2. Beneficiary diagnosis(es),
 3. Skilled teaching/instructions to be provided to a family member or caregiver(s),
 4. Treatment plan/physician orders specifying each skill to be performed including whether the service(s) require a registered nurse (RN) or a licensed practical nurse (LPN),
 5. Expected duration of service,
 6. Identification of any other home care services, including the hours, days, and times of these services being provided, including, but limited to:
 - a) Case management,
 - b) Physical therapy,
 - c) Speech therapy,
 - d) Occupational therapy,

- e) Respiratory therapy,
 - f) Respite,
 - g) Hospice, and/or
 - h) Personal care attendant.
7. When PDN medical necessity criteria are no longer met, a plan:
- a) For reducing and discontinuing PDN hours, and
 - b) To transition the beneficiary to the most appropriate setting.
- B. The PDN provider must submit a recertification of PDN services, every six (6) months indicating the number of hours per day or week and the duration of the request to the Division of Medicaid, or designee and include the following:
- 1. An updated POC,
 - 2. Progress notes,
 - 3. Monthly summaries, and
 - 4. Nursing visit notes.
- C. The PDN provider cannot bill the beneficiary for hours when the provider failed to seek certification/recertification in a timely manner.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.5: Discontinuation of Private Duty Nursing (PDN) Services

Private duty nursing (PDN) services will be discontinued when one (1) or more of the following is met:

- A. When all of the following exist:
- 1. Beneficiary's condition is clinically stable,
 - 2. The licensed nurses' skills are not required to provide ongoing nursing assessment and/or treatment,
 - 3. Beneficiary demonstrates the ability to carry out self-management,

4. Caregiver(s) demonstrates the ability to carry out management of the beneficiary's condition, and
 5. When the transition is complete.
- B. The beneficiary's care and needs can be met through custodial care.
- C. When home-based care is unsafe and:
1. The PDN provider immediately reports the unsafe environment or imminent danger to the beneficiary, caregiver or provider to the Division of Medicaid, the beneficiary's physician and all appropriate authorities including, but not limited to:
 - a) Local law enforcement,
 - b) The Mississippi Department of Child Protection Services, and/or
 - c) Other appropriate authorities designated in state or federal law.
 2. The PDN provider has assisted the beneficiary in transitioning to a safe environment to the extent possible without endangering the beneficiary, caregiver or service provider.
 3. The PDN provider has made every effort to transition the beneficiary to a safer environment.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.6: Non-Covered Services

- A. The Division of Medicaid does not cover private duty nursing (PDN) services solely for the convenience of the child, the parents or the caregiver.
- B. Non-covered PDN services include, but are not limited to:
1. PDN services solely for:
 - a) Nasogastric or gastrostomy feedings,
 - b) Apnea monitoring,
 - c) Home dialysis,
 - d) Intravenous (IV) infusion of total parenteral nutrition (TPN) or hyperalimentation,

- e) IV infusion of fluids for hydration or,
- f) Therapy maintenance.
- 2. PDN services provided by those individuals described in Miss. Admin. Code Part 200, Rule 2.2.A.,
- 3. For the sole purpose of escorting beneficiaries outside of the home for visits to a physician's office or school, and/or
- 4. Skilled nursing services which could be provided through the home health benefit.
- C. Only one (1) service is covered if PDN and personal care services (PCS) are provided at the same time to the same beneficiary.

Source: 42 C.F.R. § 440.80; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 4.7: Denial of Services and Appeals

- A. The Division of Medicaid or designee will issue a written denial to the private duty nursing (PDN) provider providing PDN services when the beneficiary no longer meets the medical and/or home environment criteria for PDN services.
- B. The denial of services is effective thirty (30) days following the date the provider receives the written decision.
- C. The beneficiary has the right to request an administrative hearing if he/she disagrees with the denial. [Refer to Miss. Admin. Code Part 300, Rule 1.3]

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 4.8: Reimbursement

[Reserved]

Rule 4.9: Documentation Requirements

- A. Nurses providing private duty nursing (PDN) services must document all nursing care rendered during each shift including, but not limited to:
 - 1. Current physician's orders,

2. Medications administered and response,
 3. Treatments administered and response,
 4. Any other professional nursing skills provided during the shift,
 5. Narrative skilled nursing services notes including accurate dates and times of services and documentation that a copy was given to parent and/or legal guardian or caregiver, and
 6. Any significant changes in the beneficiary's condition,
- B. Weekly timesheets must be maintained for each nurse providing PDN services that include:
1. The date the services were provided,
 2. Begin and end times of services and a list of services provided during that time,
 3. The dated signature of the nurse, and
 4. The dated signature of the beneficiary's guardian or legal representative.
- C. The PDN provider must establish and maintain a permanent, legible medical record for each beneficiary at the provider's office which must include, at a minimum, the following:
1. Physician orders updated and signed by the physician every six (6) months,
 2. Current physician's treatment plan updated every six (6) months,
 3. Nursing plan of care (POC) based on the diagnosis(es), clinical and social status of the beneficiary including measurable goals updated every six (6) months,
 4. Documentation of changes in clinical status and/or significant occurrences,
 5. Weekly progress notes,
 6. Monthly summaries must include the following, at a minimum:
 - a) Nursing skills provided,
 - b) Progress or lack of progress toward goals,
 - c) Clinical and social status of the beneficiary,
 - d) Current medications and treatments and changes made during the month, and

- e) Changes in the POC.
 - 7. Information regarding other home care services being provided to the beneficiary including:
 - a) The specific services provided,
 - b) Date and times of services, and
 - c) The providers of the services.
 - 8. Copies of all prior authorizations.
- D. All records must be maintained and retained in accordance with HIPPA and Medicaid regulations. [Refer to Part 200, Rule 1.3.]
- E. The Division of Medicaid will not reimburse PDN providers for both PDN and PCS services provided at the same time to the same beneficiary.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Chapter 5: Personal Care Services

Rule 5.1: Definitions

The Division of Medicaid defines:

- A. A medically necessary early and periodic screening, diagnosis and treatment (EPSDT) service as a service necessary to correct or ameliorate the individual child's physical or mental condition with the determination made on a case-by-case basis taking into account the particular needs of the child.
- B. EPSDT-eligible beneficiary as a beneficiary who meets the requirements of the federally mandated EPSDT program.
- C. Personal care services (PCS) as medically necessary personal care services for EPSDT-eligible beneficiaries who require assistance in order to safely perform the activities of daily living (ADLs) due to a diagnosed condition, disability, or injury. The delivery and receipt of these services must be medically necessary for the treatment of the beneficiary's condition, disability, or injury and exceed the level of care available through the home health benefit..
- D. Certified Nurse Assistant (CNA) as an individual who obtained certification through a program approved by the Mississippi Department of Health, Licensure and Certification.

CNAs are the only individuals who may render personal care services. These services must be delivered under the supervision of a registered nurse (RN) pursuant to the plan of treatment established in consultation with appropriate members of the care team under the direction of the beneficiary's physician.

Source: 42 U.S.C. §1396d; 42 C.F.R. Part 441; 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.2: Provider Requirements

A. Certified Nursing Assistants (CNAs) providing personal care services (PCS) must be hired and managed by private duty nursing (PDN) providers. PDN providers employing CNAs must:

1. Enter into a provider agreement with the Mississippi Division of Medicaid.
2. Satisfy all requirements set forth in Part 200, Rule 4.8 and must provide to the Division of Medicaid:
 - a) A National Provider Identifier (NPI) verification from National Plan and Provider Enumeration System (NPPES), and
 - b) Written confirmation from the Internal Revenue Service (IRS) confirming the provider's tax identification number and legal business name,
3. Demonstrate prior successful health care delivery for at least one (1) year,
4. Operate from a business office that is a dedicated professional location and not part of a residence,
5. Disclose ownership information, and
6. Maintain auditable medical records on each beneficiary in the provider's business location.

B. PDN providers employing CNAs must, at a minimum:

1. Conduct certification checks prior to employment and yearly thereafter.
2. Conduct background and abuse registry checks including,
 - a) National criminal background check with fingerprints on all employees or volunteers prior to employment and every two (2) years thereafter, and maintain the record of the checks in the employee's personnel file.

- b) Conduct registry checks, prior to employment and monthly thereafter, to ensure employees are not listed on the Mississippi Nurse Aide Abuse Registry or listed on the Office of Inspector General's Exclusion Database and maintain the record of the checks in the employee's personnel file.
- 3. Not have been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
 - 4. Not employ individuals or volunteers who have been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Miss. Code Ann. § 45-33-23(f), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
 - 5. Provide mandatory annual in-service to CNAs including, but not limited to:
 - a) Beneficiary's rights, including but not limited to rights protected by HIPPA,
 - b) Requirements to report suspected abuse, neglect, or exploitation immediately and how to report to the appropriate authority,
 - c) Requirements under Health Insurance Portability and Accountability Act (HIPAA) of 1996 and other relevant laws affecting privacy,
 - d) Infection control, and
 - e) Emergency procedures.
 - 6. Employ a supervising registered nurse (RN) who does not provide direct patient care and must:
 - a) Conduct an initial evaluation visit prior to the initiation of services in the primary residence,
 - b) Complete the plan of care (POC) and revise as needed,
 - c) Initiate appropriate preventive and rehabilitative procedures,
 - d) Inform the primary care physician of any changes in the beneficiary's condition and needs when appropriate,

- e) Assign CNAs to provide PCS according to their certification, training, and level of experience,
 - f) Make a supervisory visit at least every other week with the servicing RN, LPN, or CNA alternately present and absent and document the following:
 - 1) PCS services are provided according to the plan of care,
 - 2) The beneficiary's and/or beneficiary representative's satisfaction level with the PCS services, and
 - 3) That the plan of care has been reviewed and updated with the most current physician's orders.
 - g) Make a home visit in addition to the monthly visit when:
 - 1) The beneficiary's condition has changed,
 - 2) The beneficiary's health, safety, or welfare is potentially at risk, and/or
 - 3) Requested by the Division of Medicaid or designee.
 - h) Use a person-centered approach to PCS and ensure personal goals of the beneficiary are respected,
 - i) Ensure freedom of choice of providers and/or services is given to the beneficiary, the beneficiary's guardian or legal representative as long as the provider is not an immediate family member or a resident of the beneficiary's home,
 - j) Educate the beneficiary and family/caregiver(s) in meeting PCS and related goals,
 - k) Ensure services are provided in a manner that is in the best interest of the beneficiary and does not endanger the beneficiary's health, safety, or welfare;
 - l) Recommend staff changes when needed,
 - m) Report to the Division of Medicaid any unethical or incompetent practices that jeopardize public safety or cause a risk of harm to beneficiaries, including household issues that may jeopardize the safety of the CNA, and
 - n) Ensure that all CNAs and caregivers are aware that timesheets must be accurate with arrival and departure time of the CNA.
7. Ensure that an emergency preparedness plan is in place for each beneficiary receiving services,

8. Ensure that no immediate family member or person residing in the home with the beneficiary is providing PCS submitted for Medicaid reimbursement,
9. Ensure certified nursing assistants employed by the PDN provider complete a minimum of twelve (12) hours of pertinent continuing education programs per year.

C. A CNA providing PCS must:

1. Be employed by a Mississippi Medicaid enrolled PDN provider that is approved to provide CNAs,
2. Maintain a current Mississippi certification as required to be a CNA per Rule 4.1.D of this chapter, and
3. Practice within the scope of their certification and training.

D. Effective January 1, 2021, all PDN providers providing PCS services must utilize a Mississippi Medicaid approved Electronic Visit Verification (EVV) system for the submission of claims. Approved EVV systems must include the:

1. Type of service performed,
2. Individual receiving the services,
3. Date of the service,
4. Location of the services,
5. Individual providing the service, and
6. Time the services begins and ends.

E. PDN providers must provide beneficiaries a written notice at least thirty (30) days prior to the discontinuation of services or closure of the PDN provider except when the requirements of Miss. Admin. Code Title 23, Part 223, Rule 3.5.C. are met.

1. PDN providers must assist with the beneficiary's transition to another provider.
2. PDN providers who fail to provide proper written notice will not be reimbursed for services provided during the thirty (30) day period the beneficiary should have been notified.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.3: Covered Services

- A. The Division of Medicaid covers medically necessary personal care services (PCS) only for early and periodic screening, diagnosis and treatment (EPSDT)-eligible beneficiaries when:
1. Ordered and directed by the beneficiary's primary physician or appropriate physician specialist.
 2. Prior authorized by the Division of Medicaid or designee.
 3. The required service(s) exceed the level of services provided through the home health benefit.
 4. Provided in a setting in which the beneficiary's normal life activities take place.
 5. All medical and home environment criteria are met.
 6. Are directly related to the beneficiary's illness or disability.
 7. Services can be safely provided by only one (1) Certified Nursing Assistant (CNA) and do not require the assistance of a second (2nd) CNA.
 8. The beneficiary:
 - a) Is medically stable to receive PCS managed safely in a non-institutional setting where normal life activities take place,
 - b) Has a documented illness or disability that requires the assistance of a CNA in order to safely perform activities of daily living, and
 - c) Requires more individual and continuous care than is available from a visiting CNA through intermittent home health care.
 9. The home environment is conducive to appropriate growth and development for the beneficiary's age group and be conducive to the provision of appropriate medical care.
 10. There must be at least one (1) parent or other caregiver capable of and willing to be trained to assist in the provision of care for the beneficiary and the parent or caregiver must:
 - a) Provide evidence of parental or family involvement and an appropriate home situation including, but not limited to, a physical environment and geographic location for the beneficiary's medical safety.
 - b) Have a reasonable plan for an emergency situation including, but not limited to:

- 1) Power and equipment backup for equipment necessary to the medical care of the beneficiary,
 - 2) Access to a working telephone, and
 - 3) Available transportation adequate to safely transport the beneficiary.
- c) Comply with the plan of care, physician office appointments and/or other ancillary services.
- B. The level of care required to meet the beneficiary's needs is determined by the referring physician.
- C. PCS services are covered only when provided:
1. By a CNA:
 - a) With a current Mississippi certification,
 - b) Employed by a private duty nursing (PDN) provider that is approved by the Division of Medicaid to provide CNAs, and
 - c) Have at least one (1) year of experience providing the type of care required by the beneficiary's medical condition.
 2. Under the supervision of an RN and at the direction of the beneficiary's physician, and
 3. In a non-institutional setting where normal life activities take place.
- D. PCS are covered:
1. On short-term basis for beneficiaries in need of parent and/or caregiver training in order to reside in the home and community, or
 2. On a long-term basis for beneficiaries that require substantial and complex care that exceeds the level of service available from the home health benefit in order to remain in the home and community setting.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.4: Prior Authorization and Concurrent Reviews

- A. Private duty nursing (PDN) providers employing Certified Nursing Assistants (CNAs) must submit a prior authorization request to the Division of Medicaid or designee at least two (2) weeks prior to the initiation of personal care services (PCS) that must include, at a minimum, the following:
1. A signed physician or specialist's order for PCS and a signed initial Plan of Care (POC),
 2. Beneficiary diagnosis(es),
 3. Skilled teaching/instructions to be provided to a family member or caregiver(s),
 4. Treatment plan/physician orders specifying each skill to be performed,
 5. Expected duration of service,
 6. Identification of any other home care services, including the hours, days, and times of these services being provided, including, but limited to:
 - a) Case management,
 - b) Physical therapy,
 - c) Speech therapy,
 - d) Occupational therapy,
 - e) Respiratory therapy,
 - f) Respite,
 - g) Hospice, and/or
 - h) Private duty nursing.
 7. When PCS medical necessity criteria are no longer met, a plan:
 - a) For reducing and discontinuing PCS hours, and
 - b) To transition the beneficiary to the most appropriate setting.
- B. A PDN provider employing a CNA must submit a recertification to the Division of Medicaid or designee stating the necessity of PCS for each subject beneficiary every six (6) months indicating the number of hours per day or week and the duration of the request and include the following:
1. An updated POC,

2. Progress notes,
 3. Monthly summaries, and
 4. Supervisory nursing visit notes.
- C. If the required recertification information is not received before the last certified date, the hours from the last certification period up until the date of receipt of the required documentation are subject to denial.
- D. A PDN provider employing CNAs cannot bill the beneficiary for hours when the provider failed to seek certification/recertification in a timely manner.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New eff. 06/01/2020.

Rule 5.5: Discontinuation of Personal Care Services (PCS)

Personal care services (PCS) will be discontinued when one (1) or more of the following is met:

- A. When all of the following exist:
1. Beneficiary's condition is clinically stable,
 2. The Certified Nursing Assistant (CNA) skills are not required to provide assistance with activities of daily living,
 3. Beneficiary demonstrates the ability to carry out self-management,
 4. Caregiver(s) demonstrates the ability to carry out management of the beneficiary's condition, and
 5. When the transition is complete.
- B. The beneficiary's care and needs can be met through custodial care.
- C. When home-based care is unsafe and:
1. The PCS provider immediately reports the unsafe environment or imminent danger to the beneficiary, caregiver or provider to the Division of Medicaid, the beneficiary's physician and all appropriate authorities including, but not limited to:
 - a) Local law enforcement,

- b) The Mississippi Department of Child Protection Services, and/or
 - c) Other appropriate authorities designated in state or federal law.
2. The PCS provider has assisted the beneficiary in transitioning to a safe environment to the extent possible without endangering the beneficiary, caregiver or service provider.
 3. The PCS provider has made every effort to transition the beneficiary to a safer environment.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.6: Non-Covered Services

- A. The Division of Medicaid does not cover personal care services (PCS) solely for the convenience of the child, the parents or the caregiver.
- B. Non-covered PCS include, but are not limited to:
 1. Skilled nursing services including, but not limited to:
 - a) Nasogastric or gastrostomy feedings,
 - b) Apnea monitoring,
 - c) Home dialysis,
 - d) Intravenous (IV) infusion of total parenteral nutrition (TPN) or hyperalimentation,
 - e) IV infusion of fluids for hydration
 - f) Medication administration, and/or
 - g) Tracheostomy care.
 2. Services provided by those individuals described in Miss. Admin. Code Part 200, Rule 2.2.A.,
 3. For the sole purpose of escorting beneficiaries outside of the home for visits to a physician's office or school, and/or
 4. Services that could be provided through the home health benefit.

- C. Only one (1) service is covered if private duty nursing (PDN) and PCS are provided at the same time to the same beneficiary.

Source: 42 C.F.R. § 440.167; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.7: Denial of Services and Appeals

- A. The Division of Medicaid or designee will issue a written denial to the private duty nursing (PDN) provider employing the Certified Nursing Assistant (CNA) when the beneficiary no longer meets the medical and/or home environment criteria for personal care services.
- B. The denial of services is effective thirty (30) days following the date the provider receives the written decision.
- C. The beneficiary has the right to request an administrative hearing if he/she disagrees with the denial. [Refer to Miss. Admin. Code Part 300, Rule 1.3]

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

Rule 5.8: Reimbursement

[Reserved]

Rule 5.9: Documentation Requirements

- A. Certified Nursing Assistants (CNAs) providing personal care services (PCS) must document all care rendered during each shift including, but not limited to:
 - 1. Assistance with activities of daily living (ADL), and
 - 2. Any significant changes in the beneficiary's condition.
- B. Weekly timesheets must be maintained for each CNA providing PCS that include:
 - 1. The date the services were provided,
 - 2. Begin and end times of services and a list of services provided during that time,
 - 3. The dated signature of the CNA, and
 - 4. The dated signature of the beneficiary's guardian or legal representative.

- C. The PDN provider must establish and maintain a permanent, legible medical record for each beneficiary at the provider's office which must include, at a minimum, the following:
1. Physician orders updated and signed by the physician every six (6) months,
 2. Current physician's treatment plan updated every six (6) months,
 3. Plan of care (POC) based on the diagnosis(es), clinical and social status of the beneficiary including measurable goals updated every six (6) months,
 4. Documentation of changes in clinical status and/or significant occurrences,
 5. Weekly progress notes,
 6. Monthly summaries must include the following, at a minimum:
 - a) CNA services provided,
 - b) Progress or lack of progress toward goals,
 - c) Clinical and social status of the beneficiary, and
 - e) Changes in the POC.
 7. Information regarding other home care services being provided to the beneficiary including:
 - a) The specific services provided,
 - b) Date and times of services, and
 - c) The providers of the services.
 8. Copies of all prior authorizations.
- D. All records must be maintained and retained in accordance with HIPPA and Medicaid regulations. [Refer to Part 200, Rule 1.3, Maintenance of Records.]

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: New Rule eff. 06/01/2020.

