

Title 23: Division of Medicaid

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

Chapter 4: Private Duty Nursing

Rule 4.2: Provider Requirements

A. Private duty nursing (PDN) providers must:

1. Have a Division of Medicaid approved PDN Supplemental Provider Enrollment Packet.
2. Establish a provider agreement with the Mississippi Division of Medicaid.
3. 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,
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: Revised eff. 12/01/2020; New eff. 07/01/2020.

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. Operate from a business office that is a dedicated professional location and not part of a residence,
 4. Disclose ownership information, and
 5. 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.

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