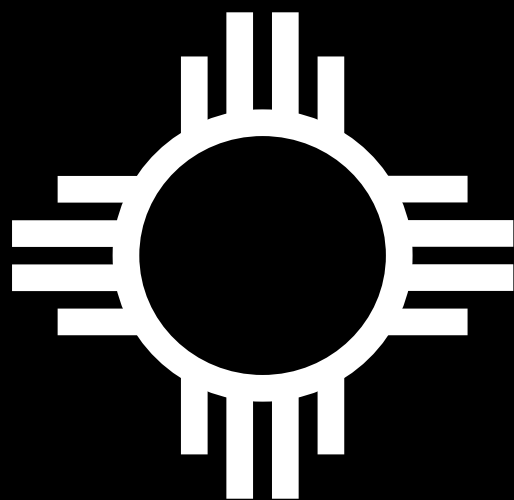


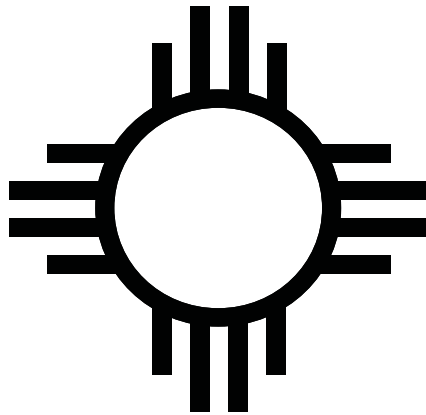
**NEW
MEXICO
REGISTER**



Volume XXIV
Issue Number 23
December 13, 2013

New Mexico Register

Volume XXIV, Issue Number 23
December 13, 2013



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2013

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New Mexico Register

Volume XXIV, Number 23

December 13, 2013

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The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

The New Mexico Register
Published by
The Commission of Public Records
Administrative Law Division
1205 Camino Carlos Rey
Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. Telephone: (505) 476-7907; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO DEPARTMENT OF HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed 7.1.14 NMAC "Abuse, Neglect, Exploitation, Suspicious Injury and Unexpected Death Reporting, Intake, Processing and Training Requirements for Community Based Service Providers." The Hearing will be held at 9:00 a.m. on January 14, 2014, in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

This public hearing will be conducted to receive comments regarding adoption of these rules as part of the repeal and replacement of the existing 7.1.13 NMAC "Incident Reporting, Intake, Processing and Training Requirements" by the proposed rules, insofar as they currently relate to community based service providers serving individuals with intellectual and developmental disabilities, and receiving developmental disability waiver funds, developmental disability general funds, medically fragile waiver funds (until transitioned to Centennial Care), or Mi Via waiver funds for their services. Upon their effective date, these new rules will govern reporting, intake, processing, provider systemic requirements (including but not limited to employee and volunteer training) related to abuse, neglect, exploitation, suspicious injuries, unexpected death and other reportable incidents involving consumers with intellectual and developmental disabilities served by the applicable providers. The rules also provide: definitions, sanctions for rule violations, administrative review procedures for substantiated cases, and confidentiality provisions applicable to information obtained by the Department of Health during the course of reporting and investigations.

A copy of the proposed rule can be requested in writing from, and written comments may be submitted to:

Karen Staszewski
Incident Management Bureau (IMB)
New Mexico Department of Health
Henry Colgate Building
2040 S. Pacheco
Santa Fe, New Mexico 87505

Or by email to: Karen.Staszewski@state.nm.us

Written comments will be accepted up to the close of the hearing.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Karen Staszewski by telephone at (505) 476-9012. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing an amendment to 8.200.430 NMAC, *Medicaid Eligibility - General Recipient Policies, Recipient Rights and Responsibilities*. The proposed amendment will end the Health Insurance Premium Payment Program (HIPP) effective January 31, 2014.

A public hearing to receive testimony on these proposed rules will be held in the South Park Conference Room, 2055 S. Pacheco, Santa Fe on Monday, January 13, 2014, at 9:00 a.m.

The register and the proposed rule are available on the Medical Assistance Division web site at www.hsd.state.nm.us/mad. If you do not have Internet access, a copy of the rules may be requested by contacting the Medical Assistance Division at 505-827-3152. Interested persons may submit written comments no later than 5:00 p.m., January 13, 2014 to Sidonie Squier, Secretary, Human Services Department, PO Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Division toll free at 1-888-997-2583 and ask for extension 7-3152. In Santa Fe call 827-3152. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the Medical Assistance Division

upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

NEW MEXICO BOARD OF OPTOMETRY

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Optometry will hold a Rule Hearing on Friday, January 24, 2014. Following the Rule Hearing the New Mexico Board of Optometry will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Optometry Rule Hearing will begin at 10:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held in Hearing Room 2 the Regulation and Licensing Department, Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules in 16.16 NMAC: 16.15.13 NMAC: Continuing Education; and New Parts: 16.16.15 NMAC: Management of Pain with Controlled Substances; 16.16.25 NMAC: Licensure for Military Service Members, Spouses and Veterans.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico, or call (505)476-4622 after December 24, 2013 or from the Board's website. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing no later than January 9, 2014. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4622 at least two weeks prior to the meeting or as soon as

possible.

Martha L. Gallegos, Administrator
PO Box 25101, Santa Fe, NM 87505

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
AND MANUFACTURED HOUSING
DIVISIONS**

**STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES
AND MANUFACTURED HOUSING
DIVISIONS
of the
Regulation and Licensing Department**

NOTICE OF PUBLIC HEARINGS

Public hearings on the proposed changes to the following CID Rules: 14.9.5 NMAC Medical Gas Installation and Certification, 14.6.5 NMAC Inspectors, 14.7.3 NMAC 2009 New Mexico Residential Building Code, and 14.12.3 NMAC New Mexico Modular Building Structures; will be held as follows:

January 7, 2014, 9:00 a.m. – 12:00 p.m.:
SANTA FE, NM – CID Conference Room, 2550 Cerrillos Road, Santa Fe, NM.

January 7, 2014, 9:00 a.m. – 12:00 p.m.:
LAS CRUCES, NM – CID Conference Room, 505 South Main Street, Suite 118, Las Cruces, NM.

January 7, 2014, 9:00 a.m. – 12:00 p.m.:
ALBUQUERQUE, NM – CID Conference Room, 5200 Oakland Avenue NE, Albuquerque, NM.

Copies of the proposed rules are currently available on the Construction Industries and Manufactured Housing Division's website: www.rld.state.nm.us/construction and at the CID/MHD office in Santa Fe. You are invited to attend and express your opinion on these proposed rules changes. If you cannot attend the meeting, you may send your written comments to the Construction Industries and Manufactured Housing Division, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, Attention: Public Comments. FAX (505) 476-4619. **All comments must be received no later than 5:00 p.m., on January 3, 2014. If you require special accommodations to attend the hearing, please notify the Division by phone, email, or fax, of such needs no later than January 3, 2014.** Telephone: 505-476-4700 (option "0"). Email: martin.romero@state.nm.us Fax No. 505-476-4619.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
AND MANUFACTURED HOUSING
DIVISIONS
Hoisting Program**

**STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES
AND MANUFACTURED HOUSING
DIVISIONS
of the
Regulation and Licensing Department**

NOTICE OF PUBLIC HEARING

Public hearing on the proposed changes to the following Hoisting Operators Safety Rules: 16.43.2.1 NMAC General Provisions and 16.43.2.2 NMAC Operators Code; will be held as follows:

January 17, 2014, 9:00 a.m. – 11:00 p.m.: **ALBUQUERQUE, NM** – CID Conference Room, 5200 Oakland Avenue NE, Albuquerque, NM.

Copies of the proposed rules will be available on the Hoisting Operators Safety Program website: http://www.rld.state.nm.us/construction/Hoisting_Program.aspx, as well as at the Regulation and Licensing Department/CID/MHD offices in Santa Fe at 2550 Cerrillos Road, 3rd floor, Santa Fe, New Mexico 87505.

You are invited to attend and express your opinion on these proposed rule changes. If you cannot attend the meeting, you may send your written comments to the Hoisting Operators Safety Program, P. O. Box 25101, Santa Fe, New Mexico 87505; Attention: Public Comments. FAX (505) 476-4619. **All comments must be received no later than 5:00 p.m., on January 10, 2014. If you require special accommodations to attend the hearing, please notify Paulina Braiman-Robinson by phone, email, or fax, of such needs no later than January 10, 2014.** Telephone: 505-476-4853. Email: paulina.robinson@state.nm.us; Fax No. 505-476-4619.

**NEW MEXICO SECRETARY
OF STATE**

Secretary of State Public Rules Hearing

The Secretary of State's Office will convene a Public Rules Hearing in Santa Fe, New Mexico on Wednesday, January 8, 2014. The hearing will be held beginning at 10:00 a.m. at the State Capitol in Santa Fe with the specific site location to be determined.

The purpose of the Rules Hearing is

1. to consider adopting amendments to Secretary of State rule Rule 1.10.27 NMAC related to the Voter Action Act; and
2. to consider adoption of Secretary of State Rules: Rule 1.10.13 NMAC related to Campaign Finance; and Rule 1.10.14 NMAC related to Lobbyist Requirements
3. to take public comment on the following proposed manuals: Guidelines for Candidates and Campaign Committees
Guidelines for Political Committees
Guidelines for Independent Expenditures
Guidelines for the Voter Action Act
Guidelines for Lobbyists and Lobbyists' Employers

Persons desiring to present their views on the proposed changes may appear in person at said time and place or may submit written comments no later than 5:00 p.m., Friday, January 3, 2014 to the Secretary of State, Elections Bureau, 325 Don Gaspar, Santa Fe, New Mexico, 87501, attention: Bobbi Shearer. A copy of the proposed amendments and the proposed new rules are available on request from the Secretary of State's office at the address listed above, by phone (505) 827-3600, or on the Internet at www.sos.state.nm.us.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service in order to attend or participate in the hearing, please contact the Secretary of State's office, 505-827-3600, or at 325 Don Gaspar, Santa Fe, New Mexico prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Secretary of State's office if a summary or other type of accessible format is needed.

**End of Notices and Proposed
Rules Section**

Adopted Rules

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

20.2.88 NMAC EMISSION STANDARDS FOR NEW MOTOR VEHICLES (filed 11/30/07) repealed 12/19/13.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

This is an amendment to 20.2.77 NMAC, Sections 2 and 9, effective 12/19/13.

20.2.77.2 SCOPE: Any stationary source constructing or modifying and which is subject to the requirements of 40 CFR Part 60, as amended through [December 31, 2010] September 23, 2013. [06/16/95, 11/19/97, 09/08/99; 20.2.77.2 NMAC - Rn 20 NMAC 2.77.101 & A, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13]

20.2.77.9 ADOPTION OF 40 CFR PART 60: Except as otherwise provided, the new source performance standards as promulgated by the United States environmental protection agency, 40 CFR Part 60, as amended in the Federal Register through [December 31, 2010] September 23, 2013 are hereby incorporated into this part [20.2.77 NMAC]. [06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.77.9 NMAC - Rn 20 NMAC 2.77.107 & A, 06/02/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13]

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

This is an amendment to 20.2.82 NMAC, Sections 2 and 8, effective 12/19/13.

20.2.82.2 SCOPE: All sources emitting hazardous air pollutants, which are subject to the requirements of 40 CFR Part 63, as amended through [December 31, 2010] August 29, 2013. [Rn, 20 NMAC 2.82.2, 08/14/98; A, 08/14/98, 09/08/99; 20.2.82.2 NMAC - Rn, 20 NMAC 2.82.101 & A, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13]

20.2.82.8 ADOPTION OF 40 CFR PART 63: Except as otherwise provided in section 20.2.82.10 NMAC (below), the national emission standards for

hazardous air pollutants for source categories as promulgated by the US EPA, 40 CFR Part 63, as amended in the Federal Register through [December 31, 2010] August 29, 2013 are hereby incorporated into this part (20.2.82 NMAC).

[Rn, 20 NMAC 2.82.7, 08/14/98; A, 08/14/98, 09/08/99; 20.2.82.8 NMAC - Rn, 20 NMAC 2.82.106 & A, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13]

NEW MEXICO DEPARTMENT OF GAME AND FISH

TITLE 19 N A T U R A L RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING PART 4 FISHERIES

19.31.4.1 ISSUING AGENCY: New Mexico Department of Game and Fish. [19.31.4.1 NMAC - Rp, 19.31.4.1 NMAC, 4-1-2014]

19.31.4.2 SCOPE: Sportfishing. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30 through 34 of Title 19 NMAC. [19.31.4.2 NMAC - Rp, 19.31.4.2 NMAC, 4-1-2014]

19.31.4.3 S T A T U T O R Y AUTHORITY: 17-1-14 and 17-1-26, and 17-2-1 NMSA 1978, provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species. [19.31.4.3 NMAC - Rp, 19.31.4.3 NMAC, 4-1-2014]

19.31.4.4 DURATION: April 1, 2014 through March 31, 2018. [19.31.4.4 NMAC - Rp, 19.31.4.4 NMAC, 4-1-2014]

19.31.4.5 EFFECTIVE DATE: April 1, 2014, unless a later date is cited at the end of a section. [19.31.4.5 NMAC - Rp, 19.31.4.5 NMAC, 4-1-2014]

19.31.4.6 O B J E C T I V E : Establishing open seasons, bag limits, and other rules pertaining to management and harvest of the fisheries resources of New Mexico. [19.31.4.6 NMAC - Rp, 19.31.4.6 NMAC,

4-1-2014]

19.31.4.7 DEFINITIONS: Specific terms as used in this regulation are defined.

A. Boundary descriptions
(1) "U.S.," as used in boundary descriptions herein, shall mean United States highway.

(2) "N.M.," as used in boundary descriptions herein, shall mean New Mexico state road.

(3) "I," as used in boundary descriptions herein, shall mean interstate highway.

B. "Daylight hours" shall mean from one-half hour before sunrise to sunset.

C. A "barbless" lure or fly shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or man-made materials tied onto a hook to resemble or simulate insects, bait fish, or other foods. A fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, or rubber or plastic moldings of these or other foods are not included.

D. "Chum" as used herein, is organic material that is not injurious to aquatic life and is used to attract fish.

E. "Snagging" as used herein, is the intentional taking of fish with hooks, gang hooks, or similar devices where the fish is hooked in a part of the body other than the mouth.

F. "Bait fish" is defined as those nongame fish which are not otherwise protected by statute or regulation.

G. "Angling" shall mean taking or attempting to take fish by hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

[19.31.4.7 NMAC - Rp, 19.31.4.7 NMAC, 4-1-2014]

19.31.4.8 TROUT WATERS AND WARM WATERS:

A. Regular trout waters: The following are designated as regular trout waters: All streams, lakes and ponds lying within the following described areas except licensed class A lakes and lakes, ponds, and ranch tanks not fed by public waters and not open to public fishing.

(1) Northern area: That portion of New Mexico bounded by a line starting at the intersection of I-25 with the Colorado-New Mexico state line and running south along I-25 to its junction with U.S. 64; thence,

south and west on U.S. 64 to its junction with N.M. 58 at Cimarron; thence, south and east on N.M. 21 to its junction with I-25; thence, south, west, and southwest on I-25 and U.S. 84-85 to its junction with U.S. 285-84 at Santa Fe; thence, north on U.S. 285-84 to its intersection with N.M. 502; thence, west on N.M. 502 to the west bank of the Rio Grande; thence, southwesterly along the west bank of the Rio Grande to its intersection with N.M. 44 at Bernalillo; thence, north and west on N.M. 44 to its intersection with U.S. 550; thence, west on U.S. 550 to the west bank of the Animas river; thence, north along the west bank of the Animas river to the Colorado-New Mexico state line; thence, east along the state line to its intersection with I-25. (Except the San Juan river from U.S. 64 bridge at Blanco downstream to N.M. 44 bridge at Bloomfield.)

(2) Ruidoso area: That portion of New Mexico bounded by a line starting at the junction of U.S. 54 and N.M. 506 and running north on U.S. 54 to its intersection with U.S. 380 at Carrizozo; thence, east on U.S. 380 to its junction with N.M. 246 at Capitan; thence, north and east on N.M. 246 to the eastern boundary of the Lincoln national forest; thence, south to Tinnie; thence, west on U.S. 380 to Hondo; thence, south on a north-south line to the junction of N.M. 24 and U.S. 82 north of Dunken; thence south and west on N.M. 24 to Piñon; thence, south approximately one mile to N.M. 506; thence, west along N.M. 506 to its junction with U.S. 54 at Paxton.

(3) Gila area: That portion of New Mexico bounded by a line starting at the junction of U.S. 180 with the Arizona-New Mexico state line and running north along the state line to its intersection with U.S. 60; thence, east on U.S. 60 to its junction with N.M. 52 west of Magdalena; thence, south on N.M. 52 to Winston and west along the road to Chloride and the eastern boundary of the Gila national forest; thence, south along the forest boundary to its intersection with N.M. 152 east of Kingston; thence, west on N.M. 152 to its junction with U.S. 180 at Central; thence, west and northwest on U.S. 180 to its junction with the Arizona-New Mexico state line. (Except Bear Canyon lake.)

(4) in Sandoval county: all of Las Huertas (Ellis creek);

(5) in San Juan county: the Animas river from the 550 highway bridge in the city of Aztec and downstream to its confluence with the San Juan river;

(6) in Torrance county: all of Tajique creek;

(7) in Union county: all of Dry Cimarron;

(8) in Cibola county: Bluewater creek;

(9) Pecos river from I-25 south to the southeast boundary of Villanueva state

park;

(10) the following lakes, ponds, and reservoirs: Alice, Bluewater, Blue Hole Park ponds, Chiuilla well, Clayton, lake Farmington, Jackson, Maloya, Maxwell lake 13, McAllister, McGaffey, Power dam, Perch, Manzano, and Ramah.

(11) In Sierra county: Rio Grande from Elephant Butte dam downstream to, and including, Caballo lake.

B. Winter trout waters:

The following are designated as winter trout waters from November 1 through March 31 of the effective years: Sumner lake stilling basin; that portion of the Black river extending from one mile upstream to one mile downstream of Higby hole and located in Sections 8 and 9, T. 24 S., R. 28 E., N.M.P.M., in Eddy county; that portion of the Pecos river from the southeast boundary of Villanueva state park downstream to, but not including Santa Rosa lake; the following drains: Albuquerque, Atrisco, Belen Riverside, Bernalillo, Corrales, Peralta, and Tome; and the following lakes: Bataan, Bear Canyon, Bill Evans, Bosque Redondo, Bottomless lakes, Burn, Carlsbad municipal, Carrizozo, Chaparral, Conservancy park/Tingley beach, Escondida, Eunice, Greene Acres, Green Meadow, ponds on Harry McAdams park, Jal, Ned Houk lakes, Oasis park, and Van.

C. Warm waters: "Warm waters", as used herein, shall include all streams, lakes, and ponds except those designated as trout waters above, and except licensed class A lakes.

[19.31.4.8 NMAC - Rp, 19.31.4.8 NMAC, 4-1-2014]

19.31.4.9 SEASON DATES:

A. General seasons: All trout and warm waters in New Mexico shall be open for the taking of game fish from April 1 through March 31 of the effective years, with the following exceptions:

(1) Special waters

(a) The following waters shall be open between 12 noon March 1 through 12 noon October 31: McAllister lake, upper and lower Charette lakes, Maxwell lakes 13 and 14, and Clayton lake.

(b) All waters in the Valle Vidal (Vermejo tract of the Carson national forest) shall be open from July 1 through December 31.

(c) Laguna del Campo at Los Ojos trout hatchery shall be open from May 1 through October 31.

(d) Red River city ponds shall be open from March 1 through November 15.

(e) Black Canyon creek in Grant county upstream from lower Black Canyon campground and Mogollon creek in Grant and Catron counties upstream from waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon shall be open

from July 1 through October 31.

(2) Waters on national wildlife refuges waters on U. S. national wildlife refuges shall be open for the taking of game fish in accordance with regulations of the U. S. fish and wildlife service; provided that season dates shall be from April 1 through March 31, on those national refuges for which the fish and wildlife service has not regulated season dates.

B. Special Kokanee salmon seasons, dates, and location

(1) The following waters shall be open October 1 through December 31 for the special Kokanee salmon season: Abiquiu reservoir, Chama river from El Vado lake upstream to the west boundary of the Rio Chama wildlife and fishing area, Eagle Nest lake, El Vado lake, and Navajo lake including the Pine river.

(2) Heron lake shall be open for the special Kokanee salmon season from the second Friday in November through December 31.

(3) Heron lake, including the Willow creek tributary, and the Pine river shall be closed to Kokanee salmon fishing between October 1 and the second Thursday of November. If November 1 is a Friday, then these waters shall be closed to Kokanee salmon fishing between October 1 and the first Thursday of November.

[19.31.4.9 NMAC - Rp, 19.31.4.9 NMAC, 4-1-2014]

19.31.4.10 HOURS OF FISHING:

A. Day and night fishing for all species of game fish shall be permitted in all waters during the open season, except Alto, Bonito, Butler street, and Eagle Nest lake where fish may be taken or fished for only between the hours of 5 a.m. and 10 p.m.; and U. S. fish and wildlife service waterfowl refuges where fish may be taken or fished for only during the hours posted at the refuge.

B. Laguna del Campo located at Los Ojos trout hatchery, Red River hatchery pond at the Red River state fish hatchery, Glenwood pond at the Glenwood state fish hatchery, waters within the Valle Vidal portion of the Carson national forest, and Maddox lake shall be during **daylight hours only**.

C. Fishing at Ned Houk park lakes and Greene Acres shall be during the **hours posted** by the city of Clovis; fishing at Santa Cruz lake shall be between the **hours of 6 a.m. and 10 p.m.**

D. Fishing at Conservancy park/Tingley beach shall be only between sunrise and sunset.

[19.31.4.10 NMAC - Rp, 19.31.4.10 NMAC, 4-1-2014]

19.31.4.11 DAILY BAG, POSSESSION LIMITS AND

REQUIREMENTS OR CONDITIONS:**A. Trout**

(1) Waters with reduced bag limit: No person shall fish waters regulated for reduced limits while having in excess of that limit in possession.

(2) Brown, rainbow, cutthroat, Gila, lake, brook trout and Kokanee salmon:

(a) The daily bag limit shall be five trout and no more than 10 trout shall be in possession, unless otherwise specified in special trout waters, Paragraph (4) of Subsection A. of 19.31.4.11 NMAC.

(b) The daily bag limit for cutthroat trout shall be two trout and no more than two cutthroat trout may in possession. Cutthroat trout are included in the bag and possession limits for trout explained in Subparagraph (a) of Paragraph (2) of Subsection A. of 19.31.4.11 NMAC.

(c) The daily bag limit for lake trout shall be two trout and no more than four lake trout shall be in possession.

(3) Special Kokanee salmon season: During the special Kokanee salmon season, the daily bag limit shall be 12 Kokanee salmon in addition to the daily bag limit for trout, and no more than 24 Kokanee salmon may be possessed in addition to the possession limit for trout. It shall be unlawful to possess Kokanee salmon at Heron lake and Pine river during the closed Kokanee salmon season.

(4) Special trout waters - On certain waters, hereafter referred to as "Special Trout Waters", the following exceptions shall apply:

(a) On those sections of the following waters the daily bag limit shall be two trout and no more than two trout shall be in possession. Anglers must stop fishing in those waters when the daily bag limit is reached. In Rio Arriba county: all waters lying within or adjacent to the Little Chama valley ranch (Edward Sargent wildlife area) including the Rio Chamito, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake; in Colfax county: the Shuree lakes on the Valle Vidal; In Taos county: a posted portion of the Rio Pueblo between the bridge at mile marker 55 on state highway 518 upstream approximately one mile to the Canon Tio Maes trailhead; In San Miguel county: an approximately one mile posted portion of the Pecos river beginning approximately 1/2 mile above the confluence of the Mora river (Mora-Pecos) upstream to approximately 0.2 miles below the bridge crossing at Cowles; In Rio Arriba county: a posted portion of the Chama river approximately 2.9 miles within the boundaries of the Rio Chama wildlife and fishing area; In Rio Arriba county: a posted portion of the Rio de los Pinos from USFS Boundary 24 at the junction of forest road 284 and 87A, 2.5 miles upstream to the private property boundary; In Taos county:

a posted portion of Red River from the confluence of Goose creek 1 mile upstream.

(b) On those sections of the following waters every person must comply with any special requirements listed and no fish may be kept or held in possession while fishing in the posted portions of the following waters: In San Juan county: a posted portion of the San Juan river from Navajo dam downstream approximately 3.75 miles to the east side of section 16; In Sandoval county: a posted portion of the Rio Cebolla from the Seven Springs day use area upstream to McKinney pond; In Sandoval county: a posted portion of the San Antonio river from the Baca location boundary downstream approximately 2.0 miles (T. 19 N., R. 03 E., S 16 and 20); In Sandoval county: a posted portion of the Rio Guadalupe from the Porter landing bridge downstream approximately 1.3 miles to Llano Loco Spring; In Sandoval county, Capulin creek from its confluence with the Rio Grande to the headwaters, In Taos county: a posted portion of the Rio Costilla from the Valle Vidal tract of the Carson national forest downstream for approximately 2.4 miles to the confluence of Latir creek; In Sierra county: the Rio las Animas within the Gila national forest, Black range ranger district; In Mora county: the Pecos river in the Pecos wilderness, above Pecos falls; In Rio Arriba county: Nabor creek and Nabor lake on the Edward Sargent wildlife area; In San Miguel and Santa Fe counties: Doctor creek from 1/4 mile above its confluence with Holy Ghost creek upstream to its headwaters; In Mora county: Rio Valdez in the Pecos wilderness from 1/4 mile below Smith cabin upstream to its headwaters; In San Miguel and Mora counties: Jack's creek from the water falls located 1/4 mile downstream of NM highway 63 crossing upstream to its headwaters; In Taos and Colfax counties: any stream on the Valle Vidal except Leandro creek (Vermejo tract - Carson national forest); In Grant and Catron counties: Mogollon creek in Grant and Catron counties upstream from waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon. Every person angling for fish on these portions of Mogollon creek must be in possession of a Gila trout permit, issued in their name by the department or its designee. A photocopy, duplicate copy or computer printout of this permit will suffice as evidence of receiving such permit.

(c) In Colfax county: on a posted section of the Cimarron river from the lower end of Tolby campground downstream approximately 1.4 miles to the first bridge of N.M. 64 the daily bag limit shall be one fish and no more than one fish may be in possession.

(d) At Conservancy park/Tingley beach in Albuquerque: the southernmost pond shall be catch-and-release only and the

remaining two ponds shall have daily bag limits of four trout with no more than four trout in possession.

(e) On those sections of the following waters the daily bag limit shall be three trout and no more than three trout shall be in possession. Anglers must stop fishing in those waters when the daily bag limit is reached. Any legal angling gear and legal bait for trout waters may be used. In Taos county: a posted portion of the Rio Grande beginning at the New Mexico/Colorado state line downstream to the Taos junction bridge; In Taos county: goose lake; In Taos county: a posted portion of the Red River beginning approximately 1/2 mile downstream of the walking bridge at Red River state fish hatchery downstream to its confluence with the Rio Grande; In Taos county: the designated fishing pond at Red River state fish hatchery; In Taos county: the Red River city ponds; In Rio Arriba county: on a posted portion of the Rio Chama from the base of Abiquiu dam downstream approximately seven miles to the river crossing bridge on U.S. 84 at Abiquiu; In Rio Arriba county: Laguna del Campo at Los Ojos trout hatchery; In Sierra county: the Rio Grande from Elephant Butte dam downstream to and including Caballo lake; In Lincoln county: The Rio Ruidoso from the boundary between the Mescalero Apache reservation and the city of Ruidoso downstream to Fridenbloom drive.

(f) On those sections of the following waters no cutthroat trout may be kept or held in possession and the bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited: In Sandoval county: the Rio Cebolla from McKinney pond to the headwaters; In Taos county: upper Cabresto creek and its tributaries from Cabresto canyon upstream to the headwaters; In Colfax county: the Vermejo river and its tributaries from the Vermejo Park ranch boundary to the headwaters; and in Colfax county: public portions of Leandro creek.

(g) On those sections of the following waters the daily bag limit shall be two Gila trout and no more than two Gila trout in possession, and the bag limit and possession limit for brown trout is unlimited. Anglers must stop fishing in those waters when the daily bag limit is reached. Any legal angling gear and legal bait for trout waters must be used. In Catron county: waters upstream from the confluence of Gilita creek and Snow creek including Gilita, Willow and Little Turkey creeks.

(h) On those sections of the following waters no Gila trout may be kept or held in possession and the bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited: in Grant county, Black canyon from the forest road 150 (North Star Mesa road) crossing

to the headwaters. Every person angling for fish on these portions of Black canyon must be in possession of a Gila trout permit, issued in their name by the department or its designee. A photocopy, duplicate copy or computer printout of this permit will suffice as evidence of receiving such permit.

B. Warm-water fishes:

The daily bag limit for game fish other than trout shall be as listed below and the possession limit shall be twice the daily bag limit.

- (1) striped bass one fish;
- (2) largemouth, smallmouth, and spotted bass five fish;
- (3) walleye five fish;
- (4) crappie 20 fish;
- (5) white bass and white bass x striped bass hybrid 25 fish;
- (6) northern pike 10 fish;
- (7) catfish (all species, except bullheads) 15 fish;
- (8) yellow perch 30 fish;
- (9) all other warm-water game species 20 fish.

C. The following exception shall apply:

(1) At Conservancy park/Tingley beach in Albuquerque; lake Van (Chaves county); Oasis state park; Greene Acres lake (Curry county); Burn lake (Dona Ana county); Escondida lake (Socorro county); McGaffey lake (McKinley county); Bataan lake (Eddy county); Chaparral lake (Lea county); Bosque Redondo (De Baca county); Carrizozo lake (Lincoln county); Green Meadow lake; Eunice lake; Estancia Park lake (Torrance county); Corona lake (Lincoln county); Grants city pond (Cibola county); Conoco lake (Lea county); Dennis Chavez pond (Curry county); Jal lake (Lea county); Ned Houk lakes (Curry county); Young pond (Dona Ana county); Roswell kids pond (Chavez county); Perch lake (Guadalupe county); and Blue Hole park pond (Guadalupe county): the daily bag limit for channel catfish will be two fish and the possession limit shall be twice the daily bag limit.

(2) In San Juan county, in the San Juan and Animas rivers, not including Navajo lake, there is no daily bag limit or possession limit for channel catfish and striped bass.

(3) Statewide, the limit for tiger muskie (*Esox lucius x E. masquinongy*) shall be one fish over forty (40) inches in length and the possession limit shall be equal to the daily bag limit.

(4) In Eddy county, the Pecos river beginning at the north boundary of Brantley wildlife management area to Brantley reservoir dam including Brantley reservoir, all fish caught must immediately be released, except during official fishing tournaments during which fish may be held in a live well until they are weighed and measured, on site,

and then immediately released back into the lake.

(5) In Colfax county, Eagle Nest lake there is no bag or possession limit for northern pike. All northern pike caught at Eagle Nest lake must be kept in possession. No northern pike shall be intentionally returned to Eagle Nest lake.

[19.31.4.11 NMAC - Rp, 19.31.4.11 NMAC, 4-1-2014]

19.31.4.12 SIZE LIMITS:

A. Salmonids

(1) On Shuree lakes, on the Valle Vidal tract, any trout taken that are less than 15 inches long shall be immediately returned to the water.

(2) In Colfax county, a posted portion of the Cimarron river where only barbless lures or flies may be used (and more specifically described in Subsection A. of 19.31.4.11 NMAC), any trout taken that are less than 16 inches long shall be immediately returned to the water.

(3) [Reserved]

(4) Any trout taken that are less than 12 inches long shall be immediately returned to the water in the following locations:

(a) In San Miguel county: a posted portion of the Pecos river where only barbless lures or flies may be used (more specifically described in Subsection A. of 19.31.4.11 NMAC).

(b) In Lincoln county: a posted section of the Rio Ruidoso where only barbless lures or flies may be used (more specifically described in Subsection A. of 19.31.4.11 NMAC).

(c) In Taos county: a posted section of the Red River from the confluence with Goose creek one mile upstream.

B. Black basses

(1) Any largemouth or spotted bass taken which is less than 14" long shall be immediately returned to the water.

(2) Any smallmouth bass taken which is less than 12" long shall be immediately returned to the water except at Ute and Conchas reservoirs where any smallmouth bass taken which is less than 14" long shall be immediately returned to the water.

C. Walleye: Any walleye taken which are less than 14" long shall be immediately returned to the water.

[19.31.4.12 NMAC - Rp, 19.31.4.12 NMAC, 4-1-2014]

19.31.4.13 [RESERVED]

19.31.4.14 WATERS WITH AGE OR INDIVIDUALS WITH DISABILITIES USE RESTRICTIONS:

A. Only persons under 12 years of age may fish in the following waters: Shuree kids' ponds on Valle Vidal

(Vermejo tract-Carson national forest); valley improvement association ponds at Belen, Harris pond in Las Vegas, Spring river park in Roswell, and the Brood pond at Seven Springs state fish hatchery.

B. Only persons under 12 years of age, those 65 years and over, and individuals with disabilities may fish in the designated Red River hatchery pond located at the Red River state fish hatchery, Blue Hole park pond (formerly Santa Rosa seniors pond), Estancia park lake at Estancia, and in ponds located in Harry McAdams park.

C. Only individuals with disabilities and those under 12 years of age may fish in the posted small pond at Cowles.

D. Olympic pond: Only persons under 12 years of age and those 65 years and over may fish in Olympic pond located at Angel Fire.

E. Laguna del Campo: Only persons 14 years of age and under, those 65 years and over, individuals with disabilities, or up to two parents/guardians in direct supervision of a child or children 14 years of age and under who are fishing, may fish in Laguna del Campo located near Los Ojos trout hatchery.

F. Conservancy park/Tingley beach kids' pond: Only persons 12 years of age and under may fish in Conservancy park/Tingley beach kids' pond in Albuquerque.

G. Red River city middle kids' pond: Only individuals with disabilities and those 12 years of age and under may fish in Red River city middle kids' pond.

H. Grants city pond: Only persons under 17 years of age, those 65 years and over, and individuals with disabilities may fish in Grants City pond in Grants.

[19.31.4.14 NMAC - Rp, 19.31.4.14 NMAC, 4-1-2014]

19.31.4.15 [RESERVED]

19.31.4.16 CLOSED WATERS:

A. Waters closed to fishing

(1) In Catron county: Big Dry creek from Golden link cabin upstream through its headwaters.

(2) In Catron county: Little creek from the "barrier" upstream through all tributaries.

(3) In Catron county: Spruce creek.

(4) In Catron and Sierra counties: Main Diamond creek above the point of confluence with east fork of Diamond creek and the south Diamond creek drainage.

(5) In Colfax county: a posted area lying within 300 feet of Eagle Nest dam, which is closed to entry.

(6) In Colfax county: a posted area of Stubblefield and Laguna Madre lakes lying within 150 feet of the outlet structures.

(7) In Grant county: east fork of Mogollon creek upstream of Trail canyon including Woodrow canyon.

(8) In Grant county: McKnight creek.

(9) In Grant county: Sheep corral creek.

(10) In Lincoln county: Pinelodge creek and posted areas of Alto reservoir and Bonito lake near the outlets.

(11) In Catron county: White creek from waterfall near White creek cabin upstream to headwaters.

(12) In Catron county: West fork of the Gila river and all tributaries above waterfalls between FS Trail No. 151 crossing of the West fork of the Gila river near White creek cabin and FS Trail No. 151 crossing of the West fork of the Gila river near Lilley canyon.

(13) In Catron county: Iron creek in the Gila wilderness upstream of the constructed waterfall barrier located in T12SR17WSec16NE.

(14) In Catron county: McKenna creek.

B. Taking fish from hatchery waters: No person shall take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned and operated by state or federal agencies. During open season, however, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.

C. Taking fish from or through the ice: Fish may be taken from or through the ice except on the following waters: Santa Cruz lake, Monastery lake, Bonito lake, and Springer lake. [19.31.4.16 NMAC - Rp, 19.31.4.16 NMAC, 4-1-2014]

19.31.4.17 [RESERVED]

19.31.4.18 ESTABLISHING FREE FISHING DAYS: The first Saturday in June and the last Saturday in September during the effective dates of this regulation, are established as free fishing days whereby anglers may fish public waters in New Mexico as otherwise provided by regulation, but without benefit of a fishing license or habitat improvement stamp. [19.31.4.18 NMAC - Rp, 19.31.4.18 NMAC, 4-1-2014]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.10 NMAC, Sections 7 and 14, effective 12-13-2013

19.31.10.7 DEFINITIONS:

A. "Big game species" shall mean deer, bear, cougar, elk, pronghorn antelope (American pronghorn), Barbary sheep, bighorn sheep, javelina, oryx, and Persian ibex.

B. "Modern firearms" shall mean center-fire firearms, not to include any fully automatic firearms. Legal shotguns shall be only those shotguns capable of being fired from the shoulder.

C. "Muzzle-loader or muzzle-loading firearms" shall mean those rifles and shotguns in which the charge and projectile are loaded through the muzzle. Only blackpowder, Pyrodex or equivalent blackpowder substitute may be used. Use of smokeless powder is prohibited. Legal muzzle-loader shotguns shall be only those shotguns capable of being fired from the shoulder.

D. "Restricted muzzle-loading rifle" shall mean any muzzle-loading rifle using open sights, black powder or equivalent and firing a traditional lead bullet. The use of in-line ignition, scopes, pelleted powder, smokeless powder and sabots, including powerbelt-type projectiles, are prohibited.

E. "Bow" shall mean compound, recurve, or long bow. Sights on bows shall not project light nor magnify.

F. "Arrows" shall mean only those arrows or bolts having broadheads with steel cutting edges.

G. "Trotline" shall be synonymous with "set line" or "throw line" or "jug", and shall mean a fishing line that is used without rod or reel and that need not be held in the hand or closely attended.

H. "Angling" shall mean taking or attempting to take fish by angling hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand or closely attended.

I. "Spear fishing" shall mean taking or attempting to take game fish with spears, [jigs] gigs, and arrows with barbs that are discharged under the surface of the water.

J. "Bait fish" is defined as those nongame fish which are not otherwise protected by statute or regulation.

K. "Chumming" is defined as a means of attracting fish by placing organic materials, non-injurious to aquatic life, into the water.

L. "Protected species" shall mean any of the following animals:

(1) all animals defined as protected

wildlife species and game fish under Section 17-2-3 New Mexico Statutes Annotated 1978 Compilation;

(2) all animals defined as furbearing animals under Section 17-5-2 New Mexico Statutes Annotated 1978 Compilation;

(3) all animals listed as endangered species or subspecies as stated in regulation(s) set by the state game commission.

M. "Retention" or "retain" shall mean the holding of in captivity.

N. "Established road" is defined as follows:

(1) a road, built or maintained by equipment, which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures;

(2) a two-track road which shows use prior to hunting seasons for other purposes such as recreation, mining, logging, and ranching and which shows no evidence of ever being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades or posted closures.

O. "Non-toxic shot" shall mean shot approved for use by the U. S. fish and wildlife service.

P. "Director" shall mean the director of the New Mexico department of game and fish.

Q. "Baiting" shall mean the placing, exposing, depositing, distributing, or scattering of any salt, grain, scent or other feed on or over areas where hunters are attempting to take protected game mammals or game birds.

R. "Nets" shall mean cast nets, dip nets, and seines which shall not be longer than 20 feet and shall not have a mesh larger than three-eighths of an inch.

S. "Barbless lure or fly" shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or man-made materials tied onto an angling hook to resemble or simulate insects, bait fish, or other foods. A barbless fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, or rubber or plastic moldings of these or other foods are not included.

T. "Crossbow" shall mean a device with a bow limb or band of flexible material that is attached horizontally to a stock and has a mechanism to hold the string in a cocked position. Sights or lights on crossbows shall not project light. This definition shall apply to hunting for all species and be effective 9-1-2012.

U. **“Angling hook”** shall mean a single, double, or treble (triple) point attached to a single shank.

V. **“Sporting arms or weapon types”** shall be designated as follows:

(1) all hunt codes denoted with -1- shall authorize use of any legal weapon;

(2) all hunt codes denoted with -2- shall authorize use of bows only;

(3) all hunt codes denoted with -3- shall authorize use of bows, crossbows and muzzle-loading firearms, except that bows and crossbows shall not be allowed during restricted muzzle-loading hunts.

W. **“Bag limit”** shall mean the protected animal, qualified by species, sex, age, antler requirement, or size allowed by rule that a legally licensed hunter may attempt to take or harvest.

X. **“Written permission”** shall mean a document (which may include a valid hunting, trapper, or fishing license) that asserts the holder has permission from the private land owner or his designee to hunt, fish, or trap on the landowner's property. The information on the document must be verifiable and include the name, date, and phone number of the person granting the permission.

Y. **“Bow fishing”** shall mean taking or attempting to take game fish with arrows with barbs that are discharged above the surface of the water by a bow. Arrows must be attached by string, line, or rope to facilitate fish retrieval.

[19.31.10.7 NMAC - Rp, 19.31.10.7 NMAC, 4-1-2007; A, 6-30-2008; A, 4-1-2009; A/E, 9-1-2012; A, 12-13-2013]

19.31.10.14 FISHING:

A. **Angling:** Game fish may be taken by angling in all waters that are open for fishing.

B. Trotlines:

(1) It is unlawful for any person to set more than one trotline at a time. It is unlawful to tie or join together trotlines belonging to two or more persons.

(2) It is unlawful for trotlines to have more than 25 angling hooks.

(3) A person fishing with a trotline shall personally visit and inspect the trotline at least once every 24 hours. Failure to check a trotline every 24 hours is a violation of this paragraph.

(4) It is unlawful for anyone to tamper with another's trotline.

(5) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the fisherman's name, address, fishing license number, and the date the trotline was set. An unlicensed fisherman under 12 years of age shall also list his date of birth.

(6) It is unlawful to set or use a

trotline in trout waters, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(7) Any conservation officer or other officer authorized to enforce the game laws may seize and confiscate any trotlines not set in accordance with this subsection.

C. **Illegal device or substance:** It is unlawful to use any device or substance capable of catching, stupefying, or killing fish except as permitted by regulation.

D. **Bait:** It is unlawful to use protected fish, live bullfrogs, or live bullfrog tadpoles as bait in any waters containing protected species. EXCEPTION: the genus *Lepomis* taken by legal means of angling may be used as live bait in the water from which they were taken only in the following waters: Abiquiu reservoir, Cochiti lake, Elephant Butte reservoir, Caballo reservoir, Stubblefield lake, Maxwell lakes, Clayton lake, Conchas lake, Ute lake, Santa Rosa lake, Lake Sumner, Brantley reservoir, and Navajo reservoir. *Lepomis* may be used as ~~cutt~~ dead bait; roe, viscera, and eyes of legally taken game fish may be used as bait; and bullfrogs and bullfrog tadpoles may be used as ~~cutt~~ dead bait. Live bullfrogs or live bullfrog tadpoles may not be in possession while fishing.

E. Use of bait fish:

(1) It is unlawful to use gar (*Lepisosteus* spp.) and goldfish (*Carassius auratus*) ~~for~~ as bait ~~fish~~ in all waters.

(2) It is unlawful to use live common carp (*Cyprinus carpio*), river carpsucker (*Carpoides carpio*), and smallmouth buffalo (*Ictiobus bubalus*) in all waters. However, these species may be used as ~~cutt~~ dead bait in any water where bait may be used.

(3) It is unlawful to use bait fish in all trout waters except fathead minnows and red shiners may be used in the following trout waters: Abiquiu, Clayton lake, Jackson lake, Lake 13 (Maxwell refuge), Navajo lake, Caballo lake, the Rio Grande downstream of the Taos junction bridge (excluding the special trout water described in 19.31.4.11 NMAC), Power Dam lake, and the Animas river.

(4) It is unlawful to use any bait fish in Bitter lake national ~~wildlife~~ wildlife refuge and Bottomless lakes state park.

(5) Bait fish may be used in all other waters with the following restrictions:

(a) In the Gila river and San Francisco river drainages only fathead minnows may be used.

(b) In the Pecos river drainage only fathead minnows and red shiners may

be used.

(c) In the Rio Grande drainage only fathead minnows, red shiners, and shad may be used except in Elephant Butte and Caballo where golden shiners are also allowed

(d) In the Canadian river drainage only fathead minnows, red shiners, and shad may be used.

(e) In the San Juan river drainage only fathead minnows and red shiners may be used.

(f) In Eagle Nest and Heron lakes only dead ~~or cutt~~ bait fish may be used. No live bait fish may be in possession.

F. **Release of bait fish:** It is unlawful to release any bait fish into any water containing game fish.

G. **Eradication of fish:** In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers, the director may permit licensed fishermen and unlicensed persons under 12 years of age to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission, the director may specify bag and possession limits and manner and method of taking for such waters.

H. **[Bait] Methods for taking bait fish for personal use:** Licensed fishermen and unlicensed persons under 12 years of age may take ~~minnows and nongame~~ bait fish for personal use only in waters containing game fish by ~~They may use~~ angling, nets, traps, spears, arrows, and seines. All protected species of fish taken in seines, nets, and traps shall be immediately returned to the water.

I. **Illegal taking of bait fish:** It is unlawful for licensed minnow dealers to take bait fish for sale from waters not specified on their licenses. They may take these fish only by use of traps, seines, or cast nets, as specified on their licenses. All protected species of fish taken in such traps, seines, or nets shall be immediately returned to the water from which they were taken.

~~J. Methods for taking bait fish:~~ Bait fish may be taken in waters containing game fish by angling, spears, and arrows:

~~[K] J. Permits for taking bait fish:~~ The director may issue permits for the use of nets, seines, traps, or cast nets in taking bait fish in waters containing protected species of fish. The permit shall specify methods of taking, places for taking, and duration of the permit. The permittee shall report monthly the species, numbers and poundage of ~~nongame~~ bait fish taken during the preceding month.

~~[E] K. Limit on angling hooks:~~ It is unlawful to angle with more than two (2) barbless lures or flies with single point angling hooks on a single line when fishing the special trout water on the

San Juan river designated in Subsection A. of 19.31.4.11 NMAC.

[M] L. [Reserved]

[N] M. Number of fishing poles: It is unlawful to angle with more than one pole without having a current two rod validation or stamp affixed on the current license. It is unlawful under any circumstance to angle with more than two poles.

[O] N. Exceeding daily bag limit: It is unlawful to exceed the daily bag limit or possession limit of any protected fish species, as specified in 19.31.4.11 NMAC.

[P] O. Snagging game fish: It is unlawful to snag game fish except during the special Kokanee salmon season as specified in 19.31.4.9 NMAC.

[Q] P. Chumming: It is unlawful to "CHUM" except in the following waters: All waters designated as warm waters; Gila river downstream from its junction with its east fork; Rio Grande downstream from its junction with the Chama river, excluding the special trout water below Elephant Butte dam described in Subsection A. of 19.31.4.11 NMAC.

[R] Q. Special trout waters: Only barbless lures or flies may be used in the special trout waters designated in Subsection A. of 19.31.4.11 NMAC, except in the special trout water on the Rio Grande below Elephant Butte dam in which soft plastic lures may also be used, and in the following waters any legal angling gear and legal bait for trout waters may be used: Conservancy Park lake/Tingley beach the Kids' pond and Central pond, the Vermejo river system within Vermejo Park ranch boundaries, Gilita and Willow creeks, and those waters designated in Subparagraph (e) of Paragraph (4) of Subsection A. of 19.31.4.11 NMAC.

[S] R. Attracting or concentrating fish:

(1) Artificial lights: Use of artificial lights is permitted for attracting game fish.

(2) Disturbing the bottom: It is unlawful in all special trout waters defined in Subsection A. of 19.31.4.11 NMAC, to disturb or dislodge aquatic plant growth, sediment, or rocks for the purpose of attracting or concentrating fish. It shall also be unlawful to angle in the immediate vicinity where such disturbance has occurred.

[F] S. [Spears, gigs, and arrows:] Spearfishing and bow fishing:

~~[-(1) Spears, gigs, and arrows with barbs that are discharged beneath the water may be used only in lakes and reservoirs open to fishing.]~~

(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing.

(2) In addition, during the season established by Subsection B. of 19.31.4.9

NMAC, Kokanee salmon may be taken by the use of spears, gigs, and arrows with barbs that are discharged above or below the water and not driven by explosives, gas, air, or crossbow, except in the Pine river where spears, gigs, and arrows are prohibited.

~~[U. Exemption of two rod validation requirement: A two rod validation or stamp is not required in warm waters as defined in Subsection C of 19.31.4.8 NMAC until April 1, 2004.]~~

[19.31.10.14 NMAC - Rp, 19.31.10.18 NMAC, 4-1-2007; A, 6-30-2008; A, 4-1-2010; A, 7-16-2012; A, 12-13-2013]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The Human Services Department (the Department), Medical Assistance Division (MAD), is repealing and replacing the following eligibility rules effective January 1, 2014.

8.200.400 NMAC, General Medicaid Eligibility

8.200.410 NMAC, General Recipient Requirements

8.200.420 NMAC, Special Recipient Requirements

8.200.430 NMAC, Recipient Rights and Responsibilities

8.200.520 NMAC, Income Standards

8.202.400 NMAC, Recipient Requirements

8.202.500 NMAC, Income and Resources Standards

8.202.600 NMAC, Benefit Description

8.206.400 NMAC, Recipient Requirements

8.227.400 NMAC, Recipient Requirements

8.227.500 NMAC, Income and Resources Standards

8.227.600 NMAC, Benefit Description

8.228.400 NMAC, Recipient Requirements

8.228.500 NMAC, Income and Resources Standards

8.228.600 NMAC, Benefit Description

8.230.400 NMAC, Recipient Requirements

8.230.500 NMAC, Income and Resources Standards

8.230.600 NMAC, Benefit Description

8.231.600 NMAC, Benefit Description

8.232.400 NMAC, Recipient Requirements

8.232.500 NMAC, Income and Resources Standards

8.232.600 NMAC, Benefit Description

8.234.400 NMAC, Recipient Requirements

8.234.500 NMAC, Income and Resources Standards

8.234.600 NMAC, Benefit Description

8.235.400 NMAC, Recipient Requirements

8.235.500 NMAC, Income and Resources Standards

8.235.600 NMAC, Benefit Description

8.242.400 NMAC, Recipient Requirements

8.242.500 NMAC, Income and Resources Standards

8.242.600 NMAC, Benefit Description

8.249.400 NMAC, Recipient Requirements

8.249.500 NMAC, Income and Resources Standards

8.249.600 NMAC, Benefit Description

8.250.400 NMAC, Recipient Requirements

8.250.500 NMAC, Income and Resources Standards

8.252.500 NMAC, Income and Resources Standards

8.252.600 NMAC, Benefit Description

8.259.400 NMAC, Recipient Requirements

8.259.500 NMAC, Income and Resources Standards

8.259.600 NMAC, Benefit Description

8.285.400 NMAC, Recipient Requirements

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 200 M E D I C A I D ELIGIBILITY - GENERAL RECIPIENT POLICIES PART 400 G E N E R A L MEDICAID ELIGIBILITY

8.200.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.200.400.1 NMAC - Rp, 8.200.400.1 NMAC, 1-1-14]

8.200.400.2 SCOPE: The rule applies to the general public.

[8.200.400.2 NMAC - Rp, 8.200.400.2 NMAC, 1-1-14]

8.200.400.3 STATUTORY AUTHORITY: The New Mexico Medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.200.400.3 NMAC - Rp, 8.200.400.3 NMAC, 1-1-14]

8.200.400.4 DURATION: Permanent.

[8.200.400.4 NMAC - Rp, 8.200.400.4 NMAC, 1-1-14]

8.200.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.200.400.5 NMAC - Rp, 8.200.400.5 NMAC, 1-1-14]

8.200.400.6 OBJECTIVE: The objective of this rule is to provide specific

instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.200.400.6 NMAC - Rp, 8.200.400.6 NMAC, 1-1-14]

8.200.400.7 DEFINITIONS [RESERVED]

8.200.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.200.400.8 NMAC - Rp, 8.200.400.8 NMAC, 1-1-14]

8.200.400.9 GENERAL MEDICAID ELIGIBILITY: Medicaid services are jointly financed by the federal government and the state of New Mexico and are administered by medical assistance division (MAD).

A. Within broad federal regulations, New Mexico determines categories of eligible recipients, eligibility requirements, types and range of services, levels of provider reimbursement and managed care capitation, and administrative and operating procedures.

B. New Mexico administers medical assistance programs using waivers of the Social Security Act for comparability of services, rules for income and resources and freedom of choice of provider.

C. Payments for medical and behavioral health services, durable equipment and supplies are made directly to service providers, not to the medicaid eligible recipient.

D. This chapter describes the New Mexico categories of medicaid and medical assistance programs eligibility. Each medicaid and medical assistance program includes detailed eligibility requirements which are organized into the following three chapter types:

- (1) recipient requirements (.400);
- (2) income and resources standards (.500); and
- (3) benefit description (.600).

[8.200.400.9 NMAC - Rp, 8.200.400.9 NMAC, 1-1-14]

8.200.400.10 BASIS FOR DEFINING GROUP - MEDICAID CATEGORIES:

A. **Medical assistance for women, children (MAWC) and families:** Section 1931 of the Social Security Act provides statutory authority for states to use less restrictive methodologies than the aid to families with dependent children (AFDC) IV-A program in place as of July 16, 1996. This less restrictive methodology is applicable to medicaid programs for families, women and children. Except where noted, the HSD income support division (ISD) determines eligibility in the categories listed below.

(1) **JUL - Category 072:** provides medicaid for eligible families with a dependent child. Refer to 8.202 NMAC.

(2) **Loss of JUL due to child or spousal support - Category 027:** provides four months of extended medicaid for eligible families.

(3) **Loss of JUL due to increased earned income - Category 28:** provides 12 months of extended medicaid benefits for eligible families.

(4) **Pregnant women - Category 030:** provides full medicaid coverage for a pregnant woman. Refer to 8.230 NMAC for more information.

(5) **Pregnancy related and family planning - Category 035:** provides medicaid coverage for pregnancy-related services for an eligible pregnant woman and family planning and related services for an eligible man or woman.

(6) **Newborn - Category 031:** provides medicaid coverage for a newborn who is less than 12 months of age, born to a mother who, at the time of the birth, was either eligible for or receiving New Mexico medicaid.

(7) **Children's medicaid and children's health insurance program (CHIP) - Category 032:**

(a) **children's medicaid:** provides medicaid coverage to an eligible recipient who is under 19 years of age in families with incomes up to 185 percent of the federal poverty limit (FPL);

(b) **CHIP:** provides coverage to an uninsured eligible recipient who is under 19 years of age and in a family with income from 185 up to 235 percent FPL; co-payments apply to CHIP; native American children are exempt from co-payments.

(8) **Children, youth, and families department (CYFD) medicaid - Categories 017, 037, 046, 047, 066, and 086:** CYFD medicaid covers certain eligible recipients who are court ordered into full or partial responsibility of CYFD; the eligibility determination for these categories is made by CYFD.

(a) **Medicaid for a Title IV-E eligible recipient:** Individuals who receive a Title IV-E adoption, foster care or kinship guardianship assistance payment are deemed categorically eligible for medicaid.

(i) **Category 037:** adoption payments made by New Mexico for an eligible recipient placed in New Mexico.

(ii) **Category 047:** adoption payments made by New Mexico for an eligible recipient placed in a new state of residence.

(iii) **Category 017:** adoption payments made by another state for an eligible recipient placed in New Mexico.

(iv) **Category 066:** foster care payments made by New Mexico for an eligible recipient placed in New Mexico.

(v) **Category 046:** foster care payments made by New Mexico for an eligible recipient placed in a new state of residence.

(vi) **Category 086:** foster care payments made by another state for an eligible recipient placed in New Mexico.

(b) **Medicaid for the Chafee foster care independence program:** An eligible recipient who leaves foster care because they reach the age of 18 is eligible for extended medicaid coverage when they are between 18 and 21 years of age.

B. **Medicare savings program (MSP):** MSP assists an eligible recipient with the cost of medicare.

(1) Medicare is the federal government program that provides health care coverage for individuals 65 or older; or under 65 who have a disability. Individuals under 65 who have a disability are subject to a waiting period of 24 months from the approval date of social security disability insurance (SSDI) benefits before they receive medicare coverage. Coverage under medicare is provided in four parts.

(a) Part A hospital coverage is usually free to beneficiaries when medicare taxes are paid while working.

(b) Part B medical coverage requires monthly premiums, co-insurance and deductibles to be paid by the beneficiary.

(c) Part C advantage plan allows a beneficiary to choose to receive all medicare health care services through a managed care organization.

(d) Part D provides prescription drug coverage.

(2) The following MSP programs can assist an eligible recipient with the cost of medicare.

(a) **Qualified medicare beneficiaries (QMB) - Category 040:** QMB covers low income medicare beneficiaries who have or are conditionally eligible for medicare Part A. QMB benefits are limited to the following:

(i) cost for the monthly medicare Part B premium;

(ii) cost of medicare deductibles and coinsurance; and

(iii) cost for the monthly

medicare Part A premium (for those enrolling conditionally).

(b) **Specified low-income medicare beneficiaries (SLIMB) - Category 045:** SLIMB medicaid covers low-income medicare beneficiaries who have medicare Part A. SLIMB is limited to the payment of the medicare Part B premium.

(c) **Qualified individuals 1 (QI1s) - Category 042:** QI1 medicaid covers low-income medicare beneficiaries who have medicare Part A. QI1 is limited to the payment of the medicare part B premium.

(d) **Qualified disabled working individuals (QDI) - Category 050:** QDI medicaid covers low income individuals who lose entitlement to free medicare Part A hospital coverage due to gainful employment. QDI is limited to the payment of the monthly Part A hospital premium.

(e) **Medicare Part D prescription drug coverage - low income subsidy (LIS) - Category 048:** LIS provides individuals enrolled in medicare Part D with a subsidy that helps pay for the cost of Part D prescription premiums, deductibles and co-payments. An eligible recipient receiving medicaid through QMB, SLMB or QI1 is automatically deemed eligible for LIS and need not apply. Other low-income medicare beneficiaries must meet an income and resource test and submit an application to determine if they qualify for LIS.

C. Supplemental security income (SSI) related medicaid:

(1) **SSI - Categories 001, 003 and 004:** Medicaid for individuals who are eligible for SSI. Eligibility for SSI is determined by the social security administration (SSA). This program provides cash assistance and medicaid for an eligible recipient who is:

- (a) aged (Category 001);
- (b) blind (Category 003); or
- (c) disabled (Category 004).

(2) **SSI medicaid extension - Categories 001, 003 and 004:** MAD provides coverage for certain groups of applicants or eligible recipients who have received supplemental security income (SSI) benefits and who have lost the SSI benefits for specified reasons listed below and pursuant to 8.201.400 NMAC:

- (a) the Pickle Amendment and 503 lead;
- (b) early widow(er);
- (c) disabled widow(er) and a disabled surviving divorced spouse;
- (d) child insurance benefits, including disabled adult children (DAC);
- (e) nonpayment SSI status (E01);
- (f) revolving SSI payment status "ping-pongs"; and
- (g) certain individuals who become ineligible for SSI cash benefits and, therefore, may receive up to two months of extended medicaid benefits while they apply

for another MAD category of eligibility.

(3) **Working disabled individuals (WDI) and medicare wait period - Category 043:** There are two eligibility types:

- (a) a disabled individual who is employed; or
- (b) a disabled individual who has lost SSI medicaid due to receipt of SSDI and the individual does not yet qualify for medicare.

D. Long term care medicaid:

(1) medicaid for individuals who meet a nursing facility (NF) level of care (LOC), intermediate care facilities for the intellectually disabled (ICF-ID) LOC, or acute care in a hospital. SSI income methodology is used to determine eligibility. An eligible recipient must meet the SSA definition of aged (Category 081); blind (Category 083); or disabled (Category 084).

(2) **Institutional care (IC) medicaid - Categories 081, 083 and 084:** IC covers certain inpatient, comprehensive and institutional and nursing facility benefits.

(3) **Program of all-inclusive care for the elderly (PACE) - Categories 081, 083 and 084:** PACE uses an interdisciplinary team of health professionals to provide dual medicaid/medicare enrollees with coordinated care in a community setting. The PACE program is a unique three-way partnership between the federal government, the state, and the PACE organization. The PACE program is limited to specific geographic service area(s). Eligibility may be subject to a wait list for the following:

- (a) the aged (Category 081);
- (b) the blind (Category 083); or
- (c) the disabled (Category 084).

(4) **Home and community-based 1915 (c) waiver services (HCBS) - Categories 090, 091, 092, 093, 094, 095 and 096:** A 1915(c) waiver allows for the provision of long term care services in home and community based settings. These programs serve a variety of targeted populations, such as people with mental illnesses, intellectual disabilities, or physical disabilities. Eligibility may be subject to a wait list.

(a) **There are two HCBS delivery models:**

- (i) traditional agency delivery where HCBS are delivered and managed by a MAD enrolled agency; or
- (ii) mi via self-directed where an eligible recipient, or his or her representative, has decision-making authority over certain services and takes direct responsibility to manage the eligible mi via recipient's services with the assistance of a system of available supports; self-direction of services allows an eligible mi via recipient to have the responsibility for managing all aspects of service delivery in a

person-centered planning process.

(b) **HCBS waiver programs include:**

- (i) acquired immunodeficiency syndrome (AIDS) and AIDS-related condition (ARC) (Category 090);
- (ii) disabled and elderly aged (Category 091), blind (Category 093), disabled (Category 094);
- (iii) medically fragile (Category 095);
- (iv) developmental disabilities (Category 096);
- (v) brain injury (Category 092); and
- (vi) mi via (self directed model for Categories 090, 091, 093, 094, 095, 096 and 092).

E. **Emergency medical services for aliens (EMSA):** EMSA medicaid covers certain noncitizens who either are undocumented or who do not meet the qualifying alien criteria specified in 8.200.410 NMAC. Non-citizens must meet all eligibility criteria for one of the medicaid categories noted in 8.285.400 NMAC, except for citizenship or qualified alien status. An eligible EMSA recipient does not receive the full medicaid benefit package. Medicaid eligibility for and coverage of services under EMSA are limited to the payment of emergency services from a medicaid provider.

F. **Refugee medical assistance (RMA) - Categories 049 and 059:** RMA offers health coverage to certain low income refugees during the first eight months from their date of entry to the United States (U.S.) when they do not qualify for other medicaid categories of eligibility. A RMA eligible refugee recipient has access to a benefit package that parallels the full coverage medicaid benefit package. RMA is funded through a grant under Title IV of the Immigration and Nationality Act (INA). A RMA applicant who exceeds the RMA income standards may "spend-down" below the RMA income standards for Category 059 by subtracting incurred medical expenses after arrival into the U.S.

G. **Breast and cervical cancer (BCC) - Category 052:** BCC medicaid provides coverage to an eligible uninsured woman, under the age of 65 who has been screened and diagnosed by the department of health (DOH) as having breast or cervical cancer to include pre-cancerous conditions. The screening criteria are set forth in the centers for disease control and prevention's national breast and cervical cancer early detection program (NBCCEDP). Eligibility is determined using DOH notification and without a separate medicaid application or determination of eligibility. [8.200.400.10 NMAC - Rp, 8.200.400.10 NMAC, 1-1-14]

8.200.400.11 PRESUMPTIVE ELIGIBILITY (PE) FOR PREGNANT WOMEN: PE provides immediate access to health services when an individual appears to be eligible for Category 035. Effective January 1, 2014, MAD will end new PE application approvals for Category 035. Refer to 8.291.400 NMAC for the new Affordable Care Act presumptive eligibility for pregnant women categories.

A. **Pregnancy related Medicaid (Category 035):** PE provides a pregnant woman with temporary medicaid coverage for ambulatory prenatal care during a limited PE period. Only one PE period is allowed per pregnancy.

B. PE is determined by a qualified entity certified by HSD. Qualified entities may include community and rural health centers, hospitals, physician offices, local health departments, family planning agencies and schools.

C. The PE period begins on the date the provider determines presumptive eligibility and terminates at the end of the following month.

D. Providers shall notify the MAD claims processing contractor of the determination within 24-hours of the PE determination.

E. For continued medicaid eligibility beyond the PE period, a completed and signed application for medicaid must be submitted to HSD/ISD. An eligible PE provider must submit the application to ISD within 10 calendar days from the receipt of the application.
[8.200.400.11 NMAC - Rp, 8.200.400.11 NMAC, 1-1-14]

8.200.400.12 PRESUMPTIVE ELIGIBILITY FOR CHILDREN: PE provides immediate access to health services when an individual appears to be eligible for Category 032. Effective January 1, 2014, MAD will end new PE application approvals for Category 032. Refer to 8.291.400 NMAC for the new Affordable Care Act presumptive eligibility for children categories.

A. **Medicaid and children's health insurance program (CHIP) (Category 032):** PE for a child provides temporary full coverage medicaid benefits during the limited PE period.

B. PE is determined by a qualified entity certified by HSD. Qualified entities may include community and rural health centers, hospitals, physician offices, local health departments, family planning agencies and schools.

C. The PE period begins on the date the provider determines presumptive eligibility and terminates at the end of the following month.

D. Providers shall notify the MAD claims processing contractor of the determination within 24-hours of the PE

determination.

E. For continued medicaid eligibility beyond the PE period, a completed and signed application for medicaid must be submitted to HSD/ISD. An eligible PE provider must submit the application to ISD within 10 calendar days from the receipt of the application.

[8.200.400.12 NMAC - Rp, 8.200.400.12 NMAC, 1-1-14]

8.200.400.13 PRESUMPTIVE ELIGIBILITY FOR BREAST AND CERVICAL CANCER: PE provides immediate access to health services when an individual appears to be eligible for Category 052.

A. **Breast and cervical cancer (BCC) (Category 052):** PE provides temporary medicaid coverage for an uninsured woman, under the age of 65 who has been screened and diagnosed by the DOH as having breast or cervical cancer to include pre-cancerous conditions. Only one PE period is allowed per calendar year.

B. PE is determined by a qualified entity certified by HSD. Qualified entities may include community and rural health centers, hospitals, physician offices, local health departments, family planning agencies and schools.

C. The PE period begins on the date the provider determines presumptive eligibility and terminates at the end of the following month.

D. Providers shall notify the MAD claims processing contractor of the determination within 24-hours of the PE determination.

E. For continued medicaid eligibility beyond the PE period, a completed and signed application for medicaid must be submitted to HSD/ISD. An eligible PE provider must submit the application to ISD within 10 calendar days from the receipt of the application.

[8.200.400.13 NMAC - Rp, 8.200.400.13 NMAC, 1-1-14]

8.200.400.14 12 MONTHS CONTINUOUS ELIGIBILITY FOR CHILDREN: Children eligible for medicaid under category of eligibility: 032, 072, HCBS waivers, IV-E, and SSI-004, and 003 will remain eligible for a period of 12 months, regardless of changes in income. This provision applies even if it is reported that the family income exceeds the applicable federal income poverty guidelines. The 12 months of continuous medicaid starts with the month of approval or redetermination and is separate from any months of presumptive or retroactive eligibility. This provision does not apply when there is a death of a household member, the member or the family moves out of state, or the child turns 19 years of age.

[8.200.400.14 NMAC - Rp, 8.200.400.14 NMAC, 1-1-14]

8.200.400.15 CONTINUOUS ELIGIBILITY:

A. Continuous medicaid eligibility is provided to the following eligible medicaid recipients regardless of changes in income.

(1) A child under the age of 19 remains medicaid eligibility for a period of 12-months. A 12-month period of continuous eligibility starts with the month of approval or redetermination. Presumptive and retroactive eligibility are not counted in the 12 month continuous period.

(2) A pregnant woman's medicaid eligibility is continuous for the:

- (a) duration of the pregnancy; and
- (b) two-month post-partum period; and
- (c) 12-month family-planning coverage.

B. The provision of continuous eligibility does not apply when the medicaid eligible recipient moves out of state or is deceased.

[8.200.400.15 NMAC - N, 1-1-14]

HISTORY OF 8.200.400 NMAC: The material in this part was derived from that previously filed with the State Records Center:

8 NMAC 4.MAD.400, Recipient Policies, Recipient Rights and Responsibilities, filed 12-30-94.

History of Repealed Material:

8.200.400 NMAC, General Medicaid Eligibility, filed 6-15-01 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 200 MEDICAID ELIGIBILITY - GENERAL RECIPIENT POLICIES PART 410 GENERAL RECIPIENT REQUIREMENTS

8.200.410.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.200.410.1 NMAC - Rp, 8.200.410.1 NMAC, 1-1-14]

8.200.410.2 SCOPE: The rule applies to the general public.

[8.200.410.2 NMAC - Rp, 8.200.410.2 NMAC, 1-1-14]

8.200.410.3 STATUTORY AUTHORITY: The New Mexico medicaid

program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.200.410.3 NMAC - Rp, 8.200.410.3 NMAC, 1-1-14]

8.200.410.4 DURATION: Permanent.
[8.200.410.4 NMAC - Rp, 8.200.410.4 NMAC, 1-1-14]

8.200.410.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.200.410.5 NMAC - Rp, 8.200.410.5 NMAC, 1-1-14]

8.200.410.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.200.410.6 NMAC - Rp, 8.200.410.6 NMAC, 1-1-14]

8.200.410.7 DEFINITIONS:
[RESERVED]

8.200.410.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.200.410.8 NMAC - Rp, 8.200.410.8 NMAC, 1-1-14]

8.200.410.9 GENERAL RECIPIENT REQUIREMENTS: To be eligible or continue eligibility for medicaid or other medical assistance programs, an applicant or eligible recipient must meet specific non-financial requirements. In addition to the rules in this chapter, refer to 8.100.130 NMAC regarding the following requirements:

- A. citizenship or alien status;
- B. enumeration;
- C. residence;
- D. non-concurrent receipt of assistance;
- E. applications for other benefits; and
- F. assignment of medical

support rights.
[8.200.410.9 NMAC - Rp, 8.200.410.9 NMAC, 1-1-14]

8.200.410.10 ENUMERATION: The social security administration (SSA) is responsible for the assigning of social security numbers (SSN), a process called enumeration. HSD uses the SSN as a unique identifier to the individual and eligible recipient and to verify income and resources where applicable.

A. **Applicant and an eligible recipient:** Except as noted in Subsection B of this section, it is mandatory for a medicaid applicant and an eligible recipient to report his or her SSN. If an applicant or an eligible recipient does not have a valid SSN, he or she must apply for one. Applications for an SSN are available at any SSA or HSD income support division (ISD) office. An application for an SSN can be made by completing and submitting an SSN application form. Proof of the SSN application must be provided to ISD.

B. **Applicant and eligible recipient exception:** The following applicants or eligible recipients in the following categories are not required to report an SSN. Reporting an SSN is voluntary for:

- (1) emergency medical services for aliens (EMSA); and
- (2) refugee medical assistance (RMA).

C. **Non-applicants and non-eligible recipients:** Reporting an SSN is voluntary for individuals who are not seeking medicaid services for themselves.
[8.200.410.10 NMAC - Rp, 8.200.410.10 NMAC, 1-1-14]

8.200.410.11 CITIZENSHIP: To be eligible for medicaid, an individual must be a citizen of the United States; or an alien who meets the requirements set forth in either Subsection A or B of this section.

A. **Aliens who entered the United States prior to August 22, 1996:** Aliens who entered the United States prior to August 22, 1996, will not be subject to the five-year bar on eligibility for purposes of medicaid eligibility, and will continue to be eligible for medicaid on the basis of alien regulations in effect prior to August 22, 1996. These classes of aliens are as follows.

(1) Aliens who entered the United States prior to August 22, 1996, and remained continuously present in the United States until the date they obtained qualified alien status on or after August 22, 1996; any single absence from the United States of more than 30 days, or a total aggregate of absences of more than 90 days, is considered to interrupt "continuous presence".

(2) Aliens lawfully admitted for permanent residence or are permanently

residing in the United States under color of law as follows:

(a) the individual may be eligible for medicaid if the individual is an alien residing in the United States with the knowledge and permission of the United States immigration and customs enforcement (ICE) and ICE does not contemplate enforcing the alien's departure; ICE does not contemplate enforcing an alien's departure if it is the policy or practice of ICE not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in a particular case it appears that ICE is otherwise permitting the alien to reside in the United States indefinitely, as determined by verifying the alien's status with ICE;

(b) aliens who are permanently residing in the United States under color of law are listed below; none of the categories include applicants for an alien status other than those applicants listed in item (vi) or (xvi) of this Subparagraph; none of the categories allow medicaid eligibility for non-immigrants; for example, students or visitors; also listed are the most commonly used documents that ICE provides to aliens in these categories:

(i) aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7)(Section 203(a)(7) of the Immigration and Nationality Act); ask for a copy of ICE Form I-94 endorsed "refugee-conditional entry";

(ii) aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5)(Section 212(d)(5) of the Immigration and Nationality Act; for Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981; (although the forms bear this notation, Cuban/Haitian entrants are admitted under Section 212(d)(5) of the Immigration and Nationality Act);

(iii) aliens residing in the United States pursuant to an indefinite stay of deportation; ask for an immigration and naturalization services letter with this information or ICE Form I-94 clearly stated that voluntary departure has been granted for an indefinite period of time;

(iv) aliens residing in the United States pursuant to an indefinite voluntary departure; ask for an immigration and naturalization services letter or ICE Form I-94 showing that voluntary departure has been granted for an indefinite time period;

(v) aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure ICE does not contemplate enforcing; ask for a copy of ICE Form I-94 or Form I-210 or a letter clearly stating that status;

(vi) aliens who have filed applications for adjustment of status pursuant to Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that ICE has accepted as properly filed (within the meaning of 8 CFR 245.2(a)(1) or (2)) and whose departure ICE does not contemplate enforcing; ask for a copy of ICE Form I-94 or I-181 or a passport appropriately stamped;

(vii) aliens granted stays of deportation by court order, statute, or regulation, or by individual determination of ICE pursuant to Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105 (a)) or relevant ICE instructions, whose departure that agency does not contemplate enforcing; ask for a copy of ICE Form I-94 or a letter from ICE, or a copy of a court order establishing the alien's status;

(viii) aliens granted asylum pursuant to Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158); ask for a copy of ICE Form I-94 and a letter establishing this status;

(ix) aliens admitted as refugees pursuant to Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or Section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)); ask for a copy of ICE Form I-94 properly endorsed;

(x) aliens granted voluntary departure pursuant to Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure ICE does not contemplate enforcing; ask for a Form I-94 or Form I-210 bearing a departure date;

(xi) aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later; ask for a copy for ICE Form I-210 or a letter showing that departure has been deferred;

(xii) aliens residing in the United States under orders of supervision pursuant to Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)); ask for a copy of Form I-220 B;

(xiii) aliens who have entered and continuously resided in the United States since before January 1, 1972, (or any date established by Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259); ask for any proof establishing this entry and continuous residence;

(xiv) aliens granted suspension for deportation pursuant to Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) and whose departure ICE does not contemplate enforcing; ask for an order from an immigration judge showing that deportation has been withheld;

(xv) aliens whose

deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); ask for an order from an immigration judge showing that deportation has been withheld;

(xvi) any other aliens living in the United States with the knowledge and permission of the immigration and naturalization service and whose departure the agency does not contemplate enforcing (including permanent non-immigrants as established by Public Law 99-239, and persons granted extended voluntary departure due to conditions in the alien's home country based on a determination by the secretary of state).

(3) Aliens granted lawful temporary resident status under Section 245A and 210A of the Immigration and Nationality Act if the individual is aged, blind or disabled as defined in Section 1614(a)(1) of the act, under 18 years of age, or a Cuban/Haitian entrant as defined in Section 510(e)(1) and (2)(A) of the Public Law 96-422.

(4) Aliens granted lawful temporary resident status under Section 210 of the Immigration and Nationality Act unless the alien would, but for the 5-year bar to receipt of AFDC contained in such section, be eligible for AFDC.

B. Aliens who entered the United States on or after August 22, 1996:

(1) Aliens who entered the United States on or after August 22, 1996, are barred from medicaid eligibility for a period of five years, other than emergency services (under Category 085). The five-year bar begins on the date of the alien's entry into the United States with a status of qualified alien. The following classes of qualified aliens are exempt from the five-year bar:

(a) an alien admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

(b) an alien granted asylum under Section 208 of the Immigration and Nationality Act;

(c) an alien whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act;

(d) an alien who is lawfully residing in the state and who is a veteran with an honorable discharge not on account of alien status; is on active duty other than on active duty for training, in the armed forces of the United States; or the spouse or unmarried dependent child under the age of 18 of such veteran or active duty alien;

(e) an alien who was granted status as a Cuban and Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(f) an alien granted Amerasian immigrant status as defined under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act,

1988;

(g) victims of a severe form of trafficking, in accordance with Section 107(b)(1) of the Trafficking Victims Protection Act of 2000, P.L. 106-386;

(h) battered aliens who meet the conditions set forth in Section 431(c) of PRWORA, as added by Section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208 (IIRIRA), and amended by Section 5571 of the Balanced Budget Act of 1997, P.L. 105-33 (BBA), and Section 1508 of the Violence Against Women Act of 2000, P.L. 106-386; Section 431(c) of PRWORA, as amended, is codified at 8 USC 1641(c);

(i) members of a federally recognized Indian tribe, as defined in 25 U.S.C. 450b(e);

(j) American Indians born in Canada to whom Section 289 of the Immigration and Nationality Act applies; and

(k) Afghan and Iraqi special immigrants under Section 8120 of Pub. L. 111-118 of the Department of Defense Appropriations Act, 2010.

(2) Qualified alien: A "qualified alien", for purposes of this regulation, is an alien, who at the time the alien applies for, receives, or attempts to receive a federal public benefit, is:

(a) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act; or

(b) an alien who is granted asylum under Section 208 of such act; or

(c) a refugee who is admitted to the United States under Section 207 of the act (including certain Amerasian immigrants as refugees); or

(d) an alien who is paroled into the United States under Section 212(d)(5) of such act for a period of at least one year; or

(e) an alien whose deportation is being withheld under Section 243(h) of such act; or

(f) an alien who is granted conditional entry pursuant to 203(a)(7) or such act as in effect prior to April 1, 1980; or

(g) an alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980); or

(h) certain battered women and alien children of battered parents (only those who have begun the process of becoming a lawful permanent resident under the Violence Against Women Act); or

(i) victims of a severe form of trafficking; or

(j) members of a federally recognized Indian tribe, as defined in 25 U.S.C. 450b(e); or

(k) American Indians born in Canada to whom Section 289 of the Immigration and Nationality Act applies; or

(l) Afghan and Iraqi special immigrants under Section 8120 of Pub. L. 111-118 of the Department of Defense Appropriations Act, 2010.

(3) Children and pregnant women exempt from the five year bar: As authorized by CHIPRA 2009 legislation, New Mexico medicaid allows a lawfully residing child and pregnant woman, if otherwise eligible, to obtain medicaid coverage. A lawfully residing child and pregnant woman must meet the residency requirement as set forth in 8.200.410.12 NMAC. A child or pregnant woman is considered lawfully present if he or she is:

(a) a qualified alien as defined in Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (8 U.S.C. Section 1641);

(b) an alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission (e.g. nonimmigrant visa holders, citizens of Micronesia, the Marshall Islands, and Palau, a lawful temporary resident and applicant for legalization under IRCA, legalization under the LIFE Act, family unity, an applicant for cancellation of removal or suspension of deportation, order of supervision, and registry applicant;

(c) an alien who has been paroled into the U.S. pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. Section 1182(d)(5)) for less than one year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;

(d) an alien who belongs to one of the following classes:

(i) aliens currently in temporary resident status pursuant to Section 210 or 245A of the Immigration and Nationality Act (8 U.S.C. Section 1160 or 1255a, respectively);

(ii) aliens currently under temporary protected status (TPS) pursuant to Section 244 of the Immigration and Nationality Act (8 U.S.C. Section 1254a), and pending applicants for TPS who have been granted employment authorization;

(iii) aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(iv) family unity beneficiaries pursuant to Section 301 of Pub. L. 101-649, as amended;

(v) aliens currently under deferred enforced departure (DED) pursuant to a decision made by the president;

(vi) aliens currently in deferred action status; or

(vii) aliens whose visa petitions have been approved and who have a pending application for adjustment of status;

(e) pending applicants for asylum under Section 208(a) of the INA (8 U.S.C. Section 1158) or for withholding of removal under Section 241(b)(3) of the INA (8 U.S.C. Section 1231) or under the convention against torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;

(f) aliens whose applications for withholding of removal under the convention against torture have been granted;

(g) children who have pending applications for special immigrant juvenile status as described in Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. Section 1101(a)(27)(J));

(h) aliens who are lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. Section 1806(e); or

(i) aliens who are lawfully present in American Samoa under the immigration laws of American Samoa.

(4) Alien sponsors (where an affidavit of sponsorship was executed pursuant to Section 213 of the Immigration and Nationality Act subsequent to August 22, 1996): The income and resources of an alien sponsor, and the spouse of the sponsor, of any individual applying for medicaid, are deemed available to the applicant, when an affidavit of support is executed pursuant to Section 213 of the Immigration and Nationality Act, on or after August 22, 1996. This counting of alien sponsor income and resources is effective until the sponsored alien achieves citizenship, or can be credited with 40 qualifying quarters.

(5) Quarters of coverage: For purposes of determining the number of quarters of coverage under Title II of the Social Security Act, an alien will be credited with all of the quarters that were worked by him or her, as well as all of the qualifying quarters of coverage worked by a parent of such alien, while the alien was under 18; and all of the quarters credited to a spouse, if the alien remains married to the spouse or such spouse is deceased. Beginning January 1, 1997, any quarter in which the alien received a means-tested federal benefit is not counted as a qualifying quarter.

(6) Federal means-tested benefit: For purposes of determining whether an alien has or has not received any federal means-tested benefits during a quarter, starting with January 1, 1997, the definition of federal means-tested benefits will not include:

(a) medical assistance under Title XIX of the Social Security Act (medicaid) for emergency treatment of an alien, not related to an organ transplant procedure, if the alien otherwise meets eligibility for medical assistance under the state plan;

(b) short-term, noncash, in-kind emergency disaster relief;

(c) assistance or benefits under the National School Lunch Act;

(d) assistance or benefits under the Child Nutrition Act of 1966;

(e) public health assistance (not including any assistance under Title XIX medicaid) for immunizations, and testing or treatment of symptoms of communicable diseases, whether or not such symptoms are caused by communicable diseases;

(f) payments for foster care and adoption assistance under Part B and E of Title IV of the Social Security Act for a parent or child who would, in the absence of the restriction of eligibility for aliens contained in PRWORA of 1996, be eligible for such payments made on the child's behalf, but only if the foster or adoptive parent (or parents) of such child, is a qualified alien;

(g) programs, services, or assistance, delivering in-kind services at the community level and necessary for the provision of life or safety; that do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided, on the individual recipient's income or resources;

(h) programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965, and Titles III, VII, and VIII of the Public Health Services Act;

(i) means-tested programs under the Elementary and Secondary Education Act of 1965;

(j) benefits under the Head Start Act; or

(k) benefits under the Job Training Partnership Act.

[8.200.410.11 NMAC - Rp, 8.200.410.11 NMAC, 1-1-14]

8.200.410.12 RESIDENCE: To be eligible for medicaid, an applicant or eligible recipient must be living in New Mexico on the date of application and final determination of eligibility and have demonstrated an intention to remain in the state.

A. **Establishing residence:** Residence is established by living in the state and carrying out the types of activities associated with day-to-day living, such as occupying a home, enrolling a child in school or getting a state driver's license. An applicant or recipient who is homeless is considered to have met the residence requirements if he or she intends to remain in the state.

B. **Recipients receiving benefits out-of-state:** An applicant or an eligible recipient who receives financial or medical assistance in another state which makes residence in that state a condition of eligibility are considered residents of that state until the ISD office receives verification from the other state agency indicating that it has been notified by an applicant or eligible

recipient of the abandonment of residence in that state.

C. Individuals court ordered into full or partial responsibility of the state children youth and families department (CYFD): When CYFD places a child in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, the state must provide limited medicaid coverage for medicaid services that are part of the state medicaid benefit package and not available in the new state of residence.

D. Abandonment: Residence is not abandoned by temporary absences. Temporary absences occur when an eligible recipient leaves the state for specific purposes with time-limited goals. Residence is considered abandoned when the applicant or the eligible recipient leaves the state for any of the following reasons:

- (1) intends to establish residence in another state;
 - (2) for no specific purpose with no clear intention of returning;
 - (3) applies for financial, food or medical assistance in another state which makes residence in that state a condition of eligibility; or
 - (4) for more than 30 consecutive calendar days, without notifying HSD of his or her departure or intention of returning.
- [8.200.410.12 NMAC - Rp, 8.200.410.12 NMAC, 1-1-14]

8.200.410.13 NON-CONCURRENT RECEIPT OF ASSISTANCE:

A. An applicant or an eligible recipient receiving medicaid in another state is not medical assistance program eligible in New Mexico except when:

- (1) institutional care medicaid begins on a specific date within the month rather than automatically reverting to the first day of the month, if an applicant for institutional care medicaid (Category 081, 083 or 084) moves to New Mexico from another state and it can be verified that the other state will terminate the individual's medicaid eligibility under that state program prior to the initial eligibility date in New Mexico, the application may be approved even though the individual receives medicaid from the other state for part of the month; coverage in New Mexico begins after the end date of services from the other state;
- (2) an individual is court ordered into full or partial responsibility CYFD; when CYFD places a child in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, New Mexico must provide limited medicaid coverage for medicaid services that are part of New Mexico's medicaid benefit package and not available in the new state of residence.

B. An individual who is eligible for a full-coverage medicaid program may also be eligible for one of the medicare cost sharing medical assistance program categories. See 8.200.400 NMAC.

C. When a supplemental security income (SSI) recipient enters into a nursing home or hospital (institutionalized), SSA will re-evaluate SSI and related medicaid eligibility.

(1) When SSA determines that the individual remains eligible for SSI while institutionalized, the SSI benefit is adjusted as follows:

- (a) if institutionalized for more than 90 calendar days - the SSI benefit is limited to \$30 a month; or
- (b) if institutionalized for 90 calendar days or less - the SSI benefit continues at the regular amount.

(2) When SSA determines that the individual is not eligible for SSI, the individual or his or her authorized representative should file an application at HSD for institutional care medicaid. If the individual meets all factors of eligibility, approval of the institutional care medicaid application should be coordinated with the SSI closure date. If eligible, there will not be a break in eligibility and the individual shall not receive both SSI and institutional care medicaid in the same month pursuant to 8.281.400.10 NMAC.

[8.200.410.13 NMAC - Rp, 8.200.410.13 NMAC, 1-1-14]

8.200.410.14 APPLICATIONS

FOR OTHER BENEFITS: As a condition of eligibility, a medicaid applicant or an eligible recipient must take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, within 30 calendar days from the date HSD furnishes notice of the potential benefit, unless they can show good cause for not doing so.

A. Benefit types: Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, old age survivors and disability insurance (OASDI) benefits, railroad retirement benefits, and unemployment compensation.

B. Exceptions to general requirement/good cause: An individual may request a good cause waiver to this requirement by presenting ISD with corroborating evidence that:

- (1) applying for other benefits is against the best interest of the individual, child or others, including physical or emotional harm to a child, parent or caregiver relative, adoption proceedings, and potential for emotional impairment; or
- (2) exceptions applicable to institutional care medicaid, the SSI-related categories and the home and community

based waivers are pursuant to Subsection B of 8.215.500.9 NMAC, Subsection B of 8.281.500.9 NMAC, and Subsection B of 8.290.500.9 NMAC.

C. Failure to apply for and take steps to determine eligibility for other benefits: When the parent(s) or where applicable the specified relative fails or refuses to apply for and take steps to determine eligibility within 30 calendar days from the date HSD furnishes notice of the potential benefit, the parent(s) or specified relative is not eligible for medicaid. An eligible recipient under the age of 18 years shall not lose his or her medicaid eligibility under this provision.

[8.200.410.14 NMAC - Rp, 8.200.410.14 NMAC, 1-1-14]

8.200.410.15 INMATE IN A PUBLIC INSTITUTION:

A. An applicant or a recipient who is an inmate of a public institution is not medicaid or medical assistance program eligible. A public institution is an institution which is the responsibility of a governmental unit of which a governmental unit exercises administrative control.

B. Public institutions include jails, prisons, detention centers, diagnostic holding centers, the New Mexico boys and girls schools, "wilderness camps", or halfway houses and reintegration centers which are not certified to furnish medical care.

C. An individual is not considered to be an inmate of an institution if he or she is placed in a detention center for a temporary period pending other arrangements appropriate to his or her needs. For purposes of medicaid eligibility, an individual who is placed in a detention center is considered temporarily absent from the home, up to the 60th day or once adjudicated, whichever first occurs.

[8.200.410.15 NMAC - Rp, 8.200.410.15 NMAC, 1-1-14]

HISTORY OF 8.200.410 NMAC:

History of Repealed Material:

8.200.410 NMAC, General Recipient Requirements, filed 6-11-03 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 200 M E D I C A I D
ELIGIBILITY - GENERAL RECIPIENT
POLICIES
PART 420 S P E C I A L
RECIPIENT REQUIREMENTS**

8.200.420.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.200.420.1 NMAC - Rp, 8.200.420.1 NMAC, 1-1-14]

8.200.420.2 SCOPE: The rule applies to the general public.
[8.200.420.2 NMAC - Rp, 8.200.420.2 NMAC, 1-1-14]

8.200.420.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.200.420.3 NMAC - Rp, 8.200.420.3 NMAC, 1-1-14]

8.200.420.4 D U R A T I O N : Permanent.
[8.200.420.4 NMAC - Rp, 8.200.420.4 NMAC, 1-1-14]

8.200.420.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.200.420.5 NMAC - Rp, 8.200.420.5 NMAC, 1-1-14]

8.200.420.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.200.420.6 NMAC - Rp, 8.200.420.6 NMAC, 1-1-14]

8.200.420.7 D E F I N I T I O N S : [RESERVED]

8.200.420.8 MISSION: To reduce

the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.200.420.8 NMAC - Rp, 8.200.420.8 NMAC, 1-1-14]

8.200.420.9 AGE: For certain medicaid categories, an individual must meet specified age requirements. See specific NMAC eligibility chapters for each medicaid category for age requirements.
[8.200.420.9 NMAC - Rp, 8.200.420.9 NMAC, 1-1-14]

8.200.420.10 S C H O O L ATTENDANCE: School attendance is a factor in determining JUL medicaid eligibility for 18 year-old applicants or re-determining recipients. School attendance is not a factor in determining JUL medicaid for children under the age of 18 years.
[8.200.420.10 NMAC - Rp, 8.200.420.10 NMAC, 1-1-14]

8.200.420.11 DISABILITY: For an individual applying for a specific medical assistance division (MAD) category of eligibility, disability is a condition of eligibility. The determination of disability is made by the disability determination services unit. The social security administration's (SSA) definition of disability is used for that determination.
[8.200.420.11 NMAC - Rp, 8.200.420.11 NMAC 1-1-14]

8.200.420.12 THIRD PARTY LIABILITY: Refer to 8.200.430.13 NMAC.
[8.200.420.12 NMAC - Rp, 8.200.420.12 NMAC, 1-1-14]

8.200.420.13 MEDICAID ESTATE RECOVERY: Refer to 8.200.430.20 NMAC.
[8.200.420.13 NMAC - Rp, 8.200.420.13 NMAC, 1-1-14]

HISTORY 8.200.420 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
ISD 304.1000, Provider Reimbursement Responsibility, filed 1-7-80.
ISD 304.1000, Provider Reimbursement Responsibility, filed 9-9-81.
ISD 304.2000, Recipient Reimbursement Responsibility, filed 1-9-80.
ISD 304.3000, Reimbursement Limitations, filed 1-7-80.
ISD 304.3000, Reimbursement Limitations, filed 9-9-81.
ISD Rule 304.3000, Reimbursement Limitations, filed 12-17-85.
ISD 304.4000, Billing Limitations, filed 1-7-80.

ISD 304.4000, Billing Limitations, filed 9-9-81.
ISD 304.7000, Reimbursement To Out-Of-State Providers, filed 1-7-80.
ISD 304.7000, Reimbursement To Out-Of-State Providers, filed 9-9-81.
ISD 304.8000, Third Party Liability, filed 1-7-80.
ISD 304.8000, Third Party Liability, filed 9-9-81.
ISD 304.9000, Usual And Customary, filed 1-7-80.
ISD 304.9000, Reasonable Charge Pricing, filed 9-9-81.
ISD Rule 304.9000, Reasonable Charge Pricing, filed 2-17-84.
ISD Rule 304.9000, Reasonable Charge Pricing, filed 3-30-84.
MAD Rule 304.9, Reimbursement, filed 12-15-87.
MAD Rule 304.9, Reimbursement, filed 8-11-88.
MAD Rule 304, Billing And Reimbursement, filed 11-8-89.
MAD Rule 304, Billing And Reimbursement, filed 4-21-92.

History of Repealed Material:

8.200.420 NMAC, Special Recipient Requirements, filed 6-13-01 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 200 M E D I C A I D
ELIGIBILITY - GENERAL RECIPIENT
POLICIES
PART 430 RECIPIENT RIGHTS
AND RESPONSIBILITIES**

8.200.430.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.200.430.1 NMAC - Rp, 8.200.430.1 NMAC, 1-1-14]

8.200.430.2 SCOPE: The rule applies to the general public.
[8.200.430.2 NMAC - Rp, 8.200.430.2 NMAC, 1-1-14]

8.200.430.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.200.430.3 NMAC - Rp, 8.200.430.3 NMAC, 1-1-14]

8.200.430.4 D U R A T I O N :
Permanent.
[8.200.430.4 NMAC - Rp, 8.200.430.4 NMAC, 1-1-14]

8.200.430.5 EFFECTIVE DATE:
January 1, 2014, unless a later date is cited at the end of a section.
[8.200.430.5 NMAC - Rp, 8.200.430.5 NMAC, 1-1-14]

8.200.430.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.200.430.6 NMAC - Rp, 8.200.430.6 NMAC, 1-1-14]

8.200.430.7 DEFINITIONS :
[RESERVED]

8.200.430.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.200.430.8 NMAC - N, 1-1-14]

8.200.430.9 RECIPIENT RIGHTS AND RESPONSIBILITIES:

A. An individual has the right to apply for medicaid and other health care programs HSD administers regardless of whether it appears he or she may be eligible.

(1) Income support division (ISD) determines eligibility for medicaid health care programs, unless otherwise determined by another entity as stated in 8.200.400 NMAC. A decision shall be made promptly on applications in accordance with the timeliness standards set forth in 8.100.130.11 NMAC.

(2) Individuals who might be eligible for supplemental security income (SSI) are referred to the social security administration (SSA) office to apply.

B. Application: A paper or electronic application is required from the applicant, an authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant may complete a joint medicaid, cash assistance, supplemental nutrition assistance program (SNAP) and low income home energy assistance (LIHEAP) application or a

medicaid-only application.

(1) The following do not require an application unless a re-determination is due in that month or the following month, as applicable:

(a) switching from one of the medical assistance for women, children (MAWC) and families medical assistance division (MAD) categories to another;

(b) switching between medicaid and refugee medical assistance; and

(c) switching to or from one of the long term care medicaid categories.

(2) Medicare savings programs (MSP):

(a) A medicaid eligible recipient receiving full benefits is automatically deemed eligible for MSP when she or he receives free medicare Part-A hospital insurance; the eligible recipient does not have to apply for medicare MSP;

(b) When an individual is not eligible for free medicare Part A hospital insurance, a separate application for the qualified medicare beneficiary (QMB) eligibility category 040 is required. Individuals must apply for medicare Part A with the SSA. This is called, "conditional Part A" because they will receive medicare Part A on the condition that QMB category of eligibility is approved. When QMB is approved, the cost of the premium for Part A will be covered by medicaid.

C. Responsibility in the application or recertification process: The applicant or the re-determining eligible recipient is responsible for providing verification of eligibility. Refer to 8.100.130 NMAC.

(1) An applicant or an eligible recipient's failure to provide necessary verification results in medicaid ineligibility.

(2) An applicant or a re-determining eligible recipient must give HSD permission to contact other individuals, agencies, or sources of information which are necessary to establish eligibility.
[8.200.430.9 NMAC - Rp, 8.200.430.9 NMAC, 1-1-14]

8.200.430.10 FREEDOM OF CHOICE: Except when specifically waived from MAD, an eligible recipient has the freedom to obtain medical and behavioral health services from a MAD provider of his or her choice.
[8.200.430.10 NMAC - Rp, 8.200.430.10 NMAC, 1-1-14]

8.200.430.11 RELEASE OF INFORMATION: By signing the medicaid application, an applicant or a re-determining eligible recipient gives HSD explicit consent to release information to applicable state or federal agencies, medical or behavioral health providers, or an HSD designee when the information is needed to provide,

monitor, or approve medicaid services. Medical and behavioral health information is confidential and is subject to the standards for confidentiality per 8.300.11 NMAC.
[8.200.430.11 NMAC - Rp, 8.200.430.11 NMAC, 1-1-14]

8.200.430.12 RIGHT TO HEARING: An applicant or an eligible recipient is entitled to adequate notice of state agency actions and for an opportunity to have an impartial review of those decisions at an administrative hearing. This includes any action to deny or terminate medicaid or another health care program's eligibility or deny, terminate, suspend or reduce a medicaid covered service [42 CFR Section 431.220(a)(1)(2)].

A. Adequate notice rules regarding medicaid eligibility are detailed at 8.100.180 NMAC. Fair hearing rules regarding medicaid eligibility are detailed at 8.100.970 NMAC.

B. Adequate notice and recipient hearing rules regarding MAD covered services are detailed in 8.352.2 NMAC.
[8.200.430.12 NMAC - Rp, 8.200.430.12 NMAC, 1-1-14]

8.200.430.13 ASSIGNMENT OF SUPPORT: As a condition of MAD eligibility, HSD requires an applicant or a re-determining eligible recipient to assign his or her medical care support rights to HSD for medical support and any third party payments. The assignment authorizes HSD to pursue and make recoveries from liable third parties [42 CFR 433.146; NMSA 1978 27-2-28 (G)].

A. **Assigning medical support rights:** The assignment to HSD of an eligible recipient's rights to medical support and payments occurs automatically under New Mexico law when the applicant or the re-determining eligible recipient signs the application.

B. **Third party liability (TPL):** This section describes HSD responsibility to identify and collect from primarily responsible third parties and recipient responsibility to cooperate with HSD to uncover such payments. Medicaid is the payer of last resort. If other third party resources are available, these health care resources must be used before medicaid. As a condition of medicaid eligibility, an applicant assigns his or her rights to medical and behavioral health support and payments to HSD and promises to cooperate in identifying, pursuing, and collecting payments from these resources. Third party resources include the gross recovery by a recipient, including personal injury protection benefits, before any reduction in attorney's fees or costs, obtained through settlement or verdict, for personal injury

negligence or intentional tort claims or actions, up to the full amount of medicaid payments for treatment of injuries causally related to the occurrence that is the subject of the claim or action.

(1) Required TPL information: During the initial determination or re-determination of eligibility for medicaid services, ISD must obtain information about TPL from either the applicant or the re-determining eligible recipient.

(a) HSD is required to take all reasonable measures to determine the legal liability of third parties, including health insurers in paying for the medical and behavioral health services furnished to an eligible recipient [42 CFR 433.138(a)].

(b) HSD uses the information collected at the time of determination in order for medicaid to pursue claims against third parties.

(2) Availability of health insurance: If an applicant or an eligible recipient has health insurance, the applicant or the eligible recipient shall notify ISD. ISD must collect all relevant information, including name and address of the insurance company; individuals covered by the policy, effective dates, covered services, and appropriate policy numbers.

(a) An applicant or an eligible recipient with health insurance coverage or coverage by a health maintenance organization (HMO) or other managed care plan (plan) must be given a copy of the TPL recipient information letter.

(b) If there is an absent parent, ISD may request the absent parent's name and social security number (SSN).

(c) ISD must determine if an absent parent, relative, applicant or any member of the household is employed and has health insurance coverage.

(3) Eligible recipients with health insurance coverage: An applicant or an eligible recipient must inform medicaid providers of his or her TPL. An applicant or an eligible recipient must report changes to or terminations of insurance coverage to ISD. If an applicant or an eligible recipient has health coverage through an HMO or plan, payment from medicaid is limited to applicable copayments required under the HMO or plan and to medicaid covered services documented in writing as exclusions by the HMO or plan.

(a) If the HMO or plan uses a drug formulary, the medical director of the HMO or plan must sign and attach a written certification for each drug claim to document that a pharmaceutical product is not covered by the HMO or plan. The signature is a certification that the HMO or plan drug formulary does not contain a therapeutic equivalent that adequately treats the medical or behavioral health condition of the HMO or plan subscriber.

(b) Medical and behavioral health services not included in the HMO or plan are covered by MAD only after review of the documentation and on approval by MAD.

(c) An applicant or an eligible recipient covered by an HMO or plan is responsible for payment of medical services obtained outside the HMO or plan and for medical services obtained without complying with the rules or policies of the HMO or plan.

(d) An applicant or an eligible recipient living outside an HMO or plan coverage area may request a waiver of the requirement to use HMO or plan providers and services. The applicant or the eligible recipient for whom a coverage waiver is approved by MAD may receive reimbursement for expenses which allow him or her to travel to an HMO or plan participating provider, even when the provider is not located near the applicant or the eligible recipient's residence.

(4) Potential health care resources: ISD must evaluate the presence of a TPL source if certain factors are identified during the medicaid eligibility interview.

(a) When the age of the applicant or the eligible recipient is over 65 years old medicare must be explored. A student, especially a college student, may have health or accident insurance through his or her school.

(b) An application on behalf of deceased individual must be examined for "last illness" coverage through a life insurance policy.

(c) Certain specific income sources are indicators of possible TPL which include:

(i) railroad retirement benefits and social security retirement or disability benefits indicating eligibility for Title XVIII (medicare) benefits;

(ii) workers' compensation (WC) benefits paid to employees who suffer an injury or accident caused by conditions arising from employment; these benefits may compensate employees for medical and behavioral health expenses and lost income; payments for medical and behavioral health expenses may be made as medical and behavioral health bills are incurred or as a lump sum award;

(iii) black lung benefits payable under the coal mine workers' compensation program, administered by the federal department of labor (DOL), can produce benefits similar to railroad retirement benefits if the treatment for illness is related to the diagnosis of pneumoconiosis; beneficiaries are reimbursed only if services are rendered by specific providers, authorized by the DOL; black lung payments are made monthly and medical and behavioral health expenses are paid as they are incurred; and

(iv) Title IV-D support

payments or financial support payments from an absent parent may indicate the potential for medical and behavioral health support; if a custodial party does not have health insurance that meets a minimum standard, the court in a divorce, separation or custody and support proceeding may order the parent(s) with the obligation of support to purchase insurance for the eligible recipient child [45 CFR 303.31(b)(1); NMSA 1978, Section 40-4C-4(A)(1)]; insurance can be obtained through the parent's employer or union [NMSA 1978, Section 40-4C-4(A)(2)]; parents may be ordered to pay all or a portion of the medical, behavioral health or dental expenses; for purposes of medical and behavioral health support, the minimum standards of acceptable coverage, deductibles, coinsurance, lifetime benefits, out-of-pocket expenses, co-payments, and plan requirements are the minimum standards of health insurance policies and managed care plans established for small businesses in New Mexico; see New Mexico insurance code.

(d) An applicant or an eligible recipient has earned income: Earned income may indicate medical, behavioral health and health insurance made available by an employer.

(e) Work history or military services: Work history may indicate eligibility for other cash and medical and behavioral benefits. Previous military service suggests the potential for veterans administration (VA) or department of defense (DOD) health care, including the civilian health and the medical program of the United States (CHAMPUS), for individuals who reside within a 40-mile radius of a military health care facility. An applicant or an eligible recipient who is eligible for DOD health care must obtain certification of non-availability of medical services from the base health benefits advisor in order to be eligible for CHAMPUS.

(f) An applicant or an eligible recipient's expenses show insurance premium payments: Monthly expense information may show that the applicant or the eligible recipient pays private insurance premiums or is enrolled in an HMO or plan.

(g) The applicant or the eligible recipient has a disability: Disability information contained in applications or brought up during interviews may indicate casualties or accidents involving legally responsible third parties.

(h) The applicant or the eligible recipient has a chronic disease: Individuals with chronic renal disease are probably entitled to medicare. Applications for social security disability may be indicative of medicare coverage.

(5) Communicating TPL information: Information concerning health insurance or health plans is collected and

transmitted to MAD by ISD, child support enforcement division (CSED), SSA, and the children, youth and families department (CYFD).

[8.200.430.13 NMAC - Rp, 8.200.430.13 NMAC, 1-1-14]

8.200.430.14 ELIGIBLE RECIPIENT RESPONSIBILITY TO COOPERATE WITH ASSIGNMENT OF SUPPORT RIGHTS:

A. **Cooperation:** As a condition of medicaid eligibility, an applicant or an eligible recipient must cooperate with HSD to:

(1) obtain medical and behavioral health support and payments for his or herself and other individuals for whom he or she can legally assign rights;

(2) pursue liable third parties by identifying individuals and providing information to HSD;

(3) cooperate with CSED to establish paternity and medical support as appropriate, see 8.50.105.12 NMAC;

(4) appear at a state or local office designated by HSD to give information or evidence relevant to the case, appear as a witness at a court or other proceeding or give information or attest to lack of information, under penalty of perjury;

(5) refund HSD any money received for medical or behavioral health care that has already been paid; this includes payments received from insurance companies, personal injury settlements, and any other liable third party; and

(6) respond to the trauma inquiry letter that is mailed to an eligible recipient [42 CFR 433.138(4)]; the letter asks an eligible recipient to provide more information about possible accidents, causes of accidents, and whether legal counsel has been obtained [42 CFR 433.147; 45 CFR 232.42, 232.43; NMSA 1978 27-2-28(G)(3)].

B. **Good cause waiver of cooperation:** The requirements for cooperation may be waived by HSD if it decides that the applicant or the eligible recipient has good cause for refusing to cooperate. Waivers can be obtained for cooperating with CSED. The applicant or the eligible recipient should request a good cause waiver from CSED per 8.50.105.14 NMAC.

C. **Penalties for failure to cooperate:**

(1) When the parent, the specified relative or legal guardian fails or refuses to cooperate, the parent or specified relative will not be eligible for medicaid services. The eligible recipient child maintains medicaid eligibility provided all other eligibility criteria are met.

(2) When the parent or the specified relative fails or refuses to refund payments received from insurance or other

settlement sources, such as personal injury case awards, he or she is not eligible for medicaid services for one year and until full restitution has been made to HSD. The eligible recipient child maintains medicaid eligibility provided all other eligibility criteria are met.

[8.200.430.14 NMAC - Rp, 8.200.430.14 NMAC, 1-1-14]

8.200.430.15 ELIGIBLE RECIPIENT RESPONSIBILITY TO GIVE PROVIDER PROPER IDENTIFICATION AND NOTICE OF ELIGIBILITY CHANGES:

A. An eligible recipient is responsible for presenting a current medicaid eligibility card and evidence of any other health insurance to a medicaid provider each time service is requested.

(1) An eligible recipient is responsible for any financial liability incurred if he or she fails to furnish current medicaid eligibility identification before the receipt of a service and as a result the provider fails to adhere to MAD rules, such as a failure to request prior approval. If this omission occurs, the settlement of claims for services is between the eligible recipient and the provider. An individual is financially responsible for services received if he or she was not eligible for medicaid services on the date services are furnished.

(2) When a provider bills medicaid and the claim is denied, the provider cannot bill the eligible recipient. Exceptions exist for denials caused by medicaid ineligibility or by an eligible recipient's failure to furnish medicaid identification in a timely manner.

(3) If an eligible recipient fails to notify the provider that he or she has received services that are limited by time or amount, the eligible recipient is responsible for payment of the service prior to rendering the service if the provider made reasonable efforts to verify whether the eligible recipient has already received services.

B. **Notification of providers following retroactive eligibility determinations:** If an eligibility determination is made, the eligible recipient is responsible for notifying providers of this eligibility determination. When an individual receives retro medicaid eligibility, the now-eligible recipient must notify all of his or her medicaid providers of his or her change of eligibility. If the eligible recipient fails to notify the provider and the provider can no longer file a claim for reimbursement, the eligible recipient becomes the responsible payer for those services.

C. **Notification if an eligible recipient has private insurance:** If an eligible recipient is covered under a private health insurance policy or health plan, he or she is required to inform his or her medicaid providers of the private health coverage,

including applicable policy numbers and special claim forms.

[8.200.430.15 NMAC - Rp, 8.200.430.15 NMAC, 1-1-14]

8.200.430.16 ELIGIBLE RECIPIENT FINANCIAL RESPONSIBILITIES:

A. A medicaid provider agrees to accept the amount paid as payment in full with the exception of co-payment amounts required in certain medicaid eligibility categories [42 CFR 447.15]. Other than the co-payments, a provider cannot bill an eligible recipient for any unpaid portion of the bill (balance billing) or for a claim that is not paid because of a provider administrative error or failure of multiple providers to communicate eligibility information. A native American eligible recipient is exempt from co-payment requirements.

(1) An eligible recipient is responsible for any financial liability incurred if he or she fails to furnish current medicaid eligibility identification before the receipt of a medicaid service and as a result the provider fails to adhere to medicaid reimbursement rules, such as a failure to request prior approval. If this omission occurs, the settlement of claims for services is between the eligible recipient and the provider. An individual is financially responsible for services received if he or she was not eligible for medicaid services on the date services are furnished.

(2) When a provider bills medicaid and the claim is denied, the provider cannot bill the eligible recipient. Exceptions exist for denials caused by medicaid ineligibility or by an eligible recipient's failure to furnish medicaid identification at the time of service.

(3) If an eligible recipient fails to notify a provider that he or she has received services that are limited by time or amount, the eligible recipient is responsible to pay for services if, before furnishing the services, the provider makes reasonable efforts to verify whether the eligible recipient has already received services.

B. **Failure of an eligible recipient to follow his or her privately held health insurance carrier's requirements:** An eligible recipient must be aware of the physician, pharmacy, hospital, and other providers who participate in his or her HMO or other managed care plan. An eligible recipient is responsible for payment for services if he or she uses a provider who is not a participant in his or her plan or if he or she receives any services without complying with the rules, policies, and procedures of his or her plan.

C. **Other eligible recipient payment responsibilities:** If all the following conditions are met before a service is furnished, the eligible recipient can be billed directly by a medicaid provider for services

and is liable for payment:

(1) the eligible recipient is advised by a provider that the particular service is not covered by medicaid or is advised by a provider that he or she is not a medicaid provider;

(2) the eligible recipient is informed by a provider of the necessity, options, and charges for the services and the option of going to another provider who is a medicaid provider; and

(3) the eligible recipient agrees in writing to have the service provided with full knowledge that he or she is financially responsible for the payment.

D. Children's health insurance program (CHIP) and working disabled individuals (WDI) co-payments: It is the eligible recipient's responsibility to pay the co-payment to the medicaid provider.

(1) WDI co-payment requirements are the following:

(a) \$7 per outpatient physician visit to a physician or other practitioner, dental visit, therapy session, or behavioral health service session;

(b) \$20 per emergency room (ER) visit;

(c) \$28 for non emergent use of the ER;

(d) \$30 per inpatient hospital admission;

(e) \$5 per drug item (does not apply if the \$8 co-payment for a brand name drug is assessed); and

(f) \$8 for a brand name drug when there is a less expensive therapeutically equivalent drug on the preferred drug list (PDL) unless the prescriber determines the alternative drug on the PDL will be less effective or have greater adverse reactions.

(2) CHIP co-payment requirements are the following:

(a) \$5 per outpatient physician visit to a physician or other practitioner, dental visit, therapy session, or behavioral health service session;

(b) \$15 per ER visit;

(c) \$50 for non emergent use of the ER;

(d) \$25 per inpatient hospital admission;

(e) \$2 per drug item (does not apply if the \$5 co-payment for a brand name drug is assessed); and

(f) \$5 for a brand name drug when there is a less expensive therapeutically equivalent drug on the PDL unless the prescriber determines the alternative drug on the PDL will be less effective or have greater adverse reactions.

E. The following exemptions from co-payment responsibilities for WDI and CHIP eligible recipients apply:

(1) native Americans;

(2) family planning services, procedures, drugs, supplies, and devices;

(3) medicare cross over claims including claims from medicare advantage plans;

(4) preventive services regardless of age (well child checks, vaccines, preventive dental cleanings/exams, etc.);

(5) prenatal and postpartum care and deliveries, and prenatal drug items;

(6) provider preventable conditions;

(7) psychotropic drug items are exempt from the brand name co-payment (only the regular pharmacy co-payment applies);

(8) when the maximum family limit has been exceeded;

(9) all services rendered by an Indian health services facility (IHS), 638 facility, or urban Indian facility regardless of race code; and

(10) federal match 3 for categories 071 and 400 through 421 are exempt because these are presumptively eligible children.

F. Brand name drug: A \$3 co-payment for a brand name drug applies to MAD eligible recipients, except for WDI and CHIP, which have higher co-payment amounts, when there is a less expensive therapeutically equivalent drug on the PDL unless the prescriber determines the alternative drug on the PDL will be less effective or have greater adverse reactions.

G. Non emergent use of the ER: For non emergent use of the ER, the co-payment varies by the federal poverty level (FPL). These co-payment amounts apply to MAD eligible recipients except for WDI which has a higher co-payment amount. The co-payments for non emergent use of the ER are the following:

(1) \$8 if 150 percent of the FPL or below; and

(2) \$50 if greater than 150 percent of the FPL.

H. The following are exempt from the non emergent use of the ER and brand name drug co-payment:

(1) native Americans;

(2) medicare cross over claims including claims from medicare advantage plans;

(3) psychotropic drug items;

(4) foster care and adoption categories (Categories 014, 017, 037, 046, 047, 066, and 086); and

(5) institutional care categories (Categories 081, 083, and 084).

I. Co-payment maximum: The aggregate amount of cost sharing imposed for all individuals in the family as applied during the quarterly period is five percent of countable family income.

[8.200.430.16 NMAC - Rp, 8.200.430.16 NMAC, 1-1-14]

8.200.430.17 RESTITUTION:

A. A medicaid recipient

must return overpayments or medical payments received from liable third parties to the applicable medical service provider or to MAD. If payments are not returned or received, recoupment proceedings against the recipient will be initiated.

B. The restitution bureau of HSD is responsible for the tracking and collection of overpayments made to medicaid recipients, vendors, and medicaid providers. See Section OIG-940, RESTITUTIONS. The MAD third party liability unit is responsible for monitoring and collecting payments received from liable third parties. See 8.302.3 NMAC.

[8.200.430.17 NMAC - Rp, 8.200.430.17 NMAC, 1-1-14]

8.200.430.18 ELIGIBLE RECIPIENT RESPONSIBILITY TO ENROLL IN AVAILABLE EMPLOYER-BASED GROUP HEALTH PLAN OR OTHER INSURANCE PLANS:

Effective July 01, 1998, HSD no longer accepts referrals to the health insurance premium payment (HIPP) program. HIPP is only available to participants active on HIPP as of July 01, 1998 who have continued to maintain their eligibility for the program.

A. Payments under the health insurance premium payment program: Under HIPP, HSD will pay premiums, deductibles, co-insurance and other cost-sharing obligations necessary to enroll an applicant or medicaid eligible recipient in an available cost-effective insurance plan.

(1) An applicant or an eligible recipient is required to participate in an employer-based group health plan (EGHP) as a condition of eligibility. If an applicant or an eligible recipient is enrolled in a non-employer-based plan and is also eligible to enroll in a cost-effective EGHP, he or she must enroll in the EGHP to remain eligible for medicaid. If continued enrollment in both plans remains cost-effective, HSD may choose to pay the premiums for the non-employer-based plan. If an applicant or an eligible recipient is eligible for more than one cost-effective EGHP, he or she must enroll in the EGHP which HSD determines to be more cost-effective.

(2) An applicant or an eligible recipient is not required to enroll in a non-employer-based insurance plan as a condition of eligibility. If such plan is cost-effective, HSD may choose to pay the applicable premiums and cost-sharing obligations.

(3) HSD can pay the premiums only for a non-medicaid eligible family member if that member must be enrolled in the EGHP in order for the medicaid eligible family member to receive coverage. The costs of furnishing coverage to the non-medicaid eligible family members are not considered in determining the cost effectiveness of the EGHP or non employer-

based plan.

(4) HSD may pay the cost of premiums for a medicare supplemental insurance policy for a dual-eligible MAD recipient if HSD determines that such payment would be cost effective.

(5) Claims submitted by providers for furnishing medical or behavioral health services to an applicant or an eligible recipient covered under the HIPP program are subject to standard third party editing and processing. See 8.302.3 NMAC.

(6) Payments will not be made for premiums used as a deduction to income for purposes of the medicaid eligibility determination.

B. Insurance plans excluded from coverage under the health insurance premium payment program: HSD will not pay premiums or cost-sharing obligations for health insurance plans under the following circumstances:

(1) the EGHP is that of an absent parent;

(2) the EGHP is an indemnity policy which supplements the policyholder's income or pays only a predetermined amount for services covered under the policy; for instance, the plan pays \$50 a day versus 80 percent of the total charges;

(3) the plan is an education policy offered on the basis of attendance or enrollment at an educational facility;

(4) the plan is maintained for the applicant or an eligible recipient through another source, such as maintenance of insurance for a child by the absent parent;

(5) the EGHP is designed to provide coverage for a temporary period only; or

(6) the individual covered under the plan is not medicaid eligible on the date the decision is made for enrollment in the HIPP program.

C. Application process: At the time an applicant applies for medicaid or a program that includes medicaid benefits or at the time of the periodic review of the eligible recipient's medicaid eligibility, he or she must complete a health insurance premium payment referral (HIPP) form. The form must be completed during the process and forwarded to MAD third party liability unit (TPLU).

(1) The MAD TPLU determines whether an EGHP is cost-effective using guidelines set forth in the approved state medicaid plan. After a determination is made, the MAD TPLU furnishes notice to the applicant or the eligible recipient and the appropriate ISD, SSI, or CYFD office of the determination within 30 calendar days of the receipt of the HIPP form or as soon as possible. Additional time may be required for the determination if required information cannot be obtained within the 30 calendar day time period.

(2) As a condition of medicaid eligibility, an applicant or an eligible recipient must provide HSD with all necessary information about the plan and report all changes with respect to the plan to HSD within 10 calendar days of that change.

(a) If an applicant or an eligible recipient parent fails to provide the information necessary to make the cost-effectiveness determination, fails to enroll in a cost-effective plan, or disenrolls from such a plan for reasons not described in Subsection E below, he or she is no longer a MAD eligible recipient. MAD benefits to an applicant or eligible recipient child are not terminated if the parent or responsible individual fails to provide information or cooperate with HSD.

(b) Medicaid benefits for the spouse of an employed individual are not terminated due to the employed individual's failure to provide information or cooperate if the spouse cannot enroll in the plan independently.

D. Effective date: Premium payments to the cost-effective plan are due on the first of the month in which an applicant's eligibility is established or the month, in which premium payments are due for the applicant or the eligible recipient enrollment in a cost-effective plan, whichever is later.

E. Disenrollment and discontinuation of premium payments: Premium payments are discontinued on the first of the month after the date that all members of a household lose medicaid eligibility. If only a portion of the household members lose medicaid eligibility, HSD will conduct a review of the plan to determine whether enrollment in the plan remains cost effective. As a condition of medicaid eligibility, an applicant or an eligible recipient is required to be enrolled in a cost-effective EGHP. Disenrollment is permissible under the following circumstances:

(1) HSD determines that plan enrollment is no longer cost effective; or

(2) the plan is no longer available to the applicant or the eligible recipient for instance, the applicant or the eligible recipient changes employers or the employer no longer offers insurance coverage; or

(3) the applicant or the eligible recipient was enrolled in a plan through a spouse or parent who is no longer willing to enroll him or her.

F. Review of cost-effectiveness: HSD reviews the cost-effectiveness for each plan:

(1) at least every six months for an EGHP and annually for non-employer-based insurance plans;

(2) with a change in the predetermined cost or services covered by the plan, such as an increase in a premium rate or elimination of maternity coverage;

(3) when a member of the

household loses medicaid eligibility;

(4) when circumstances affecting the availability of the plan occur, such as employment termination, reduction in employment hours; and

(5) when the employer changes insurance carriers.

[8.200.430.18 NMAC - Rp, 8.200.430.18 NMAC, 1-1-14]

8.200.430.19 REPORTING REQUIREMENTS: A medicaid eligible recipient is required to report certain changes which might affect his or her eligibility. The following changes must be reported to ISD within 10 calendar days from the date the change occurred pursuant to 8.200.400 NMAC, 8.200.410 NMAC, and 8.200.420 NMAC.

A. Living arrangements or change of address: Any change in where an eligible recipient lives or gets his or her mail must be reported.

B. Household size: Any change in the household size must be reported. This includes the death of an individual included in the either or both the assistance unit and budget group.

C. Enumeration: Any new social security number must be reported.

D. Income: Except for continuous eligibility in 8.200.400 NMAC any increase or decrease in the amount of income or change in the source of income must be reported.

E. Resource: Any change in what an eligible recipient owns must be reported. This includes any property the eligible recipient owns or has interest in, cash on hand, money in banks or credit unions, stocks, bonds, life insurance policies or any other item of value.

[8.200.430.19 NMAC - N, 1-1-14]

8.200.430.20 MAD ESTATE RECOVERY: HSD is mandated to seek recovery from the estates of certain individuals up to the amount of medical assistance payments made by the HSD on behalf of the individual. See Social Security Act Section 1917 [42 USC 1396p(b) and NMSA 1978, Section 27-2A-1 et seq. "Medicaid Estate Recovery Act"].

A. Definitions used in MAD estate recovery:

(1) Estate: Real and personal property and other assets of an individual subject to probate or administration pursuant to the New Mexico Uniform Probate Code.

(2) Medical assistance: Amounts paid by HSD for long term care services including related hospital and prescription drug services.

(3) Personal representative: An adult designated in writing who is authorized to represent the estate of the eligible recipient.

B. Basis for defining the group: A medicaid eligible recipient who was 55 years of age or older when medical assistance payments were made on his or her behalf for nursing facilities services, home and community based services, and related hospital and prescription drug services are subject to estate recovery.

C. The following exemptions apply to estate recovery:

(1) Qualified medicare beneficiaries, specified low-income beneficiaries, qualifying individuals, and qualified disabled and working individuals, are exempt from estate recovery for the receipt of hospital and prescription drug services unless they are concurrently in a nursing facility category of eligibility or on a home and community based services waiver; this provision applies to medicare cost-sharing benefits (i.e., Part A and Part B premiums, deductibles, coinsurance, and copayments) paid under the medicare savings programs.

(2) Certain income, resources, and property are exempted from medicaid estate recovery for native Americans:

(a) interest in and income derived from tribal land and other resources held in trust status and judgment funds from the Indian claims commission and the United States claims court;

(b) ownership interest in trust or non-trust property, including real property and improvements;

(i) located on a reservation or near a reservation as designated and approved by the bureau of Indian affairs of the U.S. department of interior; or

(ii) for any federally-recognized tribe located within the most recent boundaries of a prior federal reservation; and

(iii) protection of non-trust property described in Subparagraphs (a) and (b) is limited to circumstances when it passes from a native American to one or more relatives, including native Americans not enrolled as members of a tribe and non-native Americans such as a spouse and step-children, that their culture would nevertheless protect as family members; to a tribe or tribal organization; or to one or more native Americans;

(c) income left as a remainder in an estate derived from property protected in Paragraph (2) above, that was either collected by a native American, or by a tribe or tribal organization and distributed to native Americans that the individual can clearly trace the income as coming from the protected property;

(d) ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources resulting from the exercise of

federally-protected rights, and income either collected by an Indian, or by a tribe or tribal organization and distributed to native Americans derived from these sources as long as the individual can clearly trace the ownership interest as coming from protected sources; and

(e) ownership interest in or usage of rights to items, not covered by Subparagraphs (a) through (d) above, that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

D. Recovery process:

Recovery from an eligible recipient's estate will be made only after the death of the eligible recipient's surviving spouse, if any, and only at a time that the eligible recipient does not have surviving child who is less than 21 years of age, blind, or who meet the SSA definition of disability.

(1) Estate recovery is limited to payments for applicable services received on or after October 1, 1993; except that recovery also is permitted for pre-October 1993 payments for nursing facility services received by a medicaid recipient who was 65 years of age or older when such nursing facility services were received.

(2) A recovery notice will be mailed to the personal representative or next of kin upon the eligible recipient's death informing him or her about the amount of claim against the estate and provide information on hardship waivers and hearing rights.

(3) It is the family or personal representative's responsibility to report the eligible recipient's date of death to the ISD office within 10 calendar days after the date of death.

E. Eligible recipient rights and responsibilities:

(1) At the time of application or re-certification, a personal representative must be identified or confirmed by the applicant or eligible recipient or his or her designee.

(2) Information explaining estate recovery will be furnished to the applicant or eligible recipient, his or her personal representative, or designee during the application or re-certification process. Upon the death of the medicaid eligible recipient, a notice of intent to collect (recovery) letter will be mailed to the eligible recipient's personal representative with the total amount of claims paid by medicaid on behalf of the eligible recipient. The personal representative must acknowledge receipt of this letter in the manner prescribed in the letter within 30 calendar days of the date on the letter.

(3) During the application or re-certification process for medicaid eligibility, the local county ISD office will identify the assets of an applicant or the eligible

recipient. This includes all real and personal property which belongs in whole or in part to the applicant or eligible recipient and the current fair market value of each asset. Any known encumbrances on the asset should be identified at this time by the applicant or the eligible recipient or his or her personal representative.

(4) MAD, or its designee, will send notice of recovery to the probate court, when applicable, and to the eligible recipient's personal representative or successor in interest. The notice will contain the following information:

(a) statement describing the action MAD, or its designee, intends to take;

(b) reasons for the intended action;

(c) statutory authority for the action;

(d) amount to be recovered;

(e) opportunity to apply for the undue hardship waiver;

(f) procedures for applying for a hardship waiver and the relevant timeframes involved;

(g) explanation of the eligible recipient's personal representative's right to request an administrative hearing; and

(h) the method by which an affected person may obtain a hearing and the applicable timeframes involved.

(5) Once notified by MAD, or its designee, of the decision to seek recovery, it is the responsibility of the eligible recipient's personal representative or successor in interest to notify other individuals who would be affected by the proposed recovery.

(6) The personal representative will:

(a) remit the amount of medical assistance payments to HSD or its designee;

(b) apply for an undue hardship waiver; (see Paragraph (2) of Subsection F below); or

(c) request an administrative hearing.

F. Waivers:

(1) For a general waiver, HSD may compromise, settle, or waive recovery pursuant to the Medicaid Estate Recovery Act if it deems that such action is in the best interest of the state or federal government.

(2) Hardship provision: HSD, or its designee, may waive recovery because recovery would work an undue hardship on the heirs. The following are deemed to be causes for hardship:

(a) the deceased recipient's heir would become eligible for a needs-based assistance program such as medicaid or temporary assistance to needy families (TANF) or be put at risk of serious deprivation without the receipt of the proceeds of the estate;

(b) the deceased eligible recipient's heir would be able to discontinue reliance on a needs-based program (such as medicaid or

TANF) if he or she received the inheritance from the estate;

(c) the deceased recipient's assets which are subject to recovery are the sole income source for the heir;

(d) the homestead is worth 50 percent or less than the average price of a home in the county where the home is located based on census data compared to the property tax value of the home; or

(e) there are other compelling circumstances as determined by HSD or its designee.

[8.200.430.20 NMAC - N, 1-1-14]

HISTORY OF 8.200.430 NMAC: The material in this part was derived from that previously filed with the State Records Center: 8 NMAC 4.MAD.430, Recipient Policies, Recipient Rights and Responsibilities, filed 12-30-94.

History of Repealed Material:

8.200.430 NMAC, Recipient Rights and Responsibilities, filed 12-13-2000 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 200 MEDICAID ELIGIBILITY - GENERAL RECIPIENT POLICIES
PART 520 INCOME STANDARDS

8.200.520.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.200.520.1 NMAC - Rp, 8.200.520.1 NMAC, 1-1-14]

8.200.520.2 SCOPE: The rule applies to the general public.

[8.200.520.2 NMAC - Rp, 8.200.520.2 NMAC, 1-1-14]

8.200.520.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.200.520.3 NMAC - Rp, 8.200.520.3 NMAC, 1-1-14]

8.200.520.4 DURATION: Permanent.

[8.200.520.4 NMAC - Rp, 8.200.520.4 NMAC, 1-1-14]

8.200.520.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.200.520.5 NMAC - Rp, 8.200.520.5 NMAC, 1-1-14]

8.200.520.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.200.520.6 NMAC - Rp, 8.200.520.6 NMAC, 1-1-14]

8.200.520.7 DEFINITIONS: [RESERVED]

8.200.520.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.200.520.8 NMAC - N, 1-1-14]

8.200.520.9 GENERAL NEED DETERMINATION: To be medical assistance division (MAD) eligible, an applicant or a re-determining eligible recipient must meet specific income and as applicable, resource standards.

[8.200.520.9 NMAC - Rp, 8.200.520.9 NMAC, 1-1-14]

8.200.520.10 INCOME STANDARDS: This part contains the federal income poverty rate tables for use with all eligibility categories, cost of living (COLA) disregard calculations, and other applicable income tables.

[8.200.520.10 NMAC - Rp, 8.200.520.10 NMAC, 1-1-14]

8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:

A. 100% federal poverty limit (FPL):

<u>Size of budget group</u>	<u>FPL per month</u>
1	\$958*
2	\$1,293*
3	\$1,628
4	\$1,963
5	\$2,298
6	\$2,633

7 \$2,968

8 \$3,303

Add \$335 for each additional person in the budget group.

*Use only these two standards for the qualified medicare beneficiary (QMB) program.

B. 120% FPL: This income level is used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants or eligible recipients.

<u>Applicant or eligible recipient</u>	<u>Amount</u>
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1. Individual At least \$958 per month but no more than \$1,149 per month.

2. Couple At least \$1,293 per month but no more than \$1,551 per month.

For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed.

C. 133% FPL:

<u>Size of budget group</u>	<u>FPL per month</u>
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1 \$1,274

2 \$1,720

3 \$2,165

4 \$2,611

5 \$3,056

6 \$3,502

7 \$3,974

8 \$4,393

Add \$446 for each additional person in the budget group.

D. 135% FPL: This income level is used only in the determination of the maximum income limit for a qualified individual 1 (Q11) applicant or eligible recipient. For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed. The following income levels apply:

<u>Applicant or eligible recipient</u>	<u>Amount</u>
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1. Individual At least \$1,149 per month but no more than \$1,293 per month.

2. Couple At least \$1,551 per month but no more than \$1,745 per month.

E. 150% FPL: This income level is used only in the determination of the maximum income limit for state coverage insurance (SCI) (category 062) applicant or eligible recipient. Add \$502 for each additional person in the budget group. The following income levels apply:

<u>Size of budget group</u>	<u>FPL per month</u>
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1 \$1,437

2 \$1,939

3 \$2,442

4 \$2,944

5 \$3,447

6 \$3,949

7 \$4,452

8 \$4,954

F. 185% FPL:

<u>Size of budget group</u>	<u>FPL per month</u>
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1 \$1,772

2 \$2,392

3 \$3,011

4 \$3,631

5 \$4,251

6 \$4,871

7 \$5,490

8 \$6,110

Add \$620 for each additional person in the budget group.

G. 200% FPL:

<u>Size of budget group</u>	<u>FPL per month</u>
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1 \$1,915

2 \$2,585

3 \$3,255

4 \$3,925

5 \$4,595

6 \$5,265

7 \$5,935

8 \$6,605

Add \$670 for each additional person in the budget group.

H. 235% FPL:

<u>Size of budget group</u>	<u>FPL per month</u>
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1 \$2,251

2 \$3,038

3 \$3,825

4	\$4,612
5	\$5,400
6	\$6,187
7	\$6,974
8	\$7,761

Add \$787 for each additional person in the budget group.

I. 250% FPL:

<u>Size of budget group</u>	<u>FPL per month</u>
1	\$2,394
2	\$3,232
3	\$4,069
4	\$4,907
5	\$5,744
6	\$6,582
7	\$7,419
8	\$8,257

Add \$838 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp, 8.200.520.11 NMAC, 1-1-14]

8.200.520.12 COST OF LIVING ADJUSTMENT (COLA) DISREGARD COMPUTATION: The countable social security benefit without the COLA is calculated using the COLA increase table as follows:

A. divide the current gross social security benefit by the COLA increase in the most current year; the result is the social security benefit before the COLA increase;

B. divide the result from Subsection A above by the COLA increase from the previous period or year; the result is the social security benefit before the increase for that period or year; and

C. repeat Subsection B above for each year, through the year that the applicant or eligible recipient received both social security benefits and supplemental security income (SSI); the final result is the countable social security benefit.

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
1	2014 Jan - Dec	1.015	Jan 14
2	2013 Jan - Dec	1.017	Jan 13
3	2012 Jan - Dec	1.037	Jan 12
4	2011 Jan - Dec	0	Jan 11
5	2010 Jan - Dec	1	Jan 10
6	2009 Jan - Dec	1	Jan 09
7	2008 Jan - Dec	1.058	Jan 08
8	2007 Jan - Dec	1.023	Jan 07
9	2006 Jan - Dec	1.033	Jan 06
10	2005 Jan - Dec	1.041	Jan 05
11	2004 Jan - Dec	1.027	Jan 04
12	2003 Jan - Dec	1.021	Jan 03
13	2002 Jan - Dec	1.014	Jan 02
14	2001 Jan - Dec	1.026	Jan 01
15	2000 Jan - Dec	1.035	Jan 00
16	1999 Jan - Dec	1.025	Jan 99
17	1998 Jan - Dec	1.013	Jan 98
18	1997 Jan - Dec	1.021	Jan 97
19	1996 Jan - Dec	1.029	Jan 96
20	1995 Jan - Dec	1.026	Jan 95
21	1994 Jan - Dec	1.028	Jan 94
22	1993 Jan - Dec	1.026	Jan 93
23	1992 Jan - Dec	1.03	Jan 92
24	1991 Jan - Dec	1.037	Jan 91
25	1990 Jan - Dec	1.054	Jan 90
26	1989 Jan - Dec	1.047	Jan 89
27	1988 Jan - Dec	1.04	Jan 88

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
28	1987 Jan – Dec	1.042	Jan 87
29	1986 Jan – Dec	1.013	Jan 86
30	1985 Jan – Dec	1.031	Jan 85
31	1984 Jan – Dec	1.035	Jan 84
32	1982 Jul – 1983 Dec	1.035	Jul 82
33	1981 Jul – 1982 Jun	1.074	Jul 81
34	1980 Jul – 1981 Jun	1.112	Jul 80
35	1979 Jul – 1980 Jun	1.143	Jul 79
36	1978 Jul – 1979 Jun	1.099	Jul 78
37	1977 Jul – 1978 Jun	1.065	Jul 77
38	1977 Apr – 1977 Jun	1.059	Apr 77

[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 1-1-14]

8.200.520.13 FEDERAL BENEFIT RATES (FBR) AND VALUE OF ONE-THIRD REDUCTION (VTR):

Year	Individual	Institution	Individual	Couple	Institution	Couple
	FBR	FBR	VTR	FBR	FBR	VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33
1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33
1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66
1/06 to 1/07	\$603	\$30	\$201	\$904	\$60	\$301.33
1/07 to 1/08	\$623	\$30	\$207.66	\$934	\$60	\$311.33
1/08 to 1/09	\$637	\$30	\$212.33	\$956	\$60	\$318.66
1/09 to 1/10	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/10 to 1/11	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/11 to 1/12	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/12 to 1/13	\$698	\$30	\$232.66	\$1,048	\$60	\$349.33
1/13 to 1/14	\$710	\$30	\$237	\$1,066	\$60	\$355
1/14 to 1/15	\$721	\$30	\$240	\$1082	\$60	\$361

A. Ineligible child deeming allocation is \$350.00

B. Part B premium is \$104.90 per month.

C. VTR (value of one third reduction) is used when an individual or a couple lives in the household of another and receives food and shelter from the household or when the individual or the couple is living on his or her own household but receiving support and maintenance from others.

D. The SSI resource standard is \$2000 for an individual and \$3000 for a couple.

[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 1-1-14]

8.200.520.14 UNISEX LIFE ESTATE AND REMAINDER INTEREST TABLES

Age	Life Estate	Remainder
0	.97188	.02812
1	.98988	.01012
2	.99017	.00983
3	.99008	.00992
4	.98981	.01019
5	.98938	.01062
6	.98884	.01116
7	.98822	.01178
8	.98748	.01252
9	.98663	.01337
10	.98565	.01435
11	.98453	.01547
12	.98329	.01671
13	.98198	.01802
14	.98066	.01934
15	.97937	.02063
16	.97815	.02185
17	.97700	.02300
18	.97590	.02410
19	.97480	.02520
20	.97365	.02635
21	.97245	.02755
22	.97120	.02880
23	.96986	.03014
24	.96841	.03159
25	.96678	.03322
26	.96495	.03505
27	.96290	.03710
28	.96062	.03938
29	.95813	.04187
30	.95543	.04457
31	.95243	.04746
32	.94942	.05058
33	.94608	.05392
34	.94250	.05750
35	.93868	.06132
36	.93460	.06540
37	.93026	.06974
38	.92567	.07433
39	.92083	.07917
40	.91571	.08429
41	.91030	.08970
42	.90457	.09543
43	.89855	.10145
44	.89221	.10779
45	.88558	.11442
46	.87863	.12137
47	.87137	.12863
48	.86374	.13626
49	.85578	.14422
50	.84743	.15257
51	.83674	.16126
52	.82969	.17031
53	.82028	.17972
54	.81054	.18946
55	.80046	.19954
56	.79006	.20994
57	.77931	.22069
58	.76822	.23178
59	.75675	.24325
60	.74491	.25509
61	.73267	.26733
62	.72002	.27998
63	.70696	.29304
64	.69352	.30648
65	.67970	.32030

66	.66551	.33449
67	.65098	.34902
68	.63610	.36690
69	.62086	.37914
70	.60522	.39478
71	.58914	.41086
72	.57261	.42739
73	.55571	.44429
74	.53862	.46138
75	.52149	.47851
76	.50441	.49559
77	.48742	.51258
78	.47049	.52951
79	.45357	.54643
80	.43659	.56341
81	.41967	.58033
82	.42095	.59705
83	.38642	.61358
84	.36998	.63002
85	.35359	.64641
86	.33764	.66236
87	.32262	.67738
88	.30859	.69141
89	.29526	.70474
90	.28221	.71779
91	.26955	.73045
92	.25771	.74229
93	.24692	.75308
94	.23728	.76272
95	.22887	.77113
96	.22181	.77819
97	.21550	.78450
98	.21000	.79000
99	.20486	.79514
100	.19975	.80025
101	.19532	.80468
102	.19054	.80946
103	.18437	.81563
104	.17856	.82144
105	.16962	.83038
106	.15488	.84512
107	.13409	.86591
108	.10068	.89932
109	.04545	.95455

[8.200.520.14 NMAC - Rp, 8.200.520.14 NMAC, 1-1-14]

8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

A. Individual living in his or her own household who own or rent:

Payment amount: \$721 Individual
\$1,082 Couple

B. Individual receiving support and maintenance payments: For an individual or couple living in his or her own household, but receiving support and maintenance from others (such as food, shelter or clothing), subtract the value of one third reduction (VTR).

Payment amount: \$721 - \$240 = \$481 Individual
\$1,082 - \$361 = \$721 Couple

C. Individual or couple living household of another: For an individual or couple living in another person's household and not contributing his or her pro-rata share of household expenses, subtract the VTR.

Payment amount: \$721 - \$240 = \$481 Individual
\$1,082 - \$361 = \$721 couple

D. Child living in home with his or her parent:

Payment amount: \$721

E. Individual in institution:

Payment amount: \$30.00

[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 1-1-14]

8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND

COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES: Effective January 1, 2013, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is \$2,163.

[8.200.520.16 NMAC - Rp, 8.200.520.16 NMAC, 1-1-14]

8.200.520.17 MAXIMUM COUNTABLE INCOME FOR CHILDREN YOUTH AND FAMILIES (CYFD): Effective July 1, 1995, the maximum countable monthly income standard for CYFD medicaid is \$231.00.

[8.200.520.17 NMAC - Rp, 8.200.520.17 NMAC, 1-1-14]

8.200.520.18 SSI RELATED CATEGORIES - DEEMING INCOME WHEN AN APPLICANT CHILD IS LIVING WITH INELIGIBLE PARENT:

A. Monthly computation:

(1) total gross unearned income of parent;
 (2) deduct living allowance for ineligible child and SSI-eligible sponsored alien (one half of the monthly SSI FBR LA code A*) for each ineligible child/SSI-eligible sponsored alien);

(3) subtotal;

(4) deduct \$20.00 general income exclusion - 20.00;

(5) unearned income subtotal;

(6) total gross earned income of parent;

(7) deduct any remaining allocation for ineligible child and/or SSI-eligible sponsored alien; see Paragraph (2) above;

(8) subtotal;

(9) deduct any remaining portion of the \$20.00 general income exclusion only if not already totally deducted in Paragraph (4)

above;

(10) subtotal;

(11) deduct \$65.00; do not apply this deduction if the only income is unearned - 65.00;

(12) subtotal;

(13) subtract one-half of Paragraph (12); do not apply this deduction if the only income is unearned;

(14) earned income subtotal;

(15) total of Paragraph (5) plus Paragraph (14);

(16) deduct parental allocation (1 parent = SSI FBR for an individual LA code A*) (2 parents = SSI FBR for an eligible couple LA code A*);

(17) income deemed to applicant child; if there is more than one applicant child, divide this amount equally between the children:

* LA Code A = the full SSI FBR for an individual or a couple.

B. If the deemed income plus the applicant child's separate income exceeds the income standard for an individual, the applicant child is not eligible for that month.

[8.200.520.18 NMAC - Rp, 8.200.520.18 NMAC, 1-1-14]

8.200.520.19 LIFE EXPECTANCY TABLES

A. **Males:**

Age	Life expectancy	Age	Life expectancy	Age	Life expectancy
0	71.80	40	35.05	80	6.98
1	71.53	41	34.15	81	6.59
2	70.58	42	33.26	82	6.21
3	69.62	43	32.37	83	5.85
4	68.65	44	31.49	84	5.51
5	67.67	45	30.61	85	5.19
6	66.69	46	29.74	86	4.89
7	65.71	47	28.88	87	4.61
8	64.73	48	28.02	88	4.34
9	63.74	49	27.17	89	4.09
10	62.75	50	26.32	90	3.86
11	61.76	51	25.48	91	3.64
12	60.78	52	24.65	92	3.43
13	59.79	53	23.82	93	3.24
14	58.82	54	23.01	94	3.06
15	57.85	55	22.21	95	2.90
16	56.91	56	21.43	96	2.74
17	55.97	57	20.66	97	2.60
18	55.05	58	19.90	98	2.47
19	54.13	59	19.15	99	2.34
20	53.21	60	18.42	100	2.22
21	52.29	61	17.70	101	2.11
22	51.38	62	16.99	102	1.99
23	50.46	63	16.30	103	1.89
24	49.55	64	15.62	104	1.78
25	48.63	65	14.96	105	1.68
26	47.72	66	14.32	106	1.59

27	46.80	67	13.70	107	1.50
28	45.88	68	13.09	108	1.41
29	44.97	69	12.50	109	1.33
30	44.06	70	11.92	110	1.25
31	43.15	71	11.35	111	1.17
32	42.24	72	10.80	112	1.10
33	41.33	73	10.27	113	1.02
34	40.23	74	9.27	114	0.96
35	39.52	75	9.24	115	0.89
36	38.62	76	8.76	116	0.83
37	37.73	77	8.29	117	0.77
38	36.83	78	7.83	118	0.71
39	35.94	79	7.40	119	0.66

B. Females:

Life		Life		Life	
Age	expectancy	Age	expectancy	Age	expectancy
0	78.79	40	40.61	80	9.11
1	78.42	41	39.66	81	8.58
2	77.48	42	38.72	82	8.06
3	76.51	43	37.78	83	7.56
4	75.54	44	36.85	84	7.08
5	74.56	45	35.92	85	6.63
6	73.57	46	35.00	86	6.20
7	72.59	47	34.08	87	5.79
8	71.60	48	33.17	88	5.41
9	70.61	49	32.27	89	5.05
10	69.62	50	31.37	90	4.71
11	68.63	51	30.48	91	4.40
12	67.64	52	29.60	92	4.11
13	66.65	53	28.72	93	3.84
14	65.67	54	27.86	94	3.59
15	64.68	55	27.00	95	3.36
16	63.71	56	26.15	96	3.16
17	62.74	57	25.31	97	2.97
18	61.77	58	24.48	98	2.80
19	60.80	59	23.67	99	2.64
20	59.83	60	22.86	100	2.48
21	58.86	61	22.06	101	2.34
22	57.89	62	21.27	102	2.20
23	56.92	63	20.49	103	2.06
24	55.95	64	19.72	104	1.93
25	54.98	65	18.96	105	1.81
26	54.02	66	18.21	106	1.69
27	53.05	67	17.48	107	1.58
28	52.08	68	16.76	108	1.48
29	51.12	69	16.04	109	1.38
30	50.15	70	15.35	110	1.28
31	49.19	71	14.66	111	1.19
32	48.23	72	13.99	112	1.10
33	47.27	73	13.33	113	1.02
34	46.31	74	12.68	114	0.96
35	45.35	75	12.05	115	0.89
36	44.40	76	11.43	116	0.83
37	43.45	77	10.83	117	0.77
38	42.50	78	10.24	118	0.71
39	41.55	79	9.67	119	0.66

[8.200.520.19 NMAC - Rp, 8.200.520.19 NMAC, 1-1-14]

8.200.520.20 COVERED QUARTER INCOME STANDARD:

Date	Calendar Quarter Amount
Jan 2014 – Dec. 2014	\$1,200 per calendar quarter
Jan 2013 – Dec. 2013	\$1,160 per calendar quarter
Jan 2012 – Dec. 2012	\$1,130 per calendar quarter
Jan. 2011 – Dec. 2011	\$1,120 per calendar quarter
Jan. 2010 – Dec. 2010	\$1,120 per calendar quarter
Jan. 2009 – Dec. 2009	\$1,090 per calendar quarter
Jan. 2008 – Dec. 2008	\$1,050 per calendar quarter

Jan. 2007 – Dec. 2007	\$1,000 per calendar quarter
Jan. 2006 – Dec. 2006	\$970 per calendar quarter
Jan. 2005 – Dec. 2005	\$920 per calendar quarter
Jan. 2004 – Dec. 2004	\$900 per calendar quarter
Jan. 2003 – Dec. 2003	\$890 per calendar quarter
Jan. 2002 – Dec. 2002	\$870 per calendar quarter

[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 1-1-14]

8.200.520.21 STANDARD OF NEED (SON):

Budget group size	Gross income test		Net income test	
	85% Federal poverty limit (FPL)	AFDC July 16, 1996 185% Standard of need	Standard of need	
	072 JUL and 049/059 Refugee	030 Pregnant women	072 JUL and 049/059 Refugee	AFDC July 16, 1996 030 Pregnant woman
1	\$791	\$427	\$266	\$231
2	\$1,072	\$574	\$357	\$310
3	\$1,352	\$720	\$447	\$389
4	\$1,633	\$868	\$539	\$469
5	\$1,913	\$1,014	\$630	\$548
6	\$2,194	\$1,160	\$721	\$627
7	\$2,474	\$1,306	\$812	\$706
8	\$2,755	\$1,452	\$922	\$785
+1	+\$281	+\$147	+\$91	+\$79

[8.200.520.21 NMAC - N, 1-1-14]

HISTORY OF 8.200.520 NMAC: The material in this part was derived from that previously filed with the State Records Center: 8 NMAC 4.MAD.500, Eligibility Policies, Income and Resource Standards, filed 12-30-94. 8 NMAC 4.MAD.500, Eligibility Policies, Income and Resource Standards, filed 6-20-95.

History of Repealed Material:

8.200.520 NMAC, Income Standard, filed 12-18-00 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 202 MEDICAID ELIGIBILITY - JUL MEDICAID PART 400 RECIPIENT REQUIREMENTS

8.202.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.202.400.1 NMAC - Rp, 8.202.400.1 NMAC, 1-1-14]

8.202.400.2 SCOPE: The rule applies to the general public.

[8.202.400.2 NMAC - Rp, 8.202.400.2 NMAC, 1-1-14]

8.202.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of

health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.202.400.3 NMAC - Rp, 8.202.400.3 NMAC, 1-1-14]

8.202.400.4 DURATION: Permanent.

[8.202.400.4 NMAC - Rp, 8.202.400.4 NMAC, 1-1-14]

8.202.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.202.400.5 NMAC - Rp, 8.202.400.5 NMAC, 1-1-14]

8.202.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes

for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.202.400.6 NMAC - Rp, 8.202.400.6 NMAC, 1-1-14]

8.202.400.7 DEFINITIONS: [RESERVED]

8.202.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.202.400.8 NMAC - Rp, 8.202.400.8 NMAC, 1-1-14]

8.202.400.9 WHO CAN BE AN ELIGIBLE RECIPIENT:

A. An applicant or an eligible recipient must meet specific eligibility requirements. These include:

(1) a child under 19 years of age;

(2) a natural or adoptive parent

of the child, provided he or she lives with

the eligible recipient child; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process;

(3) when the parent does not live with the child, one specified relative caretaker, within the fifth degree of relationship by blood, marriage or adoption; refer to the relationship section at the end of this part for more information;

(4) a woman whose third trimester pregnancy has been medically verified through documentary evidence;

(5) an individual who meets the following eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC of citizenship or alien status; enumeration; residence; non-concurrent receipt of assistance; and applications for other benefits;

(6) an applicant or eligible recipient must assign medical support rights to HSD and agree to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC; and

(7) appropriate to the size of the budget group (not including the ineligible parent due to citizenship or alien status or enumeration), countable gross income must be less than 85 percent of the federal poverty limit (FPL); and the countable net income must be less than the standard of need (SON) pursuant to 8.200.520 NMAC, and 8.202.500 NMAC.

B. An applicant or an eligible recipient may have other creditable health insurance coverage.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.

D. For medical assistance program applicants or re-determining recipients who are recipients of another type of income support division (ISD) benefits, the following will not be used in as automatic disqualification from medical assistance programs enrollment:

(1) New Mexico works (NMW) cash assistance eligibility;

(2) disqualifications for dual state public assistance benefits resulting in a conviction of fraud; or

(3) disqualifications for fugitive and probation parole violators.

[8.202.400.9 NMAC - Rp, 8.202.400.9 NMAC, 1-1-14]

8.202.400.10 BASIS FOR DEFINING THE ASSISTANCE UNIT AND BUDGET GROUP:

A. At time of application, an applicant and a re-determining eligible recipient and ISD shall identify everyone who is to be considered for inclusion in the assistance unit and budget group. The composition of the assistance unit and

budget group is based on the relationship of the household members to the dependent child for whom the application is being made. Each member of the assistance unit and budget group, including an unborn child, is counted as one in the household size.

B. The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

(1) Except for a supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(a) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and

(b) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

(2) The following individuals do not have a financial obligation of support for medicaid eligibility:

(a) an SSI recipient to the assistance unit;

(b) a father of the unborn child who is not married to the pregnant woman;

(c) a stepparent to a stepchild;

(d) a grandparent to a grandchild;

(e) a legal guardian or conservator of a child;

(f) an alien sponsor to the assistance unit; and

(g) a sibling to a sibling.

[8.202.400.10 NMAC - Rp, 8.202.400.10 NMAC, 1-1-14]

8.202.400.11 ELIGIBLE MEMBERS: The assistance unit includes individuals who apply and who are determined eligible.

A. **The dependent child assistance unit:** Certain individuals may be included in the assistance unit, provided they live together and meet eligibility requirements. Those individuals are:

(1) the dependent child and full, half, step or adoptive siblings;

(2) the natural or adoptive parents of a child; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process; and

(3) when the parent does not live with the child, one specified relative caretaker, within the fifth degree of relationship by blood, marriage or adoption, refer to Section 13 of this rule.

B. **The adult-only assistance unit:**

(1) When the dependent child is receiving supplemental security insurance (SSI), the eligible parent or a specified relative when the parents are not living with the child, may constitute an adult-only assistance unit. The spouse of a parent (step-parent) and the spouse of the specified relative are not eligible to be included in the assistance unit. Spouse refers to a person who is married to the individual under applicable state law.

(2) A pregnant woman in her third trimester who has no dependent child living with her may constitute an adult only assistance unit when:

(a) each unborn child is counted as one as if the child was born and living with the mother; and

(b) the child is born, regardless of marital status, the father, if living with the assistance unit, may be a member of the assistance unit.

[8.202.400.11 NMAC - Rp, 8.202.400.11 NMAC, 1-1-14]

8.202.400.12 SANCTIONED MEMBERS: New Mexico works', child support enforcement division (CSED), and work sanctions do not apply to JUL medicaid eligibility.

[8.202.400.12 NMAC - Rp, 8.202.400.12 NMAC, 1-1-14]

8.202.400.13 LIVING ARRANGEMENTS:

A. **Living in the home with a relative:** To be included in the assistance unit, a child must be living, or considered to be living, in the home of:

(1) a natural or an adoptive parent; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process; or

(2) a specified relative who is related within the fifth degree of relationship by blood, marriage or adoption and assumes responsibility for the day-to-day care and control of the child; the determination of whether an individual functions as the specified relative shall be made by the specified relative unless other information known to the worker clearly indicates otherwise.

B. **A child considered to be living in the home:** A child is considered to be part of the assistance unit as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

(1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; or

(2) when the child is actually spending equal amounts of time with each

household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. **Extended living in the home:** An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group. Extended living in the home includes:

- (1) an individual attending college or a boarding school; or
- (2) an individual receiving treatment in a Title XIX medicaid facility including institutions that meet a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC; when an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated; until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. **Temporary absence - extended living in the home:** An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

- (1) an individual not living in the home due to an emergency who is expected to return to the household within 60 calendar days, continues to be a member of the household;
- (2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or
- (3) a child residing in a detention center:

- (a) continues to be a member of the household if he or she resides fewer than 60 calendar days, regardless of any adjudication as an inmate of a public institution; or
- (b) the individual is not eligible for medicaid enrollment if he or she resides 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

E. **Relationships:**

(1) The following relatives are within the fifth degree of relationship to the dependent child:

- (a) a father (biological or adoptive);
- (b) a mother (biological or adoptive);
- (c) a grandfather, great grandfather, great great grandfather, great great great grandfather;

(d) a grandmother, great grandmother, great great grandmother, great great great grandmother;

(e) a spouse of child's parent (stepparent);

(f) a spouse of child's grandparent, great grandparent, great great grandparent, great great great grandparent (step grandparent);

(g) a brother, half-brother, brother-in-law, step-brother;

(h) a sister, half-sister, sister-in-law, step-sister;

(i) an uncle of the whole or half-blood, uncle-in-law, great uncle, great great uncle;

(j) an aunt of the whole or half-blood, aunt-in-law, great aunt, great great aunt;

(k) a first cousin and spouse of first cousin;

(l) a son or daughter of first cousin (first cousin once removed);

(m) a son or daughter of great aunt or great uncle (first cousin once removed) and spouse; and

(n) a nephew or niece and spouses.

(2) A second cousin is a child of a first cousin once removed or child of a child of a great aunt or uncle and is not within the fifth degree of relationship.

(3) Effect of divorce or death on relationship: A relationship based upon marriage, such as the "in-law" or "step" relationships, continues to exist following the dissolution of the marriage by divorce or death.

(4) Table of relationships: Below is the table of relationship based on the uniform probate code, see NMSA 1978, Section 45-1-101 et. seq. The relationships marked through with an "X" are not within the fifth degree of relationship.

[Continued on page 881]

					5 Great-great- great grandparents
				4 Great-great grandparents	X
			3 Great grandparents	5 Great-grand uncles and aunts	
		2 Grandparents	4 Great aunt great uncle	X	
	1 Parents	3 Aunt or uncle	5 First cousin once-removed		
Dependent child	2 Siblings	4 First cousins	X		
X	3 Nephew or niece	5 First cousin once-removed			
	4 Grand nephew grand niece	X			
	5 Great grand nephew or niece				
	X				

[8.202.400.13 NMAC - Rp, 8.202.400.13 NMAC, 1-1-14]

8.202.400.14 GENERAL RECIPIENT REQUIREMENTS: Refer to 8.202.400.9 NMAC.

[8.202.400.14 NMAC - Rp, 8.202.400.14 NMAC, 1-1-14]

8.202.400.15 CITIZENSHIP: Refer to 8.200.410.11 NMAC.

[8.202.400.15 NMAC - Rp, 8.202.400.15 NMAC, 1-1-14]

8.202.400.16 WORK PROGRAMS - GENERAL: Refer to 8.202.400.9 NMAC.

[8.202.400.16 NMAC - Rp, 8.202.400.16 NMAC, 1-1-14]

8.202.400.17 [RESERVED]

8.202.400.18 PROGRAM DISQUALIFICATIONS:

A. **Dual state benefits:** Any individual who has been convicted of fraud for receiving temporary assistance for needy families (TANF), supplemental nutritional assistance program (SNAP), medicaid, or SSI in more than one state at the same time is not eligible for inclusion in the JUL medicaid assistance group for a period of 10 years following such conviction. The conviction must have occurred on or after August 22, 1996.

B. **Fugitive and probation and parole violators:** An individual who is a fugitive felon or who has been determined to be in violation of conditions of probation or parole is not eligible for inclusion in the JUL medicaid assistance group.

[8.202.400.18 NMAC - Rp, 8.202.400.18 NMAC, 1-1-14]

8.202.400.19 TERM LIMITATIONS: TANF term limits are not applicable to JUL medicaid. Individuals who meet all criteria for JUL medicaid eligibility, but who are ineligible for NMW solely on the basis of TANF term limits, may continue to receive JUL medicaid.

[8.202.400.19 NMAC - Rp, 8.202.400.19 NMAC, 1-1-14]

8.202.400.20 SPECIAL RECIPIENT REQUIREMENTS:

A. **Age:** Refer to 8.202.400.9 NMAC.

B. **Continuing eligibility on the factor of age:** When an individual has been determined eligible on the condition of age, he or she remains eligible on the condition until the applicable upper age limit is reached. An individual who exceeds the age limit during a given month is eligible for that month, unless the birthday is the first day of the month.

[8.202.400.20 NMAC - Rp, 8.202.400.20 NMAC, 1-1-14]

8.202.400.21 SCHOOL ATTENDANCE - REQUIREMENT:

School attendance is required for children who are 18 years of age. There is no school requirement for children under age 18. A child 18 years of age must be a full-time student at a certified educational facility or participating and fully complying with a home-schooling program approved by the New Mexico public education department. Whether a child is considered a full-time student and meeting full-time attendance requirements is based on the standards of the educational facility or program in which the child is enrolled. Children who have received a general equivalency development (GED) certificate or are early high school graduates are considered to have met school attendance requirements and continue to be JUL medicaid eligible until age 19. School attendance requirements are evaluated only at the time of JUL medicaid application or recertification.

[8.202.400.21 NMAC - Rp, 8.202.400.21 NMAC, 1-1-14]

8.202.400.22 [RESERVED]

8.202.400.23 ALIEN SPONSORSHIP:

Alien sponsor deeming provisions are set forth in manual section 8.200.410.11 NMAC.

[8.202.400.23 NMAC - Rp, 8.202.400.23 NMAC, 1-1-14]

8.202.400.24 LIVING IN A PUBLIC INSTITUTION:

Refer to 8.200.410.15 NMAC.

[8.202.400.24 NMAC - Rp, 8.202.400.24 NMAC, 1-1-14]

8.202.400.25 RECIPIENT RIGHTS AND RESPONSIBILITIES:

Refer to 8.200.430 NMAC.

[8.202.400.25 NMAC - Rp, 8.202.400.25 NMAC, 1-1-14]

8.202.400.26 ASSIGNMENT OF MEDICAL SUPPORT:

Refer to 8.200.420.12 NMAC.

[8.202.400.26 NMAC - Rp, 8.202.400.26

NMAC, 1-1-14]

8.202.400.27 REPORTING REQUIREMENTS:

Refer to 8.200.430.19 NMAC.

[8.202.400.27 NMAC - Rp, 8.202.400.27

NMAC, 1-1-14]

HISTORY OF 8.202.400 NMAC:**History of Repealed Material:**

8.202.400 NMAC, Recipient Policies, filed 6-14-01 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 202 MEDICAID ELIGIBILITY - JUL MEDICAID PART 500 INCOME AND RESOURCE STANDARDS

8.202.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.202.500.1 NMAC - Rp, 8.202.500.1 NMAC, 1-1-14]

8.202.500.2 SCOPE: The rule applies to the general public.

[8.202.500.2 NMAC - Rp, 8.202.500.2 NMAC, 1-1-14]

8.202.500.3 STATUTORY AUTHORITY:

The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.202.500.3 NMAC - Rp, 8.202.500.3 NMAC, 1-1-14]

8.202.500.4 DURATION: Permanent.

[8.202.500.4 NMAC - Rp, 8.202.500.4 NMAC, 1-1-14]

8.202.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.202.500.5 NMAC - Rp, 8.202.500.5 NMAC, 1-1-14]

8.202.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy

manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.202.500.6 NMAC - Rp, 8.202.500.6 NMAC, 1-1-14]

8.202.500.7 DEFINITIONS: [RESERVED]

8.202.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.202.500.8 NMAC - N, 1-1-14]

8.202.500.9 ESTABLISHING NEED - GENERAL REQUIREMENTS:

A. **Financial need:** An individual's eligibility is based on financial need pursuant to section 1931 of the Social Security Act, NMSA 1978, Section 27-2B-15(B), the rules in this chapter and 8.200.520 NMAC.

B. **Financial eligibility:** Pursuant to Section 1931 of the Social Security Act, enacted by Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a new medicaid financial eligibility standard was created.

(1) Income eligibility criteria: The income eligibility criteria are based on New Mexico's aid to families with dependent children (AFDC) program as of July 16, 1996. This is defined as the standard of need (SON) used in AFDC as of July 16, 1996.

(a) As a state option, New Mexico may increase income and resource eligibility criteria in medicaid over a period (beginning after July 16, 1996) by a percentage that does not exceed the percentage increase in the consumer price index for all urban consumers all items, United States city average over such period.

(b) Pursuant to NMSA 1978, Section 27-2B-15(B), income eligibility criteria for JUL medicaid shall be the same as the New Mexico temporary assistance to needy families (TANF) program. The SON for TANF has increased since July 16, 1996; therefore the SON for JUL medicaid has increased to match TANF.

(2) Less restrictive income and resource methodology: Pursuant to Section 1931 of the Social Security Act, as a state option, New Mexico may use income and resource eligibility methodologies that are less restrictive than the AFDC methodologies used as of July 16, 1996. This chapter defines less restrictive methodologies used by New Mexico for resources, countable and excluded earned or unearned income,

available or unavailable income and income deductions or disregards.

C. **Determining need is a two-step process:** When the countable gross or net income is exactly equal to the income eligibility standards, eligibility does not exist.

(1) Gross income test: The first step is determining the countable gross income of the budget group. Gross income includes all countable income before taking taxes or deductions. Only self employment deductions are allowed in the gross income test. The calculated gross income must be less than 85 percent of the federal poverty limit (FPL) for the size of the budget group (not including the ineligible parent due to citizenship or alien status or enumeration). If the budget group's income is more than 85 percent FPL, the assistance unit is not eligible.

(2) Net income test: The second step is determining the countable net income of the budget group. From the countable gross income in step one, deduct all allowable work related expenses (WRE) and unearned income deductions or disregards. The countable net income must be less than the SON appropriate to the size of the budget group (not including the ineligible parent due to citizenship or alien status or enumeration). If the budget group's income is more than the SON, the assistance unit is not eligible.
[8.202.500.9 NMAC - Rp, 8.202.500.9 NMAC, 1-1-14]

8.202.500.10 R E S O U R C E S / PROPERTY - RESOURCE STANDARDS: There are no resource standards.
[8.202.500.10 NMAC - Rp, 8.202.500.10 NMAC, 1-1-14]

8.202.500.11 INCOME - GENERAL - Income eligibility: Income consists of money received by a person whose income is considered available to the budget group as described in this chapter.

A. Income from a 30 calendar day period: Income from a 30 calendar day period is used to determine eligibility. The 30 calendar day period may be any consecutive 30-day period that is prior to the date of the application through the date of timely disposition. The applicant or the eligible recipient and the caseworker must agree on the 30 calendar day period. Income from a terminated source is not counted.

B. Income received less frequently than monthly: If an amount of gross income is received less frequently than monthly, that amount is converted to a monthly amount to determine financial eligibility. The conversion is dividing the total income by the number of months

the income is intended to cover. For the purposes of this calculation, a partial month is considered to be one full month. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not have a contract.

C. Use of conversion factors: Whenever a full month's income is received on a weekly or biweekly basis, the income is converted to a monthly amount. Income is rounded down to the nearest whole dollar prior to application of the conversion factor. Weekly income is multiplied by four and biweekly income is multiplied by two.
[8.202.500.11 NMAC - Rp, 8.202.500.11 NMAC, 1-1-14]

8.202.500.12 A V A I L A B L E INCOME:

A. Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined using allowable income exemptions, deductions, and disregards.

B. Available income includes:

(1) the income of an ineligible member due to citizenship or alien status or enumeration must be prorated and deemed available to the assistance unit; income is prorated and deemed as follows:

(a) from the countable gross earned and unearned income, allow all income exemptions, deductions and disregards; the result is the individual's net income;

(b) divide the individual's net income by the number of individuals in the budget group; the result is the prorated income amount that is deemed to each eligible assistance group member; and

(c) multiply the prorated income amount by the number of eligible assistance group members; the result is the total countable prorated income that is deemed to the assistance unit;

(2) income received and made available by someone not included in the budget group (payee) for someone included in the budget group;

(3) income that is withheld as a result of a garnishment or wage withholding; and

(4) income withheld by a source at the budget group's request.

[8.202.500.12 NMAC - N, 1-1-14]

8.202.500.13 U N A V A I L A B L E INCOME:

A. Individuals included in the budget group may have a legal right to income but not access to it. The following are not counted as available income:

(1) received by someone for the

budget group and not made available to the budget group; or

(2) income that is not listed as available in this chapter where the budget group cannot gain access to the income; this includes wages withheld by an employer that refuses to pay.

B. Individuals may receive payment of funds "passed through" the individual for the benefit of someone other than themselves. Such pass through payments are not considered available.

C. A recipient of supplemental security income (SSI) is not part of the budget group. This income is not available to the budget group.

D. The income of a step-parent or spouse of a specified relative is not counted to the assistance unit.

E. Alien sponsor deeming is not applicable pursuant to 8.200.410 NMAC.

[8.202.500.13 NMAC - N, 1-1-14]

8.202.500.14 EARNED INCOME:

Earned income includes wages, salaries, tips, and other employee pay from employment and net earnings from self-employment. Earned income of a dependent child is not counted.

[8.202.500.14 NMAC - N, 1-1-14]

8.202.500.15 EARNED INCOME DEDUCTIONS/DISREGARDS:

A. Self employment: Certain self-employment deductions allowed by the federal internal revenue service (IRS) are allowed in the net and gross income test.

(1) Self-employment income will be annualized for income projection purposes. If the IRS Form 1040 form has been filed, the previous year's tax return is used to anticipate future income, if no significant changes in circumstances have occurred. An alternative method of income anticipation should be used when the amount of self-employment income reported on tax returns would no longer be a good indicator of expected income, i.e., loss of cattle or crops due to disease.

(2) If tax returns are used for annualized projected income, self-employment expenses listed on the return are allowable except for:

(a) the mileage allowance is the New Mexico department of finance and administration (DFA) rate as detailed in 2.42.2 NMAC unless proof that the actual expense is greater; and

(b) no deduction is allowed for rent or purchase of the place of business if the individual operates the business out of his or her residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines;

(c) the following deductions are not allowed: (i) depreciation; (ii) personal

business and entertainment expenses; (iii) personal transportation to and from work; (iv) purchase of capital equipment; and (v) payments on the principal of loans for capital assets or durable goods.

B. WRE income disregards: The WRE is disregarded from countable earned income for each earner during the net income test as follows:

(1) single parent: \$125.00 and one-half of the remainder (not including the ineligible parent due to citizenship or alien status or enumeration);

(2) two parents: \$225.00 and one-half of the remainder for each parent, step-parent or spouse of a specified relative (not including ineligible individuals due to citizenship, alien status or enumeration); or

(3) ineligible parent due to citizenship/alien status or enumeration: \$125.00 only (income is subject to proration).

C. Child care expenses: Out of pocket expenses for child care that are necessary due to employment of an assistance unit member shall be allowed as follows:

(1) from earned income remaining after allowing the WRE, deduct an amount not to exceed \$200.00 per month for a child under the age two and \$175.00 per month for a child age two or older;

(2) if more than one parent is working, costs of child care shall be allocated to maximize the available deduction to the benefit group; and

(3) the total amount deducted per child, regardless of the number of assistance unit members who are employed, shall not exceed the applicable limits set forth.

[8.202.500.15 NMAC - N, 1-1-14]

8.202.500.16 UNEARNED INCOME: Unearned income includes benefits, pensions, etc.

A. The following types of unearned income are counted:

(1) old age, survivors, and disability insurance (OASDI);

(2) railroad retirement benefits (RRB);

(3) veterans administration (VA) benefits:

(a) income available to veterans and their dependents from the VA as compensation for service-connected disability;

(b) pension for non-service connected disability;

(c) dependency and indemnity compensation; and

(d) death benefits paid from a government issue (GI) life insurance;

(4) unemployment compensation benefits (UCB);

(5) military allotments;

(6) worker's compensation;

(7) pension, annuity, and

retirement benefits;

(8) union benefits;

(9) lodge or fraternal benefits;

(10) real property income that is not earned income;

(11) shared shelter and utility payments when the budget group shares shelter with others:

(a) payments which exceed the budget group's cost are considered income;

(b) payments which are less than the budget group's cost are not considered; these are the others' share of the shelter cost and are treated as pass-through payments;

(12) income from the sale of goods or property which are obtained in finished condition;

(13) child support payments received directly by the budget group and retained for its use;

(14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;

(15) individual Indian monies (IIM) payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe;

(16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments; and

(17) lump sum payments are considered income in the month received, unless specifically excludable under medicaid regulations; lump sum payments are considered as a resource, if retained, as of the first moment of the first day of the following month.

B. The following types of unearned income are not considered in determining eligibility:

(1) cash assistance from HSD or a tribal entity;

(2) supplemental nutritional assistance program (SNAP);

(3) low income home energy assistance program (LIHEAP);

(4) foster care or adoption subsidy;

(5) supplemental security income (SSI);

(6) Child Nutrition and National School Lunch Act;

(7) nutrition programs for the elderly, including meals on wheels and lunches at senior citizen's centers;

(8) bona fide loans from private individuals and commercial institutions as well as loans for the purpose of educational assistance;

(9) work study funds paid by an educational institution, when the purpose is to assist with educational expenses, regardless of the actual use of the funds;

(10) domestic volunteers compensation or any other payments made to or on behalf of volunteers under the

Domestic Volunteers Services Act of 1973 including:

(a) volunteers in service to America (VISTA);

(b) university year for action (UYA);

(c) special volunteer programs (SVP);

(d) retired senior volunteer program (RSVP);

(e) foster grandparents program (FGP);

(f) older American community service program (OACSP);

(g) service corps of retired executives (SCORE); and

(h) active corps of executives (ACE);

(11) state and federal income tax returns;

(12) American Indian and Alaskan native payments including:

(a) per capita payments distribution of tribal funds to an American Indian or Alaskan native tribal member by the tribe or by the secretary of the US department of the interior;

(b) interest derived from retained per capita payments (if kept separately identifiable); and

(c) tribal land claims payments settled by means of case payments;

(13) Job Training Partnership Act of 1982 (JTPA) payments made to dependent children;

(14) Title II Uniform Relocation Assistance and Real Property Acquisition Act of 1970 payments;

(15) supportive service payments made for reimbursement of transportation, child care, or training related expenses under New Mexico works (NMW) work programs, tribal work programs, and other employment assistance programs;

(16) division of vocational rehabilitation (DVR) training payments made by the for training expenses;

(17) gifts, donations or contribution from other agencies which are intended to meet needs not covered as a medicaid benefit; to be exempt, the payment must:

(a) be paid under the auspices of an organization or non-profit entity; and

(b) be for a specific identified purpose, to supplement not duplicate medicaid covered benefits for the intended beneficiary of the donation or contribution;

(18) educational loans and grants intended for educational expenses regardless of actual utilization of the funds;

(19) agent orange settlement fund payments or any fund established pursuant to the agent orange product liability litigation settlement;

(20) radiation exposure compensation settlement fund payments;

(21) Nazi victim payments made to individuals per Public Law 103-286, August 1, 1994;

(22) vendor payments made on behalf of a budget group member when an individual or organization outside the budget group uses its own funds to make a direct payment to a budget group's service provider.

[8.202.500.16 NMAC - N, 1-1-14]

8.202.500.17 U N E A R N E D INCOME DEDUCTIONS/

DISREGARDS: For an eligible recipient of TANF or New Mexico works (NMW), the child support enforcement division (CSED) pass-through payment of up to \$100.00 is disregarded for the purposes of determining medicaid eligibility.

[8.202.500.17 NMAC - N, 1-1-14]

HISTORY OF 8.202.500 NMAC:

History of Repealed Material:

8.202.500 NMAC, Income and Resource Standards, filed 9-17-01 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 202 M E D I C A I D
ELIGIBILITY - JUL MEDICAID
PART 600 B E N E F I T
DESCRIPTION**

8.202.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.202.600.1 NMAC - Rp, 8.202.600.1 NMAC, 1-1-14]

8.202.600.2 SCOPE: The rule applies to the general public.
[8.202.600.2 NMAC - Rp, 8.202.600.2 NMAC, 1-1-14]

8.202.600.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.202.600.3 NMAC - Rp, 8.202.600.3 NMAC, 1-1-14]

8.202.600.4 D U R A T I O N : Permanent.
[8.202.600.4 NMAC - Rp, 8.202.600.4 NMAC, 1-1-14]

8.202.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.202.600.5 NMAC - Rp, 8.202.600.5 NMAC, 1-1-14]

8.202.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.202.600.6 NMAC - Rp, 8.202.600.6 NMAC, 1-1-14]

8.202.600.7 DEFINITIONS: [RESERVED]

8.202.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.202.600.8 NMAC - N, 1-1-14]

8.202.600.9 B E N E F I T DESCRIPTION: JUL medicaid eligibility provides medicaid services for families with a dependent eligible child. An eligible recipient under this category is eligible for full medicaid services. Applications received on or after January 1, 2014 for JUL medicaid eligibility will be evaluated for an Affordable Care Act category.
[8.202.600.9 NMAC - Rp, 8.202.600.9 NMAC, 1-1-14]

8.202.600.10 B E N E F I T DETERMINATION: Income support division (ISD) determines initial and ongoing eligibility.

A. Up to three months of retroactive medicaid coverage is provided to an applicant who has received a medicaid covered service during the retroactive period and who would have met applicable eligibility criteria had he or she applied. Eligibility for each retroactive month is determined separately. Application for retroactive medicaid must be made within 180 calendar days from the date of the medicaid application.

B. If income changes result in ineligibility for a pregnant woman enrolled in JUL medicaid, the pregnant woman remains eligible for medicaid under pregnancy related services or family planning services, without a new eligibility

determination or application.

[8.202.600.10 NMAC - Rp, 8.202.600.10 NMAC, 1-1-14]

8.202.600.11 P E R I O D I C REDETERMINATIONS OF ELIGIBILITY:

A. A re-determination of eligibility is made every 12 months.

B. Continuous eligibility for a child establishes a 12-month period of eligibility for a child under age 19. Changes in family income are disregarded for the child but not the adult assistance unit members. Refer to 8.200.400.14 NMAC.

C. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change as detailed in 8.200.430 NMAC.

D. Recipients of JUL medicaid with a re-determination date of March 31, 2014 or prior will be re-determined for this category using existing JUL medicaid eligibility policy. Recipients with a determination date of April 1, 2014 or later will be re-determined for an Affordable Care Act category of medicaid eligibility. JUL medicaid ends March 31, 2015.

[8.202.600.11 NMAC - Rp, 8.202.600.11 NMAC, 1-1-14]

8.202.600.12 R E T R O A C T I V E BENEFIT COVERAGE: Refer to 8.202.600.10 NMAC.

[8.202.600.12 NMAC - Rp, 8.202.600.12 NMAC, 1-1-14]

HISTORY OF 8.202.600 NMAC:

History of Repealed Material:

8.202.600 NMAC, Benefit Description, filed 9-17-01 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 206 M E D I C A I D
ELIGIBILITY - RECIPIENTS FOR
WHOM CYFD HAS FULL OR PARTIAL
RESPONSIBILITY
PART 400 R E C I P I E N T
REQUIREMENTS**

8.206.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.206.400.1 NMAC - Rp, 8.206.400.1 NMAC, 1-1-14]

8.206.400.2 SCOPE: The rule applies to the general public.

[8.206.400.2 NMAC - Rp, 8.206.400.2 NMAC, 1-1-14]

8.206.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq. [8.206.400.3 NMAC - Rp, 8.206.400.3 NMAC, 1-1-14]

8.206.400.4 DURATION: Permanent. [8.206.400.4 NMAC - Rp, 8.206.400.4 NMAC, 1-1-14]

8.206.400.5 EFFECTIVE DATE: Janaury 1, 2014, unless a later date is cited at the end of a section. [8.206.400.5 NMAC - Rp, 8.206.400.5 NMAC, 1-1-14]

8.206.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*. [8.206.400.6 NMAC - Rp, 8.206.400.6 NMAC, 1-1-14]

8.206.400.7 DEFINITIONS:

A. "Full or partial financial responsibility" means children, youth and families department (CYFD) has made a payment on behalf of the eligible recipient during each month for which medical assistance division (MAD) eligibility is sought. The nature of CYFD's financial responsibility must be documented. Documentation must include either the court-ordered placement or custody award and CYFD payments made on behalf of the eligible recipient at the time of application and each subsequent periodic review.

B. "Private institutions" includes accredited and non-accredited residential treatment centers and group homes, and treatment foster care. Institutions specifically excluded from this definition are the youth diagnostic development center, New Mexico boys and girls schools, and reintegration centers which are not certified to furnish medical care. A child placed in one of these facilities is not eligible for medical assistance program services.

C. "Substitute care placement" includes placement in foster

homes or private institutions. [8.206.400.7 NMAC - N, 1-1-14]

8.206.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.206.400.8 NMAC - N, 1-1-14]

8.206.400.9 MEDICAID FOR RECIPIENTS UNDER EIGHTEEN YEARS OF AGE FOR WHOM THE CHILDREN, YOUTH, AND FAMILIES DEPARTMENT HAS FULL OR PARTIAL FINANCIAL RESPONSIBILITY - CATEGORIES 017, 037, 046, 047, 066, AND 086 - AND EXTENDED MEDICAID FOR CERTAIN INDIVIDUALS RECEIVING CHAFEE INDEPENDENT LIVING ASSISTANCE:

A. MAD is required to furnish coverage to eligible recipients under 18 years of age for whom adoption assistance or foster care maintenance payments are made under Title IV-E of the Social Security Act [42 CFR Section 436.118].

B. MAD has opted to furnish coverage to eligible recipients under 18 years of age who meet all the aid to families with dependent children (AFDC) eligibility criteria except for the definition of "dependent child" for whom the state of New Mexico, through CYFD, has assumed full or partial financial responsibility [42 CFR Section 436.222].

C. MAD furnishes extended coverage to eligible recipients over 18 years of age but under 21 years of age who are receiving Chafee independent living assistance.

D. MAD furnishes extended coverage to former foster care eligible recipients up to 26 years of age under Category 066 as required by the Patient Protection and Affordable Care Act (ACA).

[8.206.400.9 NMAC - Rp, 8.206.400.9 NMAC, 1-1-14]

8.206.400.10 BASIS FOR DEFINING THE GROUP: An eligible recipient 18 years of age or under can be eligible for CYFD medicaid if the state bears full or partial responsibility for him or her and makes a payment on behalf of him or her. An eligible recipient 18 years of age or under will be assigned one of the following MAD categories of eligibility.

A. **Category 017:** The eligible recipient resides in New Mexico and receives a Title IV-E adoptive subsidy from another state.

B. **Category 037:** The eligible recipient resides in New Mexico and receives a Title IV-E adoptive subsidy from

New Mexico.

C. **Category 046:** The eligible recipient resides out-of-state and receives a Title IV-E foster care payment from New Mexico. A medicaid card is issued by the state in which the eligible recipient resides.

D. **Category 047:** The eligible recipient currently resides out-of-state and receives a Title IV-E adoption subsidy payment. A medicaid card is issued by the state in which the eligible recipient resides.

E. **Category 066:** The eligible recipient is in the child protective service component of CYFD and is IV-E eligible or is from a home that meets AFDC eligibility criteria.

F. **Category 086:** The eligible recipient resides in New Mexico, is in the custody of another state and receives Title IV-E foster care payment from that state.

[8.206.400.10 NMAC - Rp, 8.206.400.10 NMAC, 1-1-14]

8.206.400.11 LIVING ARRANGEMENTS: To be eligible for CYFD medicaid, an individual under 18 years of age must be in a substitute care placement or temporarily in a medical facility with an ultimate plan to be placed in substitute care arrangement.

A. **Removal from home:** An individual who is in the custody of his or her parent or guardian is not eligible for CYFD medicaid. When a CYFD medicaid eligible recipient is returned to his or her parent or guardian's custody, CYFD medicaid is terminated.

B. **Release from jurisdiction of non-Title XIX facility:** An eligible recipient who is released from the jurisdiction and control of the correctional system for whom CYFD has full or partial financial responsibility and is in a substitute care placement can be eligible for CYFD medicaid beginning the first of the month after release from the correctional system if all other eligibility criteria are met.

(1) **Permanent release from jurisdiction requirements:** An individual living in a correctional facility or under the jurisdiction and control of the correctional system is not eligible for MAD services. This includes an individual temporarily released from a correctional facility for the sole purpose of receiving medical treatment.

(2) **Documentation of release:** To document that the individual is no longer under the jurisdiction and control of the correctional system, the individual must be permanently released from the correction facility and the court or parole order must specify the following:

(a) the individual is in the custody of CYFD; or

(b) CYFD is required to make monthly payment for the care, maintenance and medical treatment of the individual; in addition, the individual must receive or be evaluated for (or both) the receipt of long-term medical treatment.

C. Independent living arrangements: MAD furnishes extended coverage to an eligible recipient between 18 and 21 years of age who is considered to be in an independent living arrangement if foster care payment is made to the eligible recipient and he or she meets all other MAD eligibility criteria.

[8.206.400.11 NMAC - Rp, 8.206.400.11 NMAC, 1-1-14]

8.206.400.12 [RESERVED]

8.206.400.13 ENUMERATION: See 8.200.410.10 NMAC.

[8.206.400.13 NMAC - Rp, 8.206.400.13 NMAC, 1-1-14]

8.206.400.14 CITIZENSHIP: See 8.200.410.11 NMAC.

[8.206.400.14 NMAC - Rp, 8.206.400.14 NMAC, 1-1-14]

8.206.400.15 RESIDENCE: See 8.200.410.12 NMAC.

[8.206.400.15 NMAC - Rp, 8.206.400.15 NMAC, 1-1-14]

8.206.400.16 NON-CONCURRENT RECEIPT OF ASSISTANCE: An applicant or re-determining recipient is not eligible for CYFD medicaid if he or she is eligible under another MAD category of eligibility, or if he or she receives supplemental security income (SSI). An applicant or re-determining recipient receiving SSI can qualify for and receive MAD services under an alternate category of eligibility.

[8.206.400.16 NMAC - Rp, 8.206.400.16 NMAC, 1-1-14]

8.206.400.17 [RESERVED]

8.206.400.18 AGE: To be eligible for CYFD medicaid, an applicant or a re-determining recipient must be under 18 years of age, except as outlined in Subsections C and D of Section 9 above.

A. Students under 19: When an eligible recipient reaches 18 years of age, he or she loses medical assistance program eligibility unless: (1) he or she is a full-time student in a secondary school or its equivalent and (2) he or she is expected to complete the program before reaching 19 years of age. In such cases, eligibility is terminated when he or she leaves school or upon his or her 19th birthday, whichever comes first. School attendance must be verified each semester as part of CYFD's re-

determination process.

B. Proof of age: The following documents constitute primary evidence of age:

- (1) birth certificate;
- (2) adoption papers or records;
- (3) hospital or clinic records;
- (4) church or baptismal records;
- (5) bureau of vital statistics or local government records;

(6) United States passports or immigration and naturalization services records;

- (7) Indian census reports; or
- (8) birth records maintained by the social security administration (SSA).

C. If the age of the applicant or re-determining recipient cannot be established using primary evidence, a minimum of two pieces of corroborating secondary evidence must be used, such as school records, census records, court support order not generated by CYFD, physician statement, juvenile court records not generated by CYFD, child welfare records not generated by CYFD, voluntary social services agency records, insurance policies, minister's signed statement, affidavits or military records.

[8.206.400.18 NMAC - Rp, 8.206.400.18 NMAC, 1-1-14]

8.206.400.19 ASSIGNMENT OF MEDICAL SUPPORT: MAD has established special requirement rules. See 8.200.420 NMAC.

A. CYFD requirements: The authorized representative of CYFD who signs the MAD eligibility application on behalf of the applicant or re-determining recipient must notify MAD of any available third party medical coverage.

B. CYFD responsibilities for cooperation with HSD child support enforcement division (CSED): CYFD is responsible for cooperating with CSED activities which include:

- (1) identifying and locating the absent parent(s) of the eligible recipients receiving MAD services;
- (2) establishing paternity of children born out of wedlock;
- (3) obtaining child and medical support for the child;
- (4) identifying and providing information necessary to pursue third party health coverage; and
- (5) developing procedures for referrals and determination of good cause for not pursuing child support or not requiring cooperation in pursuing such support.

[8.206.400.19 NMAC - Rp, 8.206.400.19 NMAC, 1-1-14]

8.206.400.20 REPORTING REQUIREMENTS: For all eligible recipients who receive medical assistance

program services through CYFD, any change in an eligible recipient's circumstances which affect his or her eligibility must be documented and acted upon by the CYFD authorized representative within 10 calendar days of CYFD receiving notice of the change.

[8.206.400.20 NMAC - Rp, 8.206.400.20 NMAC, 1-1-14]

HISTORY OF 8.206.400 NMAC:

History of Repealed Material:

8 NMAC 4.CYM.430 Recipient Rights and Responsibilities, filed 12-30-94 - Repealed effective 7-1-03.

8.206.400 NMAC, Recipient Policies, filed 6-11-03 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 227 TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID DUE TO CHILD OR SPOUSAL SUPPORT PART 400 R E C I P I E N T REQUIREMENTS

8.227.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.227.400.1 NMAC - Rp, 8.227.400.1 NMAC, 1-1-14]

8.227.400.2 SCOPE: The rule applies to the general public.

[8.227.400.2 NMAC - Rp, 8.227.400.2 NMAC, 1-1-14]

8.227.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.227.400.3 NMAC - Rp, 8.227.400.3 NMAC, 1-1-14]

8.227.400.4 DURATION: Permanent.

[8.227.400.4 NMAC - Rp, 8.227.400.4 NMAC, 1-1-14]

8.227.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.227.400.5 NMAC - Rp, 8.227.400.5 NMAC, 1-1-14]

8.227.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*. [8.227.400.6 NMAC - Rp, 8.227.400.6 NMAC, 1-1-14]

8.227.400.7 DEFINITIONS: [RESERVED]

8.227.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.227.400.8 NMAC - N, 1-1-14]

8.227.400.9 CASES CLOSED DUE TO CHILD OR SPOUSAL SUPPORT:

When a JUL medicaid assistance unit loses medicaid eligibility, wholly or in part, due to new or increased child or spousal support, the assistance unit is eligible for transitional medicaid eligibility under Category 027 for four calendar months. Eligibility begins the first month immediately following JUL medicaid ineligibility.

A. To be a medicaid eligible recipient, the assistance unit must have:

(1) received JUL medicaid in three of the most recent six month period prior to the ineligibility for JUL medicaid;

(2) lost JUL medicaid wholly or in part due to new or increased child or spousal support;

(3) at least one eligible dependent recipient living in the home; and

(4) assigned medical support rights to HSD and agree to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC.

B. A recipient must meet all the eligibility requirements in 8.200.410 NMAC and 8.200.420 NMAC.

C. Applicant or a re-determining eligible recipient may have other creditable health insurance coverage.

D. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC. [8.227.400.9 - Rp, 8.227.400.9 NMAC, 1-1-14]

8.227.400.10 [RESERVED]

8.227.400.11 ENUMERATION: Refer to 8.200.410.10 NMAC. [8.227.400.11 NMAC - Rp, 8.227.400.11

NMAC, 1-1-14]

8.227.400.12 CITIZENSHIP: Refer to 8.200.410.11 NMAC. [8.227.400.12 NMAC - Rp, 8.227.400.12 NMAC, 1-1-14]

8.227.400.13 RESIDENCE: Refer to 8.200.410.12 NMAC. [8.227.400.13 NMAC - Rp, 8.227.400.13 NMAC, 1-1-14]

8.227.400.14 [RESERVED]

8.227.400.15 [RESERVED]

8.227.400.16 RECIPIENT RIGHTS AND RESPONSIBILITIES: Refer to 8.200.430 NMAC. [8.227.400.16 NMAC - Rp, 8.227.400.16 NMAC, 1-1-14]

8.227.400.17 ASSIGNMENTS OF MEDICAL SUPPORT: Refer to 8.200.430.13 NMAC. [8.227.400.17 NMAC - Rp, 8.227.400.17 NMAC, 1-1-14]

8.227.400.18 REPORTING REQUIREMENTS: Refer to 8.200.430.19 NMAC. [8.227.400.18 NMAC - Rp, 8.227.400.18 NMAC, 1-1-14]

HISTORY OF 8.227.400 NMAC:

History of Repealed Material: 8.227.400 NMAC, Recipient Policies, filed 6-11-03 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 227 TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID DUE TO CHILD OR SPOUSAL SUPPORT PART 500 INCOME AND RESOURCE STANDARDS

8.227.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD). [8.227.500.1 NMAC - Rp, 8.227.500.1 NMAC, 1-1-14]

8.227.500.2 SCOPE: The rule applies to the general public. [8.227.500.2 NMAC - Rp, 8.227.500.2 NMAC, 1-1-14]

8.227.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs

are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq. [8.227.500.3 NMAC - Rp, 8.227.500.3 NMAC, 1-1-14]

8.227.500.4 DURATION: Permanent. [8.227.500.4 NMAC - Rp, 8.227.500.4 NMAC, 1-1-14]

8.227.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section. [8.227.500.5 NMAC - Rp, 8.227.500.5 NMAC, 1-1-14]

8.227.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining medical assistance eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*. [8.227.500.6 NMAC - Rp, 8.227.500.6 NMAC, 1-1-14]

8.227.500.7 DEFINITIONS: [RESERVED]

8.227.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.227.500.8 NMAC - N, 1-1-14]

8.227.500.9 NEEDED DETERMINATION AND INCOME STANDARDS: There are no income standards. [8.227.500.9 NMAC - Rp, 8.227.500.9 NMAC, 1-1-14]

8.227.500.10 RESOURCE STANDARDS: Resources are not an eligibility factor. [8.227.500.10 NMAC - Rp, 8.227.500.10 NMAC, 1-1-14]

8.227.500.11 INCOME STANDARDS: Income is not an eligibility factor. [8.227.500.11 NMAC - Rp, 8.227.500.11 NMAC, 1-1-14]

HISTORY OF 8.227.500 NMAC:

History of Repeal Material:

8.227.500 NMAC, Income and Resource Standards, filed 3-25-10 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 227 TRANSITIONAL
MEDICAID ELIGIBILITY - LOSS OF
JUL FAMILY MEDICAID DUE TO
CHILD OR SPOUSAL SUPPORT
PART 600 B E N E F I T
DESCRIPTION**

8.227.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.227.600.1 NMAC - Rp, 8.227.600.1 NMAC, 1-1-14]

8.227.600.2 SCOPE: The rule applies to the general public.

[8.227.600.2 NMAC - Rp, 8.227.600.2 NMAC, 1-1-14]

**8.227.600.3 S T A T U T O R Y
AUTHORITY:** The New Mexico Medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.227.600.3 NMAC - Rp, 8.227.600.3 NMAC, 1-1-14]

8.227.600.4 D U R A T I O N : Permanent.

[8.227.600.4 NMAC - Rp, 8.227.600.4 NMAC, 1-1-14]

8.227.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.227.600.5 NMAC - Rp, 8.227.600.5 NMAC, 1-1-14]

8.227.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the Medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.227.600.6 NMAC - Rp, 8.227.600.6

NMAC, 1-1-14]

8.227.600.7 D E F I N I T I O N S :
[RESERVED]

8.227.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.227.600.8 NMAC - N, 1-1-14]

**8.227.600.9 B E N E F I T
DESCRIPTION:** When a JUL Medicaid assistance unit receives Medicaid in three of the most recent six months, and loses Medicaid wholly or in part due to new or increased child or spousal support, the assistance unit is eligible for transitional Medicaid for four calendar months. A Medicaid eligible recipient under this category is eligible to receive the full range of Medicaid covered services. Effective January 1, 2014, the loss of JUL family Medicaid from increased child or spousal support will not qualify recipients for transitional Medicaid. The eligibility requirements for transitional Medicaid effective January 1, 2014 can be found in 8.297.400 NMAC.

[8.227.600.9 NMAC - Rp, 8.227.600.9 NMAC, 1-1-14]

**8.227.600.10 B E N E F I T
DETERMINATION:** Income support division (ISD) determines initial and ongoing eligibility.

[8.227.600.10 NMAC - Rp, 8.227.600.10 NMAC, 1-1-14]

8.227.600.11 I N I T I A L B E N E F I T S: Notice of the ineligibility for JUL Medicaid and eligibility for Category 027 Medicaid benefits for four months is generated and mailed to recipients.

[8.227.600.11 NMAC - Rp, 8.227.600.11 NMAC, 1-1-14]

**8.227.600.12 O N G O I N G
BENEFITS:** At the end of the four month period, notice of the case closure is mailed to the recipient. If the JUL Medicaid case with child support income is closed because of loss of the earned income disregard but eligibility would have continued if the earned income disregard were allowed, the recipient may be eligible for transitional Medicaid. A separate application for transitional Medicaid must be submitted.

[8.227.600.12 NMAC - Rp, 8.227.600.12 NMAC, 1-1-14]

**8.227.600.13 P E R I O D I C
REDETERMINATIONS OF
ELIGIBILITY:**

A. Redetermination of eligibility is not applicable. A four month period of eligibility following JUL Medicaid

is established, without a new eligibility determination or application. Increases in income are disregarded. Refer to 8.227.400 NMAC.

B. If the combined certification period for JUL Medicaid and Category 027 is fewer than 12 months, the remaining months within the 12-month continuous eligibility period for a child is extended through the child's Category 032 program without a new eligibility determination or application.

C. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change as detailed in 8.200.430 NMAC.

[8.227.600.13 NMAC - N, 1-1-14]

HISTORY OF 8.227.600 NMAC:**History of Repealed Material:**

8.227.600 NMAC, Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 228 TRANSITIONAL
MEDICAID ELIGIBILITY - LOSS OF
JUL FAMILY MEDICAID
PART 400 R E C I P I E N T
REQUIREMENTS**

8.228.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.228.400.1 NMAC - Rp, 8.228.400.1 NMAC, 1-1-14]

8.228.400.2 SCOPE: The rule applies to the general public.

[8.228.400.2 NMAC - Rp, 8.228.400.2 NMAC, 1-1-14]

**8.228.400.3 S T A T U T O R Y
AUTHORITY:** The New Mexico Medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.228.400.3 NMAC - Rp, 8.228.400.3 NMAC, 1-1-14]

8.228.400.4 D U R A T I O N : Permanent.

[8.228.400.4 NMAC - Rp, 8.228.400.4 NMAC, 1-1-14]

8.228.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.228.400.5 NMAC - Rp, 8.228.400.5 NMAC, 1-1-14]

8.228.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions for determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*. [8.228.400.6 NMAC - Rp, 8.228.400.6 NMAC, 1-1-14]

8.228.400.7 DEFINITIONS: [RESERVED]

8.228.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.228.400.8 NMAC - N, 1-1-14]

8.228.400.9 TRANSITIONAL MEDICAID - CATEGORY 028: When a JUL family medicaid assistance unit loses medicaid, due to earnings, the assistance unit is eligible for transitional medicaid under Category 028 for 12 calendar months. Eligibility begins the first month following JUL family medicaid ineligibility.

A. An eligible recipient or the assistance unit must have:

(1) received JUL medicaid in one of the preceding six months;

(2) lost JUL family medicaid due to countable earnings;

(3) at least one eligible dependent child living in the home;

(4) an individual who meets the eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC of citizenship or alien status; enumeration; residence; non-concurrent receipt of assistance; and applications for other benefits; and

(5) assigned medical support rights to HSD and agreed to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC.

B. An eligible recipient may have other creditable health insurance coverage.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC. [8.228.400.9 NMAC - Rp, 8.228.200.9 NMAC, 1-1-14]

8.228.400.10 BASIS FOR DEFINING THE GROUP: The following

individuals are not included in the assistance unit in the determination of eligibility for transitional medicaid:

A. individuals who enter the assistance unit after the transitional benefit period begins;

B. children who no longer meet the age requirements for JUL medicaid; for JUL medicaid, a child must be less than 19 years of age; or

C. an assistance unit or individuals who were ineligible for assistance in any one or more of the six month prior to losing JUL benefits because they committed fraud.

[8.228.400.10 NMAC - Rp, 8.228.400.10 NMAC, 1-1-14]

8.228.400.11 [RESERVED]

8.228.400.12 ENUMERATION: Refer to 8.200.410.10 NMAC.

[8.228.400.12 NMAC - Rp, 8.228.400.12 NMAC, 1-1-14]

8.228.400.13 CITIZENSHIP: Refer to 8.200.410.11 NMAC.

[8.228.400.13 NMAC - Rp, 8.228.400.13 NMAC, 1-1-14]

8.228.400.14 RESIDENCE: Refer to 8.200.410.12 NMAC.

[8.228.400.14 NMAC - Rp, 8.228.400.14 NMAC, 1-1-14]

8.228.400.15 [RESERVED]

8.228.400.16 AGE: The JUL age requirements apply to this category. Refer to 8.202.400.20 NMAC.

[8.228.400.16 NMAC - Rp, 8.228.400.16 NMAC, 1-1-14]

8.228.400.17 RECIPIENT RIGHTS AND RESPONSIBILITIES: Refer to 8.200.430 NMAC.

[8.228.400.17 NMAC - Rp, 8.228.400.17 NMAC, 1-1-14]

8.228.400.18 ASSIGNMENTS OF MEDICAL SUPPORT: Refer to 8.200.420.12 NMAC.

[8.228.400.18 NMAC - Rp, 8.228.400.18 NMAC, 1-1-14]

8.228.400.19 REPORTING REQUIREMENTS: Refer to 8.200.430.19 NMAC.

[8.228.400.19 NMAC - Rp, 8.228.400.19 NMAC, 1-1-14]

HISTORY OF 8.228.400 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92 - Repealed effective 2-1-95.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94 - Repealed effective 2-1-95.

8.228.400 NMAC, Recipient Policies, filed 6-13-03 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 228 TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID PART 500 INCOME AND RESOURCE STANDARDS

8.228.500.1 ISSUING AGENCY: New Mexico Human Services Department

(HSD).

[8.228.500.1 NMAC - Rp, 8.228.500.1 NMAC, 1-1-14]

8.228.500.2 SCOPE: The rule applies to the general public.
[8.228.500.2 NMAC - Rp, 8.228.500.2 NMAC, 1-1-14]

8.228.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.228.500.3 NMAC - Rp, 8.228.500.3 NMAC, 1-1-14]

8.228.500.4 DURATION: Permanent.
[8.228.500.4 NMAC - Rp, 8.228.500.4 NMAC, 1-1-14]

8.228.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.228.500.5 NMAC - Rp, 8.228.500.5 NMAC, 1-1-14]

8.228.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions policy manual, 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.228.500.6 NMAC - Rp, 8.228.500.6 NMAC, 1-1-14]

8.228.500.7 DEFINITIONS: [RESERVED]

8.228.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.228.500.8 NMAC - N, 1-1-14]

8.228.500.9 NEED DETERMINATION: Income is not an eligibility factor.
[8.228.500.9 NMAC - Rp, 8.228.500.9 NMAC, 1-1-14]

8.228.500.10 RESOURCE STANDARDS: Resources are not an

eligibility factor.

[8.228.500.10 NMAC - Rp, 8.228.500.10 NMAC, 1-1-14]

8.228.500.11 INCOME STANDARDS: Income is not an eligibility factor.
[8.228.500.11 NMAC - Rp, 8.228.500.11 NMAC, 1-1-14]

HISTORY OF 8.228.500 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92 - Repealed effective 2-1-95.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94 - Repealed effective 2-1-95.

8.228.500 NMAC, Income and Resource

Standards, filed 9-3-13 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 228 TRANSITIONAL
MEDICAID ELIGIBILITY - LOSS OF
JUL FAMILY MEDICAID
PART 600 BENEFIT
DESCRIPTION**

8.228.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.228.600.1 NMAC - Rp, 8.228.600.1 NMAC, 1-1-14]

8.228.600.2 SCOPE: The rule applies to the general public.
[8.228.600.2 NMAC - Rp, 8.228.600.2 NMAC, 1-1-14]

8.228.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.228.600.3 NMAC - Rp, 8.228.600.3 NMAC, 1-1-14]

8.228.600.4 DURATION: Permanent.
[8.228.600.4 NMAC - Rp, 8.228.600.4 NMAC, 1-1-14]

8.228.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.228.600.5 NMAC - Rp, 8.228.600.5 NMAC, 1-1-14]

8.228.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.228.600.6 NMAC - Rp, 8.228.600.6 NMAC, 1-1-14]

8.228.600.7 DEFINITIONS:
[RESERVED]

8.228.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.228.600.8 NMAC - N, 1-1-14]

8.228.600.9 BENEFIT DESCRIPTION: When a JUL medicaid assistance unit loses medicaid due to earnings, the assistance unit is eligible for transitional medicaid for 12 calendar months. A medicaid eligible recipient under this category is eligible to receive the full range of medicaid covered services. Effective January 1, 2014 the loss of JUL medicaid from increased earnings from employment does not qualify recipients for transitional medicaid. The eligibility requirements for transitional medicaid effective January 1, 2014 can be found in 8.298.400 NMAC.
[8.228.600.9 NMAC - Rp, 8.228.600.9 NMAC, 1-1-14]

8.228.600.10 BENEFIT DETERMINATION: Income support division (ISD) determines initial and ongoing eligibility. If an assistance unit becomes ineligible for JUL medicaid because countable earned income exceeds the standard, the caseworker opens a Category 028 for the assistance unit. To be eligible for Category 028, an assistance unit must meet all of the following conditions:

A. the assistance unit was eligible for and received JUL medicaid benefits in New Mexico in one of the six months immediately preceding the month the assistance unit became ineligible for benefits; and

B. the assistance unit lost eligibility for JUL medicaid because the parent or caretaker relative increased earnings.
[8.228.600.10 NMAC - Rp, 8.228.600.10 NMAC, 1-1-14]

8.228.600.11 CALCULATING THE BENEFIT: Eligibility during the 12 month transition period.

A. To receive transitional medicaid throughout the first 12-month period a dependent child must live in the home. If a dependent child does not live in the home, coverage for the assistance unit ends the last day of the month the assistance unit no longer includes a dependent child. This provision includes assistance units where a dependent child leaves the home of the caretaker relative, or where a child turns 19 years of age or otherwise no longer meets the age or school attendance requirement.

B. All conditions listed in 8.228.600.10 NMAC must also be met.

[8.228.600.11 NMAC - Rp, 8.228.600.11 NMAC, 1-1-14]

8.228.600.12 NOTICE REQUIREMENTS: Advance notice of closure is not required in any of the following instances:

A. assistance unit no longer contains dependent children; or

B. assistance unit moves out of state.

[8.228.600.12 NMAC - Rp, 8.228.600.12 NMAC, 1-1-14]

8.228.600.13 PERIODIC REDETERMINATIONS OF ELIGIBILITY:

A. Redetermination of eligibility is not applicable. A 12-month period of eligibility following JUL medicaid is established, without a new eligibility determination or application. A new application is required after the 12 month period has expired. Increases in income are disregarded. Refer to 8.227.400 NMAC.

B. All changes that may affect eligibility must be reported within 10-calendar days from the date of the change as detailed in 8.200.430 NMAC.

[8.228.600.13 NMAC - N, 1-1-14]

HISTORY OF 8.228.600 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94 - Repealed effective 2-1-95.

8.228.600 Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES

CHAPTER 230 MEDICAID ELIGIBILITY - FULL COVERAGE FOR PREGNANT WOMEN

PART 400 RECIPIENT REQUIREMENTS

8.230.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.230.400.1 NMAC - Rp, 8.230.400.1 NMAC, 1-1-14]

8.230.400.2 SCOPE: The rule applies to the general public.

[8.230.400.2 NMAC - Rp, 8.230.400.2 NMAC, 1-1-14]

8.230.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.230.400.3 NMAC - Rp, 8.230.400.3 NMAC, 1-1-14]

8.230.400.4 DURATION: Permanent.

[8.230.400.4 NMAC - Rp, 8.230.400.4 NMAC, 1-1-14]

8.230.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.230.400.5 NMAC - Rp, 8.230.400.5

NMAC, 1-1-14]

8.230.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions for determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*. [8.230.400.6 NMAC - Rp, 8.230.400.6 NMAC, 1-1-14]

8.230.400.7 DEFINITIONS: [RESERVED]

8.230.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.230.400.8 NMAC - N, 1-1-14]

8.230.400.9 FULL MEDICAID COVERAGE FOR PREGNANT WOMEN - CATEGORY 030:

A. To be eligible an individual must meet the following eligibility requirements:

(1) a woman whose pregnancy has been medically verified through documentary evidence, who does not have a minor child living with her;

(2) a woman who meets eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC;

(3) an applicant or eligible recipient must assign medical support rights to HSD and agree to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC; and

(4) appropriate to the budget group size the countable gross income must be less than 185 percent of the federal poverty level (FPL). The standard of need (SON) and the countable net income must be less than the SON pursuant to 8.200.520 NMAC and 8.230.500 NMAC.

B. Individuals may have other creditable health insurance.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.

D. For medical assistance division (MAD) applicants or re-determining recipients who are recipients of another type of income support division (ISD) benefits, the following will not be used in as automatic disqualification from medical assistance programs enrollment:

(1) New Mexico works (NMW) cash assistance eligibility;

(2) disqualifications for dual state public assistance benefits resulting in a conviction of fraud; or

(3) disqualifications for fugitive and probation parole violators.

[8.230.400.9 NMAC - Rp, 8.230.400.9 NMAC, 1-1-14]

8.230.400.10 BASIS FOR DEFINING THE GROUP: The assistance unit is the pregnant woman who applies for medicaid and who is determined eligible and each unborn child is counted as one as if the child was born and living with the mother. [8.230.400.10 NMAC - Rp, 8.230.400.10 NMAC, 1-1-14]

8.230.400.11 [RESERVED]

8.230.400.12 ENUMERATION: Refer to 8.200.410.10 NMAC. [8.230.400.12 NMAC - Rp, 8.230.400.12 NMAC, 1-1-14]

8.230.400.13 CITIZENSHIP: Refer to 8.200.410.11 NMAC. [8.230.400.13 NMAC - Rp, 8.230.400.13 NMAC, 1-1-14]

8.230.400.14 RESIDENCE: Refer to 8.200.410.12 NMAC. [8.230.400.14 NMAC - Rp, 8.230.400.14 NMAC, 1-1-14]

8.230.400.15 EMPLOYMENT, TRAINING AND WORK: Registration or participation in employment assistance programs are not an eligibility factor. [8.230.400.15 NMAC - Rp, 8.230.400.15 NMAC, 1-1-14]

8.230.400.16 [RESERVED]

8.230.400.17 AGE: There are no age requirements for this eligibility category. [8.230.400.17 NMAC - Rp, 8.230.400.17 NMAC, 1-1-14]

8.230.400.18 PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN: Refer to 8.200.400.11 NMAC [8.230.400.18 NMAC - Rp, 8.230.400.18 NMAC, 1-1-14]

8.230.400.19 RECIPIENT RIGHTS AND RESPONSIBILITIES: Refer to 8.200.430 NMAC. [8.230.400.19 NMAC - Rp, 8.230.400.19 NMAC, 1-1-14]

8.230.400.20 ASSIGNMENTS OF MEDICAL SUPPORT: Refer to 8.200.420.12 NMAC. [8.230.400.20 NMAC - Rp, 8.230.400.20 NMAC, 1-1-14]

8.230.400.21 REPORTING

REQUIREMENTS: Refer to 8.200.430.19 NMAC.

[8.230.400.21 NMAC - Rp, 8.230.400.21 NMAC, 1-1-14]

8.230.400.22 BUDGET GROUP: The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for a supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(1) the spouse of the pregnant woman; New Mexico recognizes common law and same sex marriages established in other states; and

(2) there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) a SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or conservator of a child;

(6) an alien sponsor to the assistance unit; or

(7) a sibling to a sibling.

[8.230.400.22 NMAC - N, 1-1-14]

8.230.400.23 LIVING IN THE HOME:

A. **Extended living in the home:** An individual may be physically absent from the home and be a member of the assistance unit and budget group.

(1) Extended living in the home includes:

(a) an individual attending college or a boarding school; or

(b) an individual receiving treatment in a Title XIX medicaid facility; including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated. Until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

B. **Temporary absence -**

extended living in the home: An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

(1) an individual not living in the home due to an emergency who is expected to return to the household within 60 calendar days;

(2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other person or entity, the child will be removed from the assistance unit; or

(3) a child residing in a detention center:

(a) continues to be a member of the household if he or she resides fewer than 60 consecutive calendar days, regardless of adjudication as an inmate of a public institution; or

(b) the individual is not eligible for medicaid enrollment if he or she resides 60 consecutive calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC. [8.230.400.23 NMAC - N, 1-1-14]

HISTORY OF 8.230.400 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related

Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

8.230.400 NMAC, Recipient Policies, filed 6-13-03 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 230 M E D I C A I D ELIGIBILITY - FULL COVERAGE FOR PREGNANT WOMEN PART 500 INCOME AND RESOURCE STANDARDS

8.230.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.230.500.1 NMAC - Rp, 8.230.500.1 NMAC, 1-1-14]

8.230.500.2 SCOPE: The rule applies to the general public.

[8.230.500.2 NMAC - Rp, 8.230.500.2 NMAC, 1-1-14]

8.230.500.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.230.500.3 NMAC - Rp, 8.230.500.3 NMAC, 1-1-14]

8.230.500.4 D U R A T I O N : Permanent.

[8.230.500.4 NMAC - Rp, 8.230.500.4 NMAC, 1-1-14]

8.230.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.230.500.5 NMAC - Rp, 8.230.500.5 NMAC, 1-1-14]

8.230.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy

manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.230.500.6 NMAC - Rp, 8.230.500.6 NMAC, 1-1-14]

8.230.500.7 DEFINITIONS: [RESERVED]

8.230.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.230.500.8 NMAC - N, 1-1-14]

8.230.500.9 N E E D DETERMINATION:

A. Financial need: An individual's eligibility is based on financial need pursuant to Section 1931 of the Social Security Act, the rules in this chapter and in 8.200.520 NMAC.

B. Financial eligibility: Pursuant to Section 1931 of the Social Security Act, enacted by Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a new medicaid financial eligibility standard was created.

(1) Income eligibility criteria: The income eligibility criteria are based on New Mexico's aid to families with dependent children (AFDC) program as of July 16, 1996. This is defined as the standard of need (SON) used in AFDC as of July 16, 1996.

(2) Less restrictive income and resource methodology: Pursuant to Section 1931 of the Social Security Act, as a state option, New Mexico may use income and resource eligibility methodologies that are less restrictive than the AFDC methodologies used as of July 16, 1996. This chapter defines less restrictive methodologies used in New Mexico for resources, countable and excluded earned and unearned income, available and unavailable income and income deductions and disregards.

C. Gross and net income tests: Determining financial need is a two-step process. When the countable gross or net income is exactly equal to the income eligibility standards, eligibility does not exist.

(1) Gross income test: the first step is determining the countable gross income of the budget group. Gross income includes all countable income before taking taxes or deductions. Only self employment deductions are allowed in the gross income test. The calculated gross income must be less than 185 percent of the SON. If the budget group's income is more than 185

percent of the SON, the assistance unit is not eligible.

(2) Net income test: the second step is determining the countable net income of the budget group. From the countable gross income in step one, deduct all allowable work related expenses (WRE), unearned income deductions and disregards. The countable net income must be less than the SON appropriate to the budget group size. If the budget group's income is more than the SON, the assistance unit is not eligible.

[8.230.500.9 NMAC - Rp. 8.230.500.9 NMAC, 1-1-14]

8.230.500.10 RESOURCE STANDARDS: The applicant or re-determining recipient's assistance unit must meet the resource standards established for AFDC.

[8.230.500.10 NMAC - Rp. 8.230.500.10 NMAC, 1-1-14]

8.230.500.11 RESOURCE EXCLUSIONS: Refer to Section 13 of this part.

[8.230.500.11 NMAC - Rp. 8.230.500.11 NMAC, 1-1-14]

8.230.500.12 INCOME ELIGIBILITY: Income consists of money received by a person whose income is considered available to the budget group as described in this rule.

A. Income from a 30 calendar day period is used to determine eligibility. The 30 calendar day period may be any consecutive 30 calendar day period that is prior to the date of the application through the date of timely disposition. The applicant and the caseworker must agree on the 30 calendar day period. Income from a terminated source is not counted.

B. Income received less frequently than monthly: If an amount of gross income is received less frequently than monthly, that amount is converted to a monthly amount to determine financial eligibility. The conversion is dividing the total income by the number of months the income is intended to cover. For the purposes of this calculation, a partial month is considered to be one full month. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not have a contract.

C. Use of conversion factors: Whenever a full month's income is received on a weekly or biweekly basis, the income is converted to a monthly amount. Income is rounded down to the nearest whole dollar prior to application of the conversion factor. Weekly income is multiplied by four and biweekly income is multiplied by two.

[8.230.500.12 NMAC - Rp. 8.230.500.12 NMAC, 1-1-14]

8.230.500.13 EARNED INCOME:

A. **Income exclusions:** The income of a stepparent of a minor pregnant woman and the income of a sponsor of a pregnant alien are not considered available, unless the following apply:

(1) income is actually available to the pregnant woman; or

(2) pregnant woman is a sponsored alien and the sponsor is her spouse.

B. **Earned income deductions and disregards:** Countable earned income is determined by subtracting all earned income deductions allowable for AFDC, and for which the pregnant woman qualifies, from gross earnings. The following deductions are allowed per wage earner:

(1) deductions for work-related expenses of \$90.00; and

(2) earned income disregards (EIDs) of \$30 and one third.

[8.230.500.13 NMAC - Rp. 8.230.500.13 NMAC, 1-1-14]

8.230.500.14 DEEMED INCOME:

The gross income of the ineligible parent(s) of a minor woman who is pregnant is considered available to the minor women if she resides in the parent(s)' household. If the assistance unit to which the minor pregnant woman belongs includes her siblings, the applicable amounts of the ineligible parent's income is deemed to the care of those siblings. Income deemed available to a minor woman is considered available to the assistance unit to which she belongs.

[8.230.500.14 NMAC - Rp. 8.230.500.14 NMAC, 1-1-14]

8.230.500.15 TOTAL COUNTABLE INCOME:

The earned income which remains after subtracting all appropriate deductions and exclusions and the gross amount of any unearned income received by the assistance unit, is compared to the appropriate percentage of the federal income poverty guidelines (FPL) to determine eligibility.

[8.230.500.15 NMAC - Rp. 8.230.500.15 NMAC, 1-1-14]

8.230.500.16 LUMP SUM PAYMENTS:

Lump sum payments are considered income in the month received, unless specifically excludable under medicaid regulations. Lump sum payments are considered as a resource, if retained, as of the first moment of the first day of the following month.

[8.230.500.16 NMAC - Rp. 8.230.500.16 NMAC, 1-1-14]

8.230.500.17 A V A I L A B L E

INCOME:

A. Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined using allowable income exemptions, deductions and disregards. The income of a budget group member who is not included in the assistance unit is deemed available to the assistance unit.

B. Available income includes:

(1) income received by the budget group;

(2) income received by someone not included in the budget group for someone included in the budget group and which is available to the budget group;

(3) income that is withheld as a result of a garnishment or wage withholding; and

(4) income withheld by a source at the budget group's request.

[8.230.500.17 NMAC - N, 1-1-14]

8.230.500.18 UNAVAILABLE INCOME:

A. Individuals included in the budget group may have a legal right to income but that income is considered unavailable. Income is not counted as available income when:

(1) it is received by someone for the budget group and not made available to the budget group; or

(2) the income that is not listed as available in this rule where the budget group cannot gain access to the income; this includes wages withheld by an employer that refuses to pay.

B. Individuals may receive payment of funds "passed through" the individual for the benefit of someone other than themselves. Such pass through payments are not considered available.

C. A recipient of supplemental security income (SSI) is not part of the budget group. His income is not available to the budget group.

D. Alien sponsor deeming is not applicable pursuant to 8.200.410 NMAC.

[8.230.500.18 NMAC - N, 1-1-14]

8.230.500.19 EARNED INCOME:

Earned income includes wages, salaries, tips, other employee pay from employment, and net earnings from self-employment.

[8.230.500.19 NMAC - N, 1-1-14]

8.230.500.20 EARNED INCOME DEDUCTIONS/DISREGARDS:

A. Self employment: Certain self-employment deductions allowed by the federal internal revenue service (IRS) are allowed in the net and gross income test.

(1) Self-employment income will be annualized for income projection purposes. If the IRS Form 1040 has been filed, the previous year's tax return is used to anticipate future income if no significant changes in circumstances have occurred. An alternative method of income anticipation should be used when the amount of self employment income reported on tax returns would no longer be a good indicator of expected income, i.e., loss of cattle or crops due to disease.

(2) If tax returns are used for annualized projected income, self-employment expenses listed on the return are allowable except for:

(a) when mileage allowance is the New Mexico department of finance and administration (DFA) rate as detailed in 2.42.2 NMAC unless proof that the actual expense is greater;

(b) when no deduction is allowed for rent or purchase of the place of business if the individual operates the business out of his or her residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines; and

(c) depreciation, personal business and entertainment expenses, personal transportation to and from work, the purchase of capital equipment; and payments on the principal of loans for capital assets or durable goods.

B. Work related expense deductions of \$90 and earned income disregards of \$30 and one third of the remaining balance is disregarded from countable earned income for each employed individual during the net income test.

[8.230.500.20 NMAC - N, 1-1-14]

8.230.500.21 UNEARNED INCOME: Unearned income includes benefits, pensions, etc.

A. The following types of unearned income are counted:

(1) old age, survivors, and disability insurance (OASDI);

(2) railroad retirement benefits (RRB);

(3) veterans administration (VA) benefits:

(a) income available to veterans and their dependents from the VA as compensation for service-connected disability;

(b) pension for non-service connected disability;

(c) dependency and indemnity compensation; and

(d) death benefits paid from a government issue (GI) life insurance;

(4) unemployment compensation benefits (UCB);

(5) military allotments;

(6) worker's compensation;

(7) pension, annuity, and retirement benefits;

(8) union benefits;

(9) lodge or fraternal benefits;

(10) real property income that is not earned income;

(11) shared shelter and utility payments, when the budget group shares shelter with others:

(a) payments which exceed the budget group's cost are considered income; and

(b) payments which are less than the budget group's cost are not considered; these are the others' share of the shelter cost and are treated as pass-through payments;

(12) income from the sale of goods or property which are obtained in finished condition;

(13) child support payments received directly by the budget group and retained for its use;

(14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;

(15) individual Indian monies (IIM) payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe; and

(16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments.

B. The following types of unearned income are not considered in determining eligibility:

(1) cash assistance from HSD or a tribal entity;

(2) supplemental nutritional assistance program (SNAP);

(3) low income home energy assistance program (LIHEAP);

(4) foster care or adoption subsidy;

(5) supplemental security income (SSI);

(6) Child Nutrition and National School Lunch Act;

(7) nutrition programs for the elderly, including meals on wheels and lunches at senior citizen's centers;

(8) bona fide loans from private individuals and commercial institutions as well as loans for the purpose of educational assistance;

(9) work study funds paid by an educational institution when the purpose is to assist with educational expenses, regardless of the actual use of the funds;

(10) domestic volunteers compensation or any other payments made to or on behalf of volunteers under the Domestic Volunteers Services Act of 1973 including:

(a) volunteers in service to America (VISTA);

(b) university year for action

(UYA);

(c) special volunteer programs (SVP);

(d) retired senior volunteer program (RSVP);

(e) foster grandparents program (FGP);

(f) older American community service program (OACSP);

(g) service corps of retired executives (SCORE); and

(h) active corps of executives (ACE);

(11) state and federal income tax returns;

(12) American Indian or Alaskan native payments including:

(a) per capita payments distribution of tribal funds to an American Indian or Alaskan native tribal member by the tribe or by the secretary of the United States (U.S.) department of the interior;

(b) interest derived from retained per capita payments (if kept separately identifiable); and

(c) tribal land claims payments settled by means of case payments;

(13) Job Training Partnership Act of 1982 (JTPA) payments made to dependent children;

(14) Title II Uniform Relocation Assistance and Real Property Acquisition Act of 1970 payments;

(15) supportive service payments made for reimbursement of transportation, child care, or training related expenses under NMW work programs, tribal work programs and other employment assistance programs;

(16) division of vocational rehabilitation (DVR) training payments made by the for training expenses;

(17) gifts, donations or contribution from other agencies which are intended to meet needs not covered as a medicaid benefit; to be exempt, the payment must:

(a) be paid under the auspices of an organization or non-profit entity; and

(b) be for a specific identified purpose, to supplement not duplicate medicaid covered benefits for the intended beneficiary of the donation/contribution;

(18) educational loans and grants intended for educational expenses regardless of actual utilization of the funds;

(19) agent orange settlement fund payments or any fund established pursuant to the agent orange product liability litigation settlement;

(20) radiation exposure compensation settlement fund payments;

(21) Nazi victim payments made to individuals per P.L. 103-286, August 1, 1994; and

(22) vendor payments made on behalf of a budget group member when an individual or organization outside the

budget group uses its own funds to make a direct payment to a budget group's service provider.
[8.230.500.21 NMAC - N, 1-1-14]

HISTORY OF 8.230.500 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

8.230.500 NMAC, Income and Resource Standards, filed 3-25-10 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 230 MEDICAID
ELIGIBILITY - FULL COVERAGE
FOR PREGNANT WOMEN
PART 600 BENEFIT
DESCRIPTION**

8.230.600.1 ISSUING AGENCY:

New Mexico Human Services Department (HSD).
[8.230.600.1 NMAC - Rp, 8.230.600.1 NMAC, 1-1-14]

8.230.600.2 SCOPE: The rule applies to the general public.
[8.230.600.2 NMAC - Rp, 8.230.600.2 NMAC, 1-1-14]

8.230.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.230.600.3 NMAC - Rp, 8.230.600.3 NMAC, 1-1-14]

8.230.600.4 DURATION: Permanent.
[8.230.600.4 NMAC - Rp, 8.230.600.4 NMAC, 1-1-14]

8.230.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.230.600.5 NMAC - Rp, 8.230.600.5 NMAC, 1-1-14]

8.230.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.230.600.6 NMAC - Rp, 8.230.600.6 NMAC, 1-1-14]

8.230.600.7 DEFINITIONS: [RESERVED]

8.230.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.230.600.8 NMAC - N, 1-1-14]

8.230.600.9 BENEFIT DESCRIPTION: A medicaid eligible recipient under this category is eligible to receive the full range of medicaid covered services. Applications received on or after January 1, 2014 will be evaluated for an Affordable Care Act category.

[8.230.600.9 NMAC - Rp, 8.230.600.9 NMAC, 1-1-14]

8.230.600.10 BENEFIT DETERMINATION: Income support division (ISD) determines initial and ongoing eligibility.

A. A pregnant woman may have one presumptive eligibility determination made per pregnancy by an approved provider. Presumptive eligibility determinations made after January 1, 2014, will be evaluated per Affordable Care Act rules.

B. An eligible recipient remains eligible throughout her pregnancy and for two months after the month of delivery or after the month in which the pregnancy terminated.

C. After the two-month postpartum period, medicaid coverage will be converted to Category 035 family planning services for 12 months. Periodic eligibility reviews are not required during this period.

[8.230.600.10 NMAC - Rp, 8.230.600.10 NMAC, 1-1-14]

8.230.600.11 INITIAL BENEFITS:

A. **Move during eligibility determination:** If an applicant moves to another county while the eligibility determination is pending, the county ISD office in which the application was originally registered shall transfer the case to the new responsible ISD office.

B. **Delays in eligibility determination:** If an eligibility determination is not made within the time limit, the applicant is notified in writing of the reason for the delay. This notice also informs the applicant of the right to request an administrative hearing.

[8.230.600.11 NMAC - Rp, 8.230.600.11 NMAC, 1-1-14]

8.230.600.12 [RESERVED]

8.230.600.13 RETROACTIVE BENEFIT COVERAGE: Up to three months of retroactive medicaid coverage can be provided to applicants who have received medicaid-covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three months prior to the month of application [42 CFR Section 435.914].

A. **Application for retroactive benefit coverage:** Applications for retroactive coverage can be submitted even after a pregnancy ends. If the mother was not eligible for and receiving medicaid at the time of delivery or when the pregnancy terminated, retroactive coverage for Category 030 can only be extended through the month the pregnancy ended. Application for retroactive medicaid can be made by

indicating the existence of unpaid medical expenses in the three months prior to the month of application on the application form. Applications for retroactive medicaid benefits must be made by 180 days from the date of application for assistance.

B. A p p r o v a l requirements: To establish retroactive eligibility, the caseworker must verify that all conditions of eligibility were met for each of the three retroactive months in which the applicant received medicaid-covered services. Each month must be approved or denied on its own merit. Retroactive eligibility can be approved on either the ISD eligibility system (for categories programmed on that system) or on the retroactive medicaid eligibility authorization MAD 333 form.

C. Notice:

(1) Notice to applicant: The applicant must be informed of the reason(s) for denial of eligibility for any retroactive months.

(2) Recipient responsibility to notify provider: After the retroactive eligibility has been established, the caseworker must notify the recipient that he or she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient fails to inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within the timeframes referenced in 8.302.2.11 NMAC the recipient is responsible for payment of the bill.

[8.230.600.13 NMAC - Rp, 8.230.600.13 NMAC, 1-1-14]

8.230.600.14 CHANGES IN

ELIGIBILITY: If a pregnant woman who is eligible for medicaid under Category 030 loses eligibility because of a change in family income, she automatically remains eligible for medicaid under Category 035, pregnancy related services or family planning services, without a new application. The pregnancy related services only remain effective for the two months following the month in which the child is born or the pregnancy ends. Coverage is limited to pregnancy related services only. The family planning services for 12 months remain effective subsequent to the two month post-partum period.

[8.230.600.14 NMAC - Rp, 8.230.600.14 NMAC, 1-1-14]

8.230.600.15 PERIODIC REDETERMINATIONS OF ELIGIBILITY:

A. A redetermination of eligibility is not required.

B. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change as detailed in 8.200.430 NMAC.

[8.230.600.15 NMAC - N, 1-1-14]

HISTORY OF 8.230.600 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

8.230.600 NMAC, Benefit Description, filed 6-13-12 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

**TITLE 8 SOCIAL SERVICES
CHAPTER 231 M E D I C A I D
ELIGIBILITY - INFANTS OF
MOTHERS WHO ARE MEDICAID OR
MEDICAL ASSISTANCE PROGRAM
ELIGIBLE
PART 600 B E N E F I T
DESCRIPTION**

8.231.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.231.600.1 NMAC - Rp, 8.231.600.1 NMAC, 1-1-14]

8.231.600.2 SCOPE: The rule applies to the general public.

[8.231.600.2 NMAC - Rp, 8.231.600.2 NMAC, 1-1-14]

8.231.600.3 S T A T U T O R Y

AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.231.600.3 NMAC - Rp, 8.231.600.3 NMAC, 1-1-14]

8.231.600.4 D U R A T I O N :

Permanent.

[8.231.600.4 NMAC - Rp, 8.231.600.4 NMAC, 1-1-14]

8.231.600.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.231.600.5 NMAC - Rp, 8.231.600.5 NMAC, 1-1-14]

8.231.600.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.231.600.6 NMAC - Rp, 8.231.600.6 NMAC, 1-1-14]

8.231.600.7 D E F I N I T I O N S :

[RESERVED]

8.231.600.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.231.600.8 NMAC - Rp, 8.231.600.8 NMAC, 1-1-14]

8.231.600.9 B E N E F I T

DESCRIPTION: An applicant or recipient who is eligible for medicaid under this category is eligible to receive the full range of medicaid services.

[8.231.600.9 NMAC - Rp, 8.231.600.9 NMAC, 1-1-14]

8.231.600.10 B E N E F I T DETERMINATION:

A. Medical service providers must give the name and case number of the New Mexico medicaid eligible mother and the name, birth date, sex of the newborn, and the name of the hospital where the birth occurred to local county income support division (ISD) office. Within three days after receipt of this information, the income support specialist (ISS):

(1) determines if the mother was eligible for New Mexico medicaid at the time of birth or if the birth and delivery was covered by emergency medical services to undocumented aliens (EMSA);

(2) registers the newborn for medicaid on the system; a signed application is not required;

(3) provides eligibility information to the hospital; and

(4) notifies the mother that a signed application is necessary to establish the newborn's eligibility for TANF, if applicable.

B. **Processing time limit:** All applications must be processed within 45 days from the date of application. The time limit begins on the day the signed application is received. Applications must be acted upon and notice of approval, denial or delay sent out within the required time limit. The ISS explains the time limit and that the applicant may request an administrative hearing if the application pends longer than the time limit allows.

[8.231.600.10 NMAC - Rp, 8.231.600.10 NMAC, 1-1-14]

8.231.600.11 INITIAL BENEFITS:

Notices of eligibility determinations are automatically generated and mailed to applicants or recipients.

A. **Move during eligibility determination:** If an applicant moves to another county while the eligibility determination is pending, the county ISD office in which the application was originally registered transfers the case to the new responsible office.

B. **Delays in eligibility determination:** If an eligibility determination is not made within the time limit, the applicant is notified in writing of the reason for the delay. This notice also informs the applicant or recipient of the right to request an administrative hearing.

[8.231.600.11 NMAC - Rp, 8.231.600.11 NMAC, 1-1-14]

8.231.600.12 O N G O I N G

BENEFITS: A newborn remains eligible for assistance under Category 031 for up to 12 months, as long as the newborn remains in New Mexico.

[8.231.600.12 NMAC - Rp, 8.231.600.12 NMAC, 1-1-14]

8.231.600.13 R E T R O A C T I V E

BENEFIT COVERAGE: A woman who applies for New Mexico medicaid after the birth of her newborn and is determined retroactively eligible for the month of the newborn's birth, or for a prior month within the three month retroactive period, is deemed to have been eligible for and receiving medicaid at the time of the birth. Her newborn qualifies for New Mexico medicaid for 12 months beginning with the month of birth, providing the criteria listed above apply. Up to three months of retroactive medicaid coverage can be furnished to applicants who have received medicaid-covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three months prior to the month of application [42 CFR Section 435.914].

A. **Application for retroactive benefit coverage:** Application for retroactive medicaid can be made by checking "yes" in the "application for retroactive medicaid payments" box on the application/redetermination of eligibility for medicaid assistance (MAD 381) form or by checking "yes" to the question "does anyone in your household have unpaid medical expenses in the last three months?" on the application for assistance (ISD S) form. Applications for retroactive medicaid benefits must be made no later than 180 days from the date of application for assistance. Medicaid covered services which were furnished more than two years prior to application are not covered.

B. **Approval requirements:** To establish retroactive eligibility, the ISS must verify that all conditions of eligibility were met for each of the three retroactive months and that the applicant received medicaid-covered services. Each month must be approved or denied on its own merits. Retroactive eligibility can be approved on either the eligibility system (for categories programmed on that system) or on the retroactive medicaid eligibility authorization (MAD 333) form.

C. **Notice:**
(1) Notice to applicant: The applicant must be informed if eligibility for any of the retroactive months is denied.

(2) Recipient responsibility to notify provider: After the retroactive eligibility has been established, the ISD worker must notify the recipient that he is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient fails to inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the recipient is responsible for payment of the

bill.

[8.231.600.13 NMAC - Rp, 8.231.600.13 NMAC, 1-1-14]

8.231.600.14 CHANGE IN

ELIGIBILITY: If the newborn is placed on MAD Category 400 or 420 and then loses eligibility for either of these categories, the newborn can still be eligible for Category 031 if he meets Category 031 requirements for the remainder of the 12 month period. A new application is not required.

[8.231.600.14 NMAC - Rp, 8.231.600.14 NMAC, 1-1-14]

HISTORY OF 8.231.600 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

8.231.600 NMAC, Benefit Description, filed 12-10-07 - Repealed 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 232 M E D I C A L
ASSISTANCE PROGRAM
ELIGIBILITY - CHILDREN UNDER
19 - 235 PERCENT OR LOWER OF
FEDERAL POVERTY GUIDELINES
PART 400 R E C I P I E N T
REQUIREMENTS

8.232.400.1 ISSUING AGENCY:
New Mexico Human Services Department
(HSD).
[8.232.400.1 NMAC - Rp, 8.232.400.1
NMAC, 1-1-14]

8.232.400.2 SCOPE: The rule
applies to the general public.
[8.232.400.2 NMAC - Rp, 8.232.400.2
NMAC, 1-1-14]

8.232.400.3 S T A T U T O R Y
AUTHORITY: The New Mexico medicaid
program and other health care programs
are administered pursuant to regulations
promulgated by the federal department of
health and human services under Title XIX
of the Social Security Act as amended or by
state statute. See NMSA 1978, Section 27-
1-12 et seq.
[8.232.400.3 NMAC - Rp, 8.232.400.3
NMAC, 1-1-14]

8.232.400.4 D U R A T I O N :
Permanent.
[8.232.400.4 NMAC - Rp, 8.232.400.4
NMAC, 1-1-14]

8.232.400.5 EFFECTIVE DATE:
January 1, 2014, unless a later date is cited
at the end of a section.
[8.232.400.5 NMAC - Rp, 8.232.400.5
NMAC, 1-1-14]

8.232.400.6 OBJECTIVE: The
objective of this rule is to provide specific
instructions for determining eligibility for
the medicaid program and other health care
programs. Generally, applicable eligibility
rules are detailed in the medical assistance
division (MAD) eligibility, 8.200 NMAC,
Medicaid Eligibility – General Recipient
Policies. Processes for establishing and
maintaining medicaid eligibility are detailed
in the income support division (ISD)
general provisions, 8.100 NMAC, *General*
Provisions for Public Assistance Programs.
[8.232.400.6 NMAC - Rp, 8.232.400.6
NMAC, 1-1-14]

8.232.400.7 D E F I N I T I O N S :
[RESERVED]

8.232.400.8 MISSION: To reduce
the impact of poverty on people living in
New Mexico by providing support services
that help families break the cycle of
dependency on public assistance.
[8.232.400.8 NMAC - Rp, 8.232.400.8
NMAC, 1-1-14]

8.232.400.9 M E D I C A I D
COVERAGE FOR CHILDREN -
CATEGORY 032:

A. To be eligible, a child
must meet the following specific eligibility
requirements:

(1) be under 19 years of age;
(2) an individual who meets the
following eligibility requirements pursuant
to 8.200.410 NMAC and 8.200.420 NMAC
citizenship or alien status, enumeration,
residence, non-concurrent receipt of
assistance, and applications for other
benefits;

(3) an applicant or eligible
recipient must assign medical support rights
to HSD and agree to cooperate with third
party liability responsibilities pursuant to
8.200.430 NMAC;

(4) pursuant to 8.200.520 NMAC
and 8.200.500 NMAC and appropriate to the
budget group size, income must be:

(a) less than 185 percent of the
federal poverty level (FPL) guidelines; no
copayments are required at this level; or

(b) between 185-235 percent of
the FPL guidelines; copayments are required
for this level, referred to as the children's
health insurance program (CHIP).

B. Other creditable health
insurance coverage:

(1) less than 185 percent FPL,
the child may have other creditable health
insurance coverage; and

(2) between 185 percent to 235
percent FPL (CHIP), the child is not eligible
when he or she has other creditable health
insurance.

C. An individual who is an
inmate of a public institution is not eligible
pursuant to 8.200.410 NMAC.

[8.232.400.9 NMAC - Rp, 8.232.400.9
NMAC, 1-1-14]

8.232.400.10 G E N E R A L
RECIPIENT REQUIREMENTS:

A. **Enumeration:** Refer to
8.200.410.10 NMAC.

B. **Citizenship:** Refer to
8.200.410.11 NMAC.

C. **Residence:** Refer to
8.200.410.12 NMAC.

[8.232.400.10 NMAC - Rp, 8.232.400.10
NMAC, 1-1-14]

8.232.400.11 S P E C I A L
RECIPIENT REQUIREMENTS:
Presumptive eligibility for children: Refer
to 8.200.400.12 NMAC.

[8.232.400.11 NMAC - Rp, 8.232.400.11
NMAC, 1-1-14]

8.232.400.12 RECIPIENT RIGHTS
AND RESPONSIBILITIES:

A. Refer to 8.200.430
NMAC.

B. **Assignments of**
medical support: Refer to 8.200.420.12
NMAC.

[8.232.400.12 NMAC - Rp, 8.232.400.12
NMAC, 1-1-14]

8.232.400.13 R E P O R T I N G
REQUIREMENTS: Refer to 8.200.430.19
NMAC.

[8.232.400.13 NMAC - Rp, 8.232.400.13
NMAC, 1-1-14]

8.232.400.14 BASIS FOR
DEFINING THE ASSISTANCE UNITS
AND BUDGET GROUP:

At the time of
application, HSD shall identify everyone
who is to be considered for inclusion. The
applicant or the eligible recipient may
choose to include or to exclude a child in
the assistance unit. Each member of the
assistance unit and budget group, including
each unborn child, is counted as one in the
household size.

[8.232.400.14 NMAC - N, 1-1-14]

8.232.400.15 E L I G I B L E
ASSISTANCE UNITS:

An assistance
unit includes the dependent child for whom
medicaid eligibility is being requested and
may include other children living in the
same home.

A. Depending on the age
of the child and the related earned income
disregards and child care deductions, the
child may be eligible pursuant to 8.200.510
NMAC and 8.232.500 NMAC when the
assistance unit's income is less than 185
percent FPL; or the income is between 185
percent to 235 percent FPL for CHIP.

B. A child receiving
supplemental security income (SSI), foster
care or adoption subsidy payments is
excluded from the assistance unit.

[8.232.400.15 NMAC - N, 1-1-14]

8.232.400.16 BUDGET GROUP:

The budget group includes all members of
the assistance unit. Additional budget group
members include individuals who live in the
household with the assistance unit and have
a financial obligation of support.

A. Except for an SSI
recipient, the following individuals have a
financial obligation of support for medicaid
eligibility:

(1) spouses: married individuals as
defined under applicable New Mexico state
law (New Mexico recognizes common law
and same sex marriages established in other
states); and

(2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) a SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or conservator of a child;

(6) an alien sponsor to the assistance unit; and

(7) a sibling to a sibling.

C. Budget group earned income disregards and child care deductions vary based on the age group of the child. Refer to 8.232.500 NMAC.

[8.232.400.16 NMAC - N, 1-1-14]

8.232.400.17 LIVING IN THE HOME:

A. **Living in the home with a relative:** To be included in the assistance unit, a child must be living, or considered to be living, in the home of:

(1) a natural or an adoptive parent; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process; or

(2) a specified relative who is related within the fifth degree of relationship by blood, marriage or adoption and assumes responsibility for the day-to-day care and control of the child; the determination of whether an individual functions as the specified relative shall be made by the specified relative unless other information known to HSD clearly indicates otherwise.

B. **A child considered to be living in the home:** A child is considered to be part of the assistance unit as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

(1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; and

(2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household which first applies for medicaid enrollment.

C. **Extended living in the home:** An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

(1) Extended living in the home

includes:

(a) an individual attending college or a boarding school; or

(b) an individual receiving treatment in a Title XIX medicaid facility (including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated. Until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. **Temporary absence - extended living in the home:** An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

(1) an individual not living in the home due to an emergency who is expected to return to the household within 60 calendar days;

(2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other person or entity, the child will be removed from the assistance unit; or

(3) a child residing in a detention center:

(a) continues to be a member of the household if he or she resides fewer than 60 consecutive calendar days, regardless of adjudication as an inmate of a public institution; or

(b) the individual is not eligible for medicaid enrollment if he or she resides 60 consecutive calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

[8.232.400.17 NMAC - N, 1-1-14]

HISTORY OF 8.232.400 NMAC:

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

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, 6-5-92.

History of Repealed Material:

MAD Rule 830 Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 12-30-94.

8.232.400 NMAC, Recipient Policies, filed 6-15-01 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 232 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - CHILDREN UNDER 19 - 235 PERCENT OR LOWER OF FEDERAL POVERTY GUIDELINES PART 500 INCOME AND RESOURCE STANDARDS

8.232.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.232.500.1 NMAC - Rp, 8.232.500.1 NMAC, 1-1-14]

8.232.500.2 SCOPE: The rule applies to the general public [8.232.500.2 NMAC - Rp, 8.232.500.2 NMAC, 1-1-14]

8.232.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq. [8.232.500.3 NMAC - Rp, 8.232.500.3 NMAC, 1-1-14]

8.232.500.4 DURATION: Permanent. [8.232.500.4 NMAC - Rp, 8.232.500.4

NMAC, 1-1-14]

8.232.500.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.232.500.5 NMAC - Rp, 8.232.500.5 NMAC, 1-1-14]

8.232.500.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.232.500.6 NMAC - Rp, 8.232.500.6 NMAC, 1-1-14]

8.232.500.7 DEFINITIONS:

[RESERVED]

8.232.500.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.232.500.8 NMAC - N, 1-1-14]

8.232.500.9 NEED

DETERMINATION: An individual's eligibility is based on financial need. Pursuant to 8.200.520 NMAC and 8.235.500 NMAC and appropriate to the budget group size, countable income must be:

A. when the income is less than 185 percent of the federal poverty limit (FPL), no copayments are required at this level; or

B. when the income is between 185-235 percent of the FPL, copayments are required for this level, referred to as the children's health insurance program (CHIP).

[8.232.500.9 NMAC - Rp, 8.232.500.9 NMAC, 1-1-14]

8.232.500.10 RESOURCE

STANDARDS: Resources are not an eligibility factor.

[8.232.500.10 NMAC - Rp, 8.232.500.10 NMAC, 1-1-14]

8.232.500.11 INCOME

STANDARDS: An individual's eligibility is based on financial need. Pursuant to 8.200.520 NMAC, 8.235.500 NMAC and appropriate to the budget group size, countable income must be:

A. when the income is less than 185 percent of FPL, no copayments are

required at this level; or

B. when the income is between 185-235 percent of the FPL, copayments are required for this level; referred to as CHIP.

[8.232.500.11 NMAC - Rp, 8.232.500.11 NMAC, 1-1-14]

8.232.500.12 EARNED INCOME:

Earned income includes wages from employment and profit from self-employment. A dependent child's income is not counted as earned income.

[8.232.500.12 NMAC - Rp, 8.232.500.12 NMAC, 1-1-14]

8.232.500.13 UNAVAILABLE INCOME:

A. Individuals included in the budget group may have a legal right to income but not access to it; such income is not counted as available income when:

(1) it is received by someone for the budget group and not made available to the budget group; or

(2) the income is not listed as available in this part where the budget group cannot gain access to the income; this includes wages withheld by an employer that refuses to pay.

B. Individuals may receive payment of funds "passed through" the individual for the benefit of someone other than themselves. Such pass through payments are not considered available.

C. A recipient of supplemental security income (SSI) is not part of the budget group. His or her income is not available to the budget group.

D. Alien sponsor deeming is not applicable pursuant to 8.200.410 NMAC.

[8.232.500.13 NMAC - Rp, 8.232.500.13 NMAC, 1-1-14]

8.232.500.14 LUMP SUM

PAYMENTS: Lump sum payments are considered income in the month received, unless specifically excluded under medicaid regulations. Lump sum payments are considered resources, if retained, as of the first of the moment of the first day of the following month. Refer to 8.232.500.10 NMAC.

[8.232.500.14 NMAC - Rp, 8.232.500.14 NMAC, 1-1-14]

8.232.500.15 INCOME

ELIGIBILITY: Income consists of money received by a person whose income is considered available to the budget group as described in this part.

A. Income from a 30 calendar day period is used to determine eligibility. The 30 calendar day period may be any consecutive 30 calendar day period that is prior to the date of the application

through the date of timely disposition. The applicant or re-certifying eligible recipient and the caseworker must agree on the 30 calendar day period. Income from a terminated source is not counted.

B. Income received less frequently than monthly: If an amount of gross income is received less frequently than monthly, that amount is converted to a monthly amount to determine financial eligibility. The conversion is dividing the total income by the number of months the income is intended to cover. For the purposes of this calculation, a partial month is considered to be one full month. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not have a contract.

C. Use of conversion factors: Whenever a full month's income is received on a weekly or biweekly basis, the income is converted to a monthly amount. Income is rounded down to the nearest whole dollar prior to application of the conversion factor. Weekly income is multiplied by four; biweekly income is multiplied by two.

[8.232.500.15 NMAC - N, 1-1-14]

8.232.500.16 [RESERVED]

8.232.500.17 EARNED INCOME DEDUCTIONS:

A. Self employment: Certain self-employment deductions allowed by the federal internal revenue service (IRS) are allowed.

(1) Self-employment income will be annualized for income projection purposes. If the IRS Form 1040 has been filed, the previous year's tax return is used to anticipate future income if no significant changes in circumstances have occurred. An alternative method of income anticipation should be used when the amount of self employment income reported on tax returns would no longer be a good indicator of expected income, i.e., loss of cattle or crops due to disease.

(2) If tax returns are used for annualized projected income, self-employment expenses listed on the return are allowable except for:

(a) mileage allowance is the New Mexico department of finance and administration (DFA) rate as detailed in 2.42.2 NMAC unless proof that the actual expense is greater;

(b) rent or purchase of the place of business if the individual operates the business out of his or her residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines;

(c) depreciation;

(d) personal business and

entertainment expenses;

(e) personal transportation to and from work;

(f) purchase of capital equipment; and

(g) payments on the principal of loans for capital assets or durable goods.

B. Work related expense (WRE) income disregards: WRE disregards are allowed based on the age of the child. WRE disregards may not exceed the amount of an individual's gross earned income.

(1) Disregards are \$750.00 per month for a child birth through five years of age.

(2) Disregard are \$120.00 and 1/3 of the remainder per month per employed parent for a child six through 19 years of age.

C. Child care: To be eligible for a child care deduction, the child receiving the care must be a dependent of the employed person, under the age 13; and is included in the budget group.

D. Child care deduction:

(1) deduct an amount equal to the actual cost of child care per child birth through five years of age, but not less than \$375.00 total cost per month; or

(2) deduct the actual amount up to \$175.00 per month per child for a wage earner employed full time with a child six through 12 years of age; if the wage earner is employed part time deduct \$87.50 per month per child.

E. Third party child care payments: Child care costs paid by third parties directly to the child care provider cannot be used as child care deductions. Such payments are classified as vendor payments and are not counted as income. If such payments do not meet the full cost of child care, the difference between the deduction and the vendor payment is the amount allowed, up to the stated child care deductions in subsection D of this section. If the third party child care payments are made to the budget group, the payments would be treated as pass through payments and not counted.

[8.232.500.17 NMAC - Rp, 8.232.500.12 NMAC, 1-1-14]

8.232.500.18 U N E A R N E D INCOME:

A. The following types of unearned income are considered in determining eligibility:

(1) old age, survivors, and disability insurance (OASDI);

(2) railroad retirement benefits (RRB);

(3) veterans administration (VA) benefits:

(a) income available to veterans and their dependents from the VA as compensation for service-connected disability;

(b) pension for non-service connected disability;

(c) dependency and indemnity compensation; and

(d) death benefits paid from a government issue (GI) life insurance;

(4) unemployment compensation benefits (UCB);

(5) military allotments;

(6) worker's compensation;

(7) pension, annuity, and retirement benefits;

(8) union benefits;

(9) lodge or fraternal benefits;

(10) real property income that is not earned income;

(11) shared shelter and utility payments that exceed the budget group's cost are considered income, when the budget group shares shelter with others;

(12) income from the sale of goods or property which are obtained in finished condition;

(13) child support payments received directly by the budget group and retained for its use;

(14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;

(15) American Indian individual Indian monies (IIM) for payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe; and

(16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments.

B. The following types of unearned income are excluded:

(1) cash assistance from HSD or a tribal entity;

(2) supplemental nutritional assistance program (SNAP);

(3) low income home energy assistance program (LIHEAP);

(4) foster care or adoption subsidy;

(5) SSI;

(6) Child Nutrition and National School Lunch Act;

(7) nutrition programs for the elderly, including meals on wheels and lunches at senior citizen's centers;

(8) bona fide loans from private individuals and commercial institutions as well as loans for the purpose of educational assistance;

(9) work study funds paid by an educational institution, when the purpose is to assist with educational expenses regardless of the actual use of the funds;

(10) domestic volunteers compensation or any other payments made to or on behalf of volunteers under the Domestic Volunteers Services Act of 1973 including:

(a) volunteers in service to

America (VISTA);

(b) university year for action (UYA);

(c) special volunteer programs (SVP);

(d) retired senior volunteer program (RSVP);

(e) foster grandparents program (FGP);

(f) older American community service program (OACSP);

(g) service corps of retired executives (SCORE); and

(h) active corps of executives (ACE);

(11) state and federal income tax returns;

(12) American Indian and Alaskan native payments including:

(a) per capita payments distribution of tribal funds to an American Indian or Alaskan native tribal member by the tribe or by the secretary of the United States (U.S.) department of the interior;

(b) interest derived from retained per capita payments (if kept separately identifiable); and

(c) tribal land claims payments settled by means of case payments;

(13) Job Training Partnership Act of 1982 (JTPA) payments made to dependent children;

(14) Title II Uniform Relocation Assistance and Real Property Acquisition Act of 1970 payments;

(15) supportive service payments made for reimbursement of transportation, child care, or training related expenses under the New Mexico work programs (NMW), tribal work programs, and other employment assistance programs;

(16) division of vocational rehabilitation (DVR) training payments made by the for training expenses;

(17) gifts, donations or contributions from other agencies which are intended to meet needs not covered as a medicaid service when the payment is paid under the auspices of an organization or non-profit entity and utilized for a specific identified purpose to supplement not duplicate medicaid covered services that are for the intended beneficiary of the donation or contribution;

(18) educational loans and grants intended for educational expenses regardless of actual utilization of the funds;

(19) agent orange settlement fund payments or any fund established pursuant to the agent orange product liability litigation settlement;

(20) radiation exposure compensation settlement fund payments;

(21) Nazi victim payments made to individuals per Public Law (PL) 103-286, August 1, 1994;

(22) vendor payments made on

behalf of a budget group member when an individual or organization outside the budget group uses its own funds to make a direct payment to a budget group's service provider;

(23) shared shelter and utility payments that are less than the budget group's cost when the budget group shares shelter with others; these are the other individual's share of the shelter cost and are treated as pass-through payments; and

(24) other income excluded pursuant to federal law.
[8.232.500.18 NMAC - N, 1-1-14]

8.232.500.19 U N E A R N E D INCOME DEDUCTIONS/ DISREGARDS: For recipients of temporary assistance to needy families (TANF) or New Mexico works' (NMW), the child support enforcement division's (CSED) pass-through payment up to \$100 is disregarded for the purposes of determining medicaid eligibility.
[8.232.500.19 NMAC - N, 1-1-14]

HISTORY OF 8.232.500 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

8 NMAC 4.KID.500, Income and Resource Standards, filed 7-25-95 - Repealed effective 8-1-06.

8.232.500 NMAC, Income and Recourse Standards, filed 7-18-06 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 232 M E D I C A L ASSISTANCE PROGRAM
ELIGIBILITY - CHILDREN UNDER 19 - 235 PERCENT OR LOWER OF FEDERAL POVERTY GUIDELINES
PART 600 B E N E F I T DESCRIPTION**

8.232.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.232.600.1 NMAC - Rp, 8.232.600.1 NMAC, 1-1-14]

8.232.600.2 SCOPE: The rule applies to the general public
[8.232.600.2 NMAC - Rp, 8.232.600.2 NMAC, 1-1-14]

8.232.600.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.232.600.3 NMAC - Rp, 8.232.600.3 NMAC, 1-1-14]

8.232.600.4 D U R A T I O N : Permanent.
[8.232.600.4 NMAC - Rp, 8.232.600.4 NMAC, 1-1-14]

8.232.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.232.600.5 NMAC - Rp, 8.232.600.5 NMAC, 1-1-14]

8.232.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC,

General Medicaid Eligibility. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs.*
[8.232.600.6 NMAC - Rp, 8.232.600.6 NMAC, 1-1-14]

8.232.600.7 DEFINITIONS:
[RESERVED]

8.232.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.232.600.8 NMAC - Rp, 8.232.600.8 NMAC, 1-1-14]

8.232.600.9 B E N E F I T DESCRIPTION:

A. An eligible recipient child of an assistance unit with income less than 185 percent federal poverty level (FPL) guidelines receives the full range of medicaid services. No copayments are required of this eligibility category.

B. An eligible recipient child of an assistance unit with income that is greater than 185 percent and less than 235 percent of the FPL receives the full range of medicaid services. This eligibility category is known as the children's health insurance program (CHIP). Copayments are required for this eligibility category pursuant to 8.200.430 NMAC.

C. Applications received on or after January 1, 2014 for Category 032 will be evaluated for an Affordable Care Act category.
[8.232.600.9 NMAC - Rp, 8.232.600.9 NMAC, 1-1-14]

8.232.600.10 B E N E F I T DETERMINATION:

A. A child may have a presumptive eligibility determination made by a medical assistance division (MAD) approved provider. Refer to 8.200.400.12 NMAC.

B. Income support division (ISD) determines initial and ongoing eligibility.
[8.232.600.10 NMAC - Rp, 8.232.600.10 NMAC, 1-1-14]

8.232.600.11 INITIAL BENEFITS:

A. **Move during eligibility determination:** If an applicant moves to another county while the eligibility determination is pending, the county ISD office in which the application was originally registered shall transfer the case to the new responsible office.

B. **Delays in eligibility determination:** If an eligibility

determination is not made within the time limit, the applicant is notified in writing of the reason for the delay. This notice also informs the applicant or re-determining recipient of the right to request an administrative hearing.

[8.232.600.11 NMAC - Rp, 8.232.600.11 NMAC, 1-1-14]

8.232.600.12 O N G O I N G BENEFITS:

A. A redetermination of eligibility is made every 12 months.

B. Continuous eligibility for a child is established at a 12-month period of eligibility for a child under age 19. Changes in family income are disregarded.

C. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change as detailed in 8.200.430 NMAC.

D. Recipients of Category 032 with a re-determination date of March 31, 2014 or prior will be re-determined for this category using existing Category 032 policy. Recipients with a re-determination date of April 1, 2014 or later will be re-determined for an Affordable Care Act category. Category 032 ends March 31, 2015.

[8.232.600.12 NMAC - Rp, 8.232.600.12 NMAC, 1-1-14]

8.232.600.13 RETROACTIVE BENEFIT COVERAGE:

Up to three months of retroactive medicaid coverage can be furnished to an applicant or recipient who has received medicaid-covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three months prior to the month of application [42 CFR Section 435.914].

A. **Application for retroactive benefit coverage:** Application for retroactive medicaid can be made by checking "yes" to the question "does anyone in your household have unpaid medical expenses in the last three months?" on the application for assistance (ISD 100 or ISDSP 101) form or by checking "yes" to the question "does anyone have any unpaid medical bills from the past three months?" on the application for medical assistance for children and pregnant women (MAD 023 or MADSP 048) form. Applications for retroactive medicaid benefits must be made no later than 180 days from the date of application for assistance. Medicaid covered services which were furnished more than two years prior to application are not covered.

B. **Approval requirements:** To establish retroactive eligibility, the income support division worker must verify that all conditions of eligibility were met for each of the three

retroactive months and that the applicant received medicaid-covered services. Each month must be approved or denied on its own merits. Retroactive eligibility can be approved on either the eligibility system or on the retroactive medicaid eligibility authorization (MAD 333) form.

C. **Notice to applicant:** The income support division worker must inform the applicant if eligibility for any of the retroactive months is denied.

D. **Recipient responsibility to notify provider:** After the retroactive eligibility has been established, the income support division worker must notify the recipient that he or she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient does not inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the recipient is responsible for payment of the bill.

[8.232.600.13 NMAC - Rp, 8.232.600.13 NMAC, 1-1-14]

8.232.600.14 CHANGES IN ELIGIBILITY:

A. **Eligibility termination when age limit reached:** If a recipient's eligibility ends because he or she turns 19 years of age and the recipient is receiving inpatient services in an acute care hospital on the date he or she turns 19 years of age, the recipient's eligibility continues until the end of that admission. If the recipient is an inpatient in a free-standing psychiatric facility or other residential facility, the recipient's eligibility continues until the end of the month in which the recipient turns 19 years of age. The ISD worker verifies that the closure is caused by the recipient's turning 19 years of age and terminates medicaid eligibility at the end of the applicable time period.

B. **Ongoing eligibility:** A re-determination of eligibility is made every 12 months. Changes in eligibility status will be effective the first day of the following month.

C. **Continuous eligibility:** Eligibility will continue for the 12-month certification period, regardless of changes in income. This provision applies even if it is reported that the family income exceeds the applicable FPL guidelines. The 12 months of continuous medicaid starts with the month of approval or re-determination and is separate from any months of presumptive or retroactive eligibility. This provision does not apply when there is a death of a household member, the member or the family moves out of state or the child turns 19 years of age.

[8.232.600.14 NMAC - Rp, 8.232.600.14 NMAC, 1-1-14]

HISTORY OF 8.232.600 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

8.232.600 NMAC, Benefit Description, filed 6-16-04 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 234 M E D I C A I D ELIGIBILITY - SSI INELIGIBILITY - DUE TO INCOME OR RESOURCES FROM AND ALIEN SPONSOR PART 400 R E C I P I E N T REQUIREMENTS

8.234.400.1 ISSUING AGENCY:
New Mexico Human Services Department

(HSD).

[8.234.400.1 NMAC - Rp, 8.234.400.1 NMAC, 1-1-14]

8.234.400.2 SCOPE: The rule applies to the general public.

[8.234.400.2 NMAC - Rp, 8.234.400.2 NMAC, 1-1-14]

8.234.400.3 STATUTORY

AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.234.400.3 NMAC - Rp, 8.234.400.3 NMAC, 1-1-14]

8.234.400.4 DURATION:

Permanent.

[8.234.400.4 NMAC - Rp, 8.234.400.4 NMAC, 1-1-14]

8.234.400.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.234.400.5 NMAC - Rp, 8.234.400.5 NMAC, 1-1-14]

8.234.400.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.234.400.6 NMAC - Rp, 8.234.400.6 NMAC, 1-1-14]

8.234.400.7 DEFINITIONS:

[RESERVED]

8.234.400.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.200.400.8 NMAC - N, 1-1-14]

8.234.400.9 MEDICAID ELIGIBILITY FOR INDIVIDUALS INELIGIBLE FOR SSI DUE TO DEEMED INCOME OR RESOURCES FROM AN ALIEN SPONSOR - CATEGORY 034:

A. An individual must meet specific eligibility requirements. These include:

(1) an individual meets the social security administration (SSA) definitions of aged, blind, or disabled and is ineligible for supplemental security income (SSI) solely because of deemed income or resource considered available from an alien sponsor;

(2) an individual who meets the eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC for citizenship or alien status, enumeration, residence; non-concurrent receipt of assistance; and applications for other benefits;

(3) an applicant or recipient must assign medical support rights to HSD and agree to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC; and

(4) appropriate to the budget group size, countable income must be less than the SSI federal benefit rate (FBR) income pursuant to 8.200.520 NMAC, 8.215 NMAC and 8.234.500 NMAC.

B. Individuals may have other creditable health insurance coverage.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.

[8.234.400.9 NMAC - Rp, 8.234.400.9 NMAC, 1-1-14]

8.234.400.10 [RESERVED]

8.234.400.11 ENUMERATION:

Refer to 8.200.410.10 NMAC.

[8.234.400.11 NMAC - Rp, 8.234.400.11 NMAC, 1-1-14]

8.234.400.12 CITIZENSHIP:

Refer to 8.200.410.11 NMAC.

[8.234.400.12 NMAC - Rp, 8.234.400.12 NMAC, 1-1-14]

8.234.400.13 RESIDENCE:

Refer to 8.200.410.12 NMAC.

[8.234.400.13 NMAC - Rp, 8.234.400.13 NMAC, 1-1-14]

8.234.400.14 [RESERVED]

8.234.400.15 SSI STATUS:

A. An applicant or re-determining recipient for Category 034 must meet all other SSI eligibility standards, including:

(1) applicant or re-determining recipient's own income and resources must be below SSI standards;

(2) nonconcurrent receipt of assistance;

(3) residence;

(4) aged, blind, or disabled status;

and

(5) citizenship or permanent alien status.

B. See 8.215.500.11 NMAC and 8.215.500.18 NMAC for

information on SSI income and resource standards.

[8.234.400.15 NMAC - Rp, 8.234.400.15 NMAC, 1-1-14]

8.234.400.16 RECIPIENT RIGHTS AND RESPONSIBILITIES:

Refer to 8.200.430 NMAC.

[8.234.400.16 NMAC - Rp, 8.234.400.16 NMAC, 1-1-14]

8.234.400.17 BASIS FOR DEFINING THE ASSISTANCE UNIT AND BUDGET GROUP:

At the time of application, an applicant shall identify everyone who is to be considered for inclusion in the assistance unit and budget group. The composition of the assistance unit and budget group is based on the relationship of the household members. Each member of the assistance unit and budget group, including an unborn child, is counted as one in the household size.

[8.234.400.17 NMAC - N, 1-1-14]

8.234.400.18 ASSISTANCE UNIT:

The assistance unit includes the applicant and may include others in the household who are determined eligible.

[8.234.400.18 NMAC - N, 1-1-14]

8.234.400.19 BUDGET GROUP:

The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for an SSI recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(1) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and

(2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) an SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or conservator of a child;

(6) an alien sponsor to the assistance unit; and

(7) a sibling to a sibling.

[8.234.400.19 NMAC - N, 1-1-14]

8.234.400.20 LIVING IN THE HOME:

A. Living in the home with a relative: To be included in the assistance unit, a child must be living, or considered to be living, in the home of:

(1) a natural or an adoptive parent; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process; or

(2) a specified relative who is related within the fifth degree of relationship by blood, marriage or adoption and assumes responsibility for the day-to-day care and control of the child; the determination of whether an individual functions as the specified relative shall be made by the specified relative unless other information known to the worker clearly indicates otherwise.

B. A child considered to be living in the home: A child is considered to be part of the assistance unit as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

(1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; and

(2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. Extended living in the home: An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

(1) Extended living in the home includes:

(a) when an individual is attending college or a boarding school; or

(b) when an individual is receiving treatment in a Title XIX medicaid facility (including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated. Until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. Temporary absence - extended living in the home: An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

(1) an individual not living in the home due to an emergency who is expected to return to the household within 60 calendar days, continues to be a member of the household;

(2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or

(3) a child residing in a detention center:

(a) continues to be a member of the household if he or she resides fewer than 60 calendar days who is either adjudicated or not adjudicated as an inmate of a public institution; or

(b) the individual is not eligible for medicaid enrollment if he or she resides 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

[8.234.400.20 NMAC - N, 1-1-14]

HISTORY OF 8.234.400 NMAC:

History of Repealed Material:

8.234.400 NMAC, Recipient Policies, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 234 M E D I C A I D ELIGIBILITY - SSI INELIGIBILITY - DUE TO INCOME OR RESOURCES FROM AND ALIEN SPONSOR PART 500 INCOME AND RESOURCE STANDARDS

8.234.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.234.500.1 NMAC - Rp, 8.234.500.1 NMAC, 1-1-14]

8.234.500.2 SCOPE: The rule applies to the general public.

[8.234.500.2 NMAC - Rp, 8.234.500.2 NMAC, 1-1-14]

8.234.500.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-

1-12 et seq.

[8.234.500.3 NMAC - Rp, 8.234.500.3 NMAC, 1-1-14]

8.234.500.4 D U R A T I O N : Permanent.

[8.234.500.4 NMAC - Rp, 8.234.500.4 NMAC, 1-1-14]

8.234.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.234.500.5 NMAC - Rp, 8.234.500.5 NMAC, 1-1-14]

8.234.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200 400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions policy manual, 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.234.500.6 NMAC - Rp, 8.234.500.6 NMAC, 1-1-14]

8.234.500.7 D E F I N I T I O N S : [RESERVED]

8.234.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.234.500.8 NMAC - N, 1-1-14]

8.234.500.9 N E E D DETERMINATION: An individual's financial need is based on meeting supplemental security income (SSI) federal benefit rate (FBR) income and resource methodology pursuant to 8.215.500 NMAC.

[8.234.500.9 NMAC - Rp, 8.234.500.9 NMAC, 1-1-14]

8.234.500.10 R E S O U R C E STANDARDS: The resource standards for establishing eligibility are described in 8.215.500 NMAC. The resources of an alien sponsor are not considered when determining eligibility.

[8.234.500.10 NMAC - Rp, 8.234.500.10 NMAC, 1-1-14]

8.234.500.11 I N C O M E STANDARDS: The income standards for establishing eligibility are described in 8.215.500 NMAC. The income of an alien sponsor is not considered when determining eligibility.

[8.234.500.11 NMAC - Rp, 8.234.500.11

NMAC, 1-1-14]

HISTORY OF 8.234.500 NMAC:

History of Repealed Material:

8.234.500 NMAC, Income and Resource Standards, filed 9-3-13 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 234 M E D I C A I D
ELIGIBILITY - SSI INELIGIBILITY -
DUE TO INCOME OR RESOURCES
FROM AND ALIEN SPONSOR
PART 600 B E N E F I T
DESCRIPTION**

8.234.600.1 ISSUING AGENCY:

New Mexico Human Services Department (HSD).
[8.234.600.1 NMAC - Rp, 8.234.600.1 NMAC, 1-1-14]

8.234.600.2 SCOPE: The rule applies to the general public.

[8.234.600.2 NMAC - Rp, 8.234.600.2 NMAC, 1-1-14]

8.234.600.3 STATUTORY AUTHORITY:

The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.234.600.3 NMAC - Rp, 8.234.600.3 NMAC, 1-1-14]

8.234.600.4 DURATION: Permanent.

[8.234.600.4 NMAC - Rp, 8.234.600.4 NMAC, 1-1-14]

8.234.600.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.234.600.5 NMAC - Rp, 8.234.600.5 NMAC, 1-1-14]

8.234.600.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD

eligibility are detailed in the income support division (ISD) general provisions Chapter 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.234.600.6 NMAC - Rp, 8.234.600.6 NMAC, 1-1-14]

8.234.600.7 DEFINITIONS:
[RESERVED]

8.234.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.234.600.8 NMAC - N, 1-1-14]

8.234.600.9 BENEFIT DESCRIPTION:

Under the eligibility Category 034, an eligible recipient receives the full range of medicaid covered services.

[8.234.600.9 NMAC - Rp, 8.234.600.9 NMAC, 1-1-14]

8.234.600.10 BENEFIT DETERMINATION:

A. Income support division (ISD) determines initial and ongoing eligibility.

B. Up to three months of retroactive medicaid coverage is provided to an applicant who has received a medicaid covered service during the retroactive period and who would have met applicable eligibility criteria had they applied earlier. Eligibility for each retroactive month is determined separately. An application for retroactive medicaid enrollment must be made within 180 calendar days from the date of the medicaid application.

[8.234.600.10 NMAC - Rp, 8.234.600.10 NMAC, 1-1-14]

8.234.600.11 INITIAL BENEFITS:

A. **Move during eligibility determination:** If an applicant moves to another county while the eligibility determination is pending, the county ISD office in which the application was originally registered shall transfer the case to the new responsible office.

B. **Delays in eligibility determination:** If an eligibility determination is not made within the time limit, the applicant is notified in writing of the reason for the delay. This notice also informs the applicant or re-determining recipient of the right to request an administrative hearing.

[8.234.600.11 NMAC - Rp, 8.234.600.11 NMAC, 1-1-14]

8.234.600.12 PERIODIC REDETERMINATIONS OF ELIGIBILITY:

A. A re-determination of eligibility is made every 12 months.

B. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change as detailed in 8.200.430 NMAC.

[8.234.600.12 NMAC - Rp, 8.234.600.12 NMAC, 1-1-14]

8.234.600.13 SSI RETROACTIVE BENEFIT COVERAGE:

Up to three months of retroactive medicaid coverage can be furnished to applicants who have received medicaid covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three months prior to the month of application [42 CFR 435.914].

A. **Application for retroactive benefit coverage:** Application for retroactive medicaid can be made by checking "yes" in the "application for retroactive medicaid payments" box on the application or re-determination of eligibility for medical assistance (MAD 381) form or by checking "yes" to the question "does anyone in your household have unpaid medical expenses in the last three months?" on the application for assistance (ISD 100 S) form. Applications for retroactive supplemental security income (SSI) medicaid benefits for recipients of SSI must be made by 180 days from the date of approval for SSI. Medicaid covered services which were furnished more than two years prior to approval are not covered.

B. **Approval requirements:** To establish retroactive eligibility, the income support specialist (ISS) must verify that all conditions of eligibility were met for each of the three retroactive months and that the applicant received medicaid covered services. Eligibility for each month is approved or denied on its own merits.

(1) **Applicable benefit rate:** The federal benefit rate (FBR) in effect during the retroactive months based on the applicant's living arrangements is applicable for retroactive medicaid eligibility determinations. See 8.200.520.10 NMAC. If the applicant's countable income in a given month exceed the applicable FBR, the applicant is not eligible for retroactive medicaid for that month. If the countable income is less than the FBR, the applicant is eligible on the factor of income for that month. A separate determination must be made for each of the three months in the retroactive period.

(2) **Disability determination required:** If a determination is needed of the date of onset of blindness or disability, the ISS must send a referral to disability determination services (ISD 305) to the disability determination unit.

C. **Notice:**

(1) **Notice to applicant:** The applicant must be informed if any of the

retroactive months are denied.

(2) Recipient responsibility to notify provider: After the retroactive eligibility has been established, the ISS must notify the recipient that he or she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient does not inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the recipient is responsible for payment of the bill.

[8.234.600.13 NMAC - Rp, 8.234.600.13 NMAC, 1-1-14]

HISTORY OF 8.234.600 NMAC:

History of Repealed Material:

8.234.600 NMAC, Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 235 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - PREGNANCY OR FAMILY PLANNING SERVICES PART 400 RECIPIENT REQUIREMENTS

8.235.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.235.400.1 NMAC - Rp, 8.235.400.1 NMAC, 1-1-14]

8.235.400.2 SCOPE: The rule applies to the general public.
[8.235.400.2 NMAC - Rp, 8.235.400.2 NMAC, 1-1-14]

8.235.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.235.400.3 NMAC - Rp, 8.235.400.3 NMAC, 1-1-14]

8.235.400.4 DURATION: Permanent.
[8.235.400.4 NMAC - Rp, 8.235.400.4 NMAC, 1-1-14]

8.235.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.235.400.5 NMAC - Rp, 8.235.400.5 NMAC, 1-1-14]

8.235.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.235.400.6 NMAC - Rp, 8.235.400.6 NMAC, 1-1-14]

8.235.400.7 DEFINITIONS: [RESERVED]

8.235.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.235.400.8 NMAC - N, 1-1-14]

8.235.400.9 WHO IS AN ELIGIBLE RECIPIENT:
A. To be eligible, an individual must meet specific eligibility requirements:

(1) an individual meets the requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC of citizenship or alien status, enumeration, residence, non-concurrent receipt of assistance, and applications for other benefits;

(2) an individual must assign medical support rights to HSD and agrees to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC; and

(3) appropriate to the size of the budget group countable gross income must be less than 185 percent of the federal poverty limit (FPL) pursuant to 8.200.520 NMAC and 8.235.500 NMAC.

B. Individuals may have other creditable health insurance coverage.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.

[8.235.400.9 NMAC - Rp, 8.235.400.9 NMAC, 1-1-14]

8.235.400.10 BASIS FOR DEFINING THE GROUP: At the time of application, an applicant or a re-determining eligible recipient and income support division (ISD) shall identify everyone who is to be considered for inclusion in the assistance

unit and budget group. The composition of the assistance unit and budget group is based on the relationship of the household members to the dependent child for whom the application is being made. Each member of the assistance unit and budget group, including an unborn child, is counted as one in the household size.

[8.235.400.10 NMAC - Rp, 8.235.400.10 NMAC, 1-1-14]

8.235.400.11 [RESERVED]

8.235.400.12 ENUMERATION: Refer to 8.200.410.10 NMAC.

[8.235.400.12 NMAC - Rp, 8.235.400.12 NMAC, 1-1-14]

8.235.400.13 CITIZENSHIP: Refer to 8.200.410.11 NMAC.

[8.235.400.13 NMAC - Rp, 8.235.400.13 NMAC, 1-1-14]

8.235.400.14 RESIDENCE: Refer to 8.200.410.12 NMAC.

[8.235.400.14 NMAC - Rp, 8.235.400.14 NMAC, 1-1-14]

8.235.400.15 EMPLOYMENT, TRAINING AND WORK REGISTRATION: Registration or participation in employment assistance programs are not an eligibility factor.

[8.235.400.15 NMAC - Rp, 8.235.400.15 NMAC, 1-1-14]

8.235.400.16 SPECIAL RECIPIENT REQUIREMENTS: Refer to 8.235.400.9 NMAC.

[8.235.400.16 NMAC - Rp, 8.235.400.16 NMAC, 1-1-14]

8.235.400.17 AGE: To be eligible for pregnancy-related medicaid, specific age requirements are not a factor. For family planning and related services medicaid there is not an age limit for men and women.

[8.235.400.17 NMAC - Rp, 8.235.400.17 NMAC, 1-1-14]

8.235.400.18 PRESUMPTIVE ELIGIBILITY: Refer to 8.200.400.11 NMAC.

[8.235.400.18 NMAC - Rp, 8.235.400.18 NMAC, 1-1-14]

8.235.400.19 RECIPIENT RIGHTS AND RESPONSIBILITIES: Refer to 8.200.430 NMAC.

[8.235.400.19 NMAC - Rp, 8.235.400.19 NMAC, 1-1-14]

8.235.400.20 ASSIGNMENTS OF MEDICAL SUPPORT: Refer to 8.200.420.12 NMAC.

[8.235.400.20 NMAC - Rp, 8.235.400.20 NMAC, 1-1-14]

8.235.400.21 ELIGIBLE ASSISTANCE UNIT:

A. The assistance unit includes an individual who applies and who is determined eligible.

B. Each unborn child is counted as one in the eligibility determination process as if the child was born and living with the mother.

[8.235.400.21 NMAC - N, 1-1-14]

8.235.400.22 BUDGET GROUP:

The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for an supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(1) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and

(2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) an SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or conservator of a child;

(6) an alien sponsor to the assistance unit; and

(7) a sibling to a sibling.

[8.235.400.22 NMAC - N, 1-1-14]

8.235.400.23 LIVING IN THE HOME:

A. **Living in the home with a relative:** To be included in the assistance unit, a child must be living, or considered to be living, in the home of:

(1) a natural or an adoptive parent; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process; or

(2) a specified relative who is related within the fifth degree of relationship by blood, marriage or adoption and assumes responsibility for the day-to-day care and control of the child; the determination of whether an individual functions as the specified relative shall be made by the

specified relative unless other information known to the worker clearly indicates otherwise.

B. **A child considered to be living in the home:** A child is considered to be part of the assistance unit as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

(1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; and

(2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. **Extended living in the home:** An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

(1) Extended living in the home includes:

(a) an individual attending college or a boarding school; or

(b) an individual receiving treatment in a Title XIX medicaid facility (including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated; until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. **Temporary absence - extended living in the home:** An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

(1) an individual not living in the home due to an emergency who is expected to return to the household within 60 calendar days, continues to be a member of the household;

(2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or

(3) a child residing in a detention center:

(a) continues to be a member of the household if he or she resides fewer than

60 calendar days, regardless of adjudication as an inmate of a public institution; or

(b) the individual is not eligible for medicaid enrollment if he or she resides 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

[8.235.400.23 NMAC - N, 1-1-14]

HISTORY OF 8.235.400 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92 - Repealed effective 2-1-95.

8.235.400 NMAC, Recipient Policies, filed 6-13-03 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 235 MEDICAL ASSISTANCE PROGRAM
ELIGIBILITY - PREGNANCY OR FAMILY PLANNING SERVICES
PART 500 INCOME AND RESOURCE STANDARDS

8.235.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.235.500.1 NMAC - Rp, 8.235.500.1 NMAC, 1-1-14]

8.235.500.2 SCOPE: The rule applies to the general public.

[8.235.500.2 NMAC - Rp, 8.235.500.2 NMAC, 1-1-14]

8.235.500.3 STATUTORY AUTHORITY:

The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.235.500.3 NMAC - Rp, 8.235.500.3 NMAC, 1-1-14]

8.235.500.4 DURATION: Permanent.

[8.235.500.4 NMAC - Rp, 8.235.500.4 NMAC, 1-1-14]

8.235.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.235.500.5 NMAC - Rp, 8.235.500.5 NMAC, 1-1-14]

8.235.500.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200 400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.235.500.6 NMAC - Rp, 8.235.500.6 NMAC, 1-1-14]

8.235.500.7 DEFINITIONS: [RESERVED]

8.235.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
 [8.235.500.8 NMAC - N, 1-1-14]

8.235.500.9 NEED DETERMINATION: An individual's eligibility is based on financial need. Pursuant to 8.200.520 NMAC, and appropriate to the budget group size, countable income must be less than:

A. 185 percent of the federal poverty limit (FPL); or

B. the difference between 185 percent FPL and 235 percent FPL may be disregarded from earned income.

[8.235.500.9 NMAC - Rp, 8.235.500.9 NMAC, 1-1-14]

8.235.500.10 RESOURCE STANDARDS: Resources are not an eligibility factor.

[8.235.500.10 NMAC - Rp, 8.235.500.10 NMAC, 1-1-14]

8.235.500.11 INCOME STANDARDS:

Income consists of money received by a person whose income is considered available to the budget group as described in this chapter.

A. Income from a 30 calendar day period is used to determine eligibility. The 30 calendar day period may be any consecutive 30 calendar day period that is prior to the date of the application through the date of timely disposition. The applicant and the caseworker must agree on the 30 calendar day period. Income from a terminated source is not counted.

B. Income received less frequently than monthly: If an amount of gross income is received less frequently than monthly, that amount is converted to a monthly amount to determine financial eligibility. The conversion is dividing the total income by the number of months the income is intended to cover. For the purposes of this calculation, a partial month is considered to be one full month. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not have a contract.

C. Use of conversion factors: Whenever a full month's income is received on a weekly or biweekly basis, the income is converted to a monthly amount. Income is rounded down to the nearest whole dollar prior to application of the conversion factor. Weekly income is multiplied by four and biweekly income is multiplied by two.

[8.235.500.11 NMAC - Rp, 8.235.500.11 NMAC, 1-1-14]

8.235.500.12 AVAILABLE INCOME:

A. Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined using allowable income exemptions, deductions and disregards. The income of a budget group member who is not included in the assistance unit is deemed available to the assistance unit.

B. Available income includes:

(1) income received by the budget group;

(2) income received by someone not included in the budget group for someone included in the budget group and which is available to the budget group;

(3) income that is withheld as a result of a garnishment or wage withholding; and

(4) income withheld by a source at the budget group's request.

[8.235.500.12 NMAC - Rp, 8.235.500.12, 1-1-14]

8.235.500.13 TOTAL COUNTABLE INCOME:

Earned income remaining after the applicable deductions and disregards are taken, together with the gross amount of any unearned income received by the assistance unit, is compared to 185 percent of the federal poverty level to determine eligibility.

[8.235.500.13 NMAC - Rp, 8.235.500.13 NMAC, 1-1-14]

8.235.500.14 LUMP SUM PAYMENTS:

Lump sum payments are considered income in the month received, unless specifically excluded under medicaid regulations. Lump sum payments are considered a resource, if retained, as of the first moment of the first day of the following month.

[8.235.500.14 NMAC - Rp, 8.235.500.14 NMAC, 1-1-14]

8.235.500.15 UNAVAILABLE INCOME:

A. Individuals included in the budget group may have a legal right to income but not access to it; such income is not counted as available income when:

(1) received by someone for the budget group and not made available to the budget group; or

(2) the income not listed as available in this chapter where the budget group cannot gain access to the income; this includes wages withheld by an employer that refuses to pay.

B. Individuals may receive payment of funds "passed through" the individual for the benefit of someone other than themselves. Such pass through

payments are not considered available.

C. A recipient of supplemental security income (SSI) is not part of the budget group. His or her income is not available to the budget group.

D. Alien sponsor deeming is not applicable pursuant to 8.200.410 NMAC.

[8.235.500.15 NMAC - N, 1-1-14]

8.235.500.16 EARNED INCOME:

Earned income includes wages from employment, profit from self-employment. A dependent child's income is not counted as earned income.

[8.235.500.16 NMAC - N, 1-1-14]

8.235.500.17 EARNED INCOME DEDUCTIONS/DISREGARDS:

A. Self employment: Certain self-employment deductions allowed by the federal internal revenue service (IRS) are allowed.

(1) Self-employment income will be annualized for income projection purposes. If the IRS Form 1040 has been filed, the previous year's tax return is used to anticipate future income, if no significant changes in circumstances have occurred. An alternative method of income anticipation should be used when the amount of self employment income reported on tax returns would no longer be a good indicator of expected income, i.e., loss of cattle or crops due to disease.

(2) If tax returns are used for annualized projected income, self-employment expenses listed on the return are allowable except for:

(a) mileage allowance is the New Mexico department of finance and administration (DFA) rate as detailed in 2.42.2 NMAC unless proof that the actual expense is greater;

(b) rent or purchase of the place of business if the individual operates the business out of his or her residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines;

(c) depreciation;

(d) personal business and entertainment expenses;

(e) personal transportation to and from work;

(f) purchase of capital equipment; and

(g) payments on the principal of loans for capital assets or durable goods.

B. Work related expense (WRE) income disregards: The WRE disregard of \$120 and one third of the remaining balance is disregarded from countable earned income for each employed individual during the net income test.

C. Child care expenses:

(1) To be eligible for a child care

deduction, the child receiving the care must be: a child of the employed person; under age 13; and included in the budget group.

(2) Standards: The amount deducted depends upon whether the person is employed full or part-time and the age of the child. Full-time employment is considered to be 30 hours or more of employment per week. Part time employment is less than 30 hours per week. The actual costs of child care are not to exceed the applicable limits set forth are deducted from earnings as:

(a) up to \$200 per month per child if the person is employed full-time and the child is under two years of age;

(b) up to \$100 per month per child if the person is employed part-time and the child is under two years of age;

(c) up to \$175 per month per child if the person is employed full-time and the child is two through 12 years of age;

(d) up to \$87.50 per month per child if the person is employed part-time and the child is two through 12 years of age.

(3) Third party child care payments: Child care costs paid by third parties directly to the child care provider cannot be used as child care deductions. Such payments are classified as vendor payments and are not counted as income. If such payments do not meet the full cost of child care, the difference between the deduction and the vendor payment is the amount allowed, up to the stated child care deductions in Paragraph (2) of this subsection. If the third party child care payments are made to the budget group, the payments would be treated as pass through payments and not counted.

[8.235.500.17 NMAC - N, 1-1-14]

8.235.500.18 UNEARNED INCOME: Unearned income includes benefits, pensions, etc.

A. The following types of unearned income are considered in determining eligibility:

(1) old age, survivors, and disability insurance (OASDI);

(2) railroad retirement benefits (RRB);

(3) veterans administration (VA) benefits:

(a) income available to veterans and their dependents from the VA as compensation for service-connected disability;

(b) pension for non-service connected disability;

(c) dependency and indemnity compensation; and

(d) death benefits paid from a government issue (GI) life insurance;

(4) unemployment compensation benefits (UCB);

(5) military allotments;

(6) worker's compensation;

(7) pension, annuity, and

retirement benefits;

(8) union benefits;

(9) lodge or fraternal benefits;

(10) real property income that is not earned income;

(11) shared shelter and utility payments that exceed the budget group's cost are considered income, when the budget group shares shelter with others;

(12) income from the sale of goods or property which are obtained in finished condition;

(13) child support payments received directly by the budget group and retained for its use;

(14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;

(15) American Indian individual Indian monies (IIM) for payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe; and

(16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments.

B. The following types of unearned income are not considered in determining eligibility:

(1) cash assistance from HSD or a tribal entity;

(2) supplemental nutritional assistance program (SNAP);

(3) low income home energy assistance program (LIHEAP);

(4) foster care or adoption subsidy;

(5) supplemental security income (SSI);

(6) Child Nutrition and National School Lunch Act;

(7) nutrition programs for the elderly, including meals on wheels and lunches at senior citizen's centers;

(8) bona fide loans from private individuals and commercial institutions as well as loans for the purpose of educational assistance;

(9) work study funds paid by an educational institution, when the purpose is to assist with educational expenses, regardless of the actual use of the funds;

(10) domestic volunteers compensation or any other payments made to or on behalf of volunteers under the Domestic Volunteers Services Act of 1973 including:

(a) volunteers in service to America (VISTA);

(b) university year for action (UYA);

(c) special volunteer programs (SVP);

(d) retired senior volunteer program (RSVP);

(e) foster grandparents program (FGP);

(f) older American community service program (OACSP);
 (g) service corps of retired executives (SCORE); and
 (h) active corps of executives (ACE);
 (11) state and federal income tax returns;
 (12) American Indian payments including:
 (a) per capita payments distribution of tribal funds to an Indian tribe member by the tribe or by the secretary of the United States (US) department of the interior;
 (b) interest derived from retained per capita payments (if kept separately identifiable); and
 (c) tribal land claims payments settled by means of case payments;
 (13) Job Training Partnership Act of 1982 (JTPA) payments made to dependent children;
 (14) Title II Uniform Relocation Assistance and Real Property Acquisition Act of 1970 payments;
 (15) supportive service payments made for reimbursement of transportation, child care, or training related expenses under the New Mexico work programs (NMW), tribal work programs, and other employment assistance programs;
 (16) division of vocational rehabilitation (DVR) training payments made by the for training expenses;
 (17) gifts, donations or contribution from other agencies which are intended to meet needs not covered as a medicaid benefit; to be exempt, the payment must:
 (a) be paid under the auspices of an organization or non-profit entity; and
 (b) be for a specific identified purpose, to supplement not duplicate medicaid services for the intended beneficiary of the donation or contribution;
 (18) educational loans and grants intended for educational expenses; regardless of actual utilization of the funds;
 (19) agent orange settlement fund payments or any fund established pursuant to the agent orange product liability litigation settlement;
 (20) radiation exposure compensation settlement fund payments;
 (21) Nazi victim payments made to individuals per P.L. 103-286, August 1, 1994; and
 (22) vendor payments made on behalf of a budget group member when an individual or organization outside the budget group uses its own funds to make a direct payment to a budget group's service provider.
 [8.235.500.18 NMAC - N, 1-1-14]

HISTORY OF 8.235.500 NMAC:
Pre-NMAC History: The material in this

part was derived from that previously filed with the State Records Center:
 ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.
 ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.
 MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.
 8.235.500 NMAC, Income and Resource Standards, filed 5-13-04 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

**TITLE 8 SOCIAL SERVICES
 CHAPTER 235 M E D I C A L ASSISTANCE PROGRAM
 ELIGIBILITY - PREGNANCY OR FAMILY PLANNING SERVICES
 PART 600 B E N E F I T DESCRIPTION**

8.235.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
 [8.235.600.1 NMAC - Rp, 8.235.600.1 NMAC, 1-1-14]

8.235.600.2 SCOPE: The rule

applies to the general public.
 [8.235.600.2 NMAC - Rp, 8.235.600.2 NMAC, 1-1-14]

8.235.600.3 S T A T U T O R Y AUTHORITY:

The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.235.600.3 NMAC - Rp, 8.235.600.3 NMAC, 1-1-14]

8.235.600.4 D U R A T I O N :

Permanent.
 [8.235.600.4 NMAC - Rp, 8.235.600.4 NMAC, 1-1-14]

8.235.600.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.235.600.5 NMAC - Rp, 8.235.600.5 NMAC, 1-1-14]

8.235.600.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.235.600.6 NMAC - Rp, 8.235.600.6 NMAC, 1-1-14]

8.235.600.7 D E F I N I T I O N S :

[RESERVED]

8.235.600.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.235.600.8 NMAC - N, 1-1-14]

8.235.600.9 GENERAL BENEFIT DESCRIPTION:

This category provides pregnancy-related medicaid services for women and family planning and related services for both men and women whose income is below 185 percent of the federal income poverty level (FPL). There is no resource test for this category. Applications received on or after January 1, 2014 are evaluated for an Affordable Care Act category.

A. Pregnancy-related services only: Under medicaid eligibility

Category 035, the pregnant eligible recipient only receives services related to her pregnancy and for diagnosis and treatment of conditions which could complicate or adversely impact the woman's pregnancy, the fetus's health, or the child's delivery. Coverage extends throughout the pregnancy and for a two-month post-partum period after the month of delivery or after the month in which the pregnancy terminates.

B. Family planning services: Under medicaid eligibility Category 035, a non-pregnant eligible recipient (including a male) only receives services, consultations, and supplies related to birth control, pregnancy prevention and family planning related services which are prescribed and furnished by physicians, hospitals, clinics, pharmacies, and other medicaid providers.

[8.235.600.9 NMAC - Rp, 8.235.600.9 NMAC, 1-1-14]

8.235.600.10 B E N E F I T DETERMINATION: Income support division (ISD) determines initial and ongoing eligibility. Refer to 8.100 NMAC, 8.200 NMAC, 8.235.400 NMAC and 8.235.500 NMAC.

A. A pregnant woman may have one presumptive eligibility determination made by a medicaid approved provider.

B. Up to three months of retroactive medicaid coverage is provided to an applicant who has received medicaid services during the retroactive period and who would have met applicable eligibility criteria had she applied earlier. At the earliest point that retroactive eligibility is determined, eligibility extends throughout the pregnancy and the two-month postpartum period. Application for retroactive medicaid enrollment must be made within 180 calendar days from the date of the medicaid application.

C. An eligible woman recipient remains eligible throughout her pregnancy and for two months after the month of delivery or after the month in which the pregnancy terminates. Changes in household income do not affect her eligibility during this period. After the two-month postpartum period, medicaid pregnancy-related services will be converted to medicaid family planning services. Periodic eligibility reviews are not required during this period.

D. Family planning services continue for 12 months. Changes in household income do not affect eligibility during this period.
[8.235.600.10 NMAC - Rp, 8.235.600.10 NMAC, 1-1-14]

8.235.600.11 INITIAL BENEFITS:
A. Move during eligibility

determination: If an applicant moves to another county while the eligibility determination is pending, the county ISD office in which the application was originally registered transfers the case to the new responsible office.

B. **Delays in eligibility determination:** If an eligibility determination is not made within the time limit, the applicant is notified in writing of the reason for the delay. This notice also informs the applicant or eligible recipient of the right to request an administrative hearing.

[8.235.600.11 NMAC - Rp, 8.235.600.11 NMAC, 1-1-14]

8.235.600.12 O N G O I N G BENEFITS:

A. A redetermination of eligibility is not required during a pregnancy, the two-month postpartum period or through the first 12 months of the family planning period. For continued family planning services, a redetermination of eligibility is made every 12 months.

B. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change.

[8.235.600.12 NMAC - Rp, 8.235.600.12 NMAC, 1-1-14]

8.235.600.13 R E T R O A C T I V E BENEFIT COVERAGE: Refer to 8.235.600.10 NMAC.

[8.235.600.13 NMAC - Rp, 8.235.600.13 NMAC, 1-1-14]

8.235.600.14 R E P O R T I N G REQUIREMENTS: Refer to 8.200.430.19 NMAC.

[8.235.600.14 NMAC - Rp, 8.235.600.14 NMAC, 1-1-14]

8.235.600.15 C H A N G E S I N ELIGIBILITY DUE TO INCOME:

A. **Pregnancy-related services only:** A recipient who is pregnant and who loses eligibility solely because of a change in family income remains eligible under Category 035 throughout the remainder of the pregnancy and the two months following the month the pregnancy ends. This provision applies even if the family income exceeds the federal poverty income guidelines.

B. **Family planning services:** A man or woman who is receiving family planning and related services only under medicaid will not lose eligibility at any time during the 12-month certification period, due to an increase in family income which exceeds the federal poverty income limit.

[8.235.600.15 NMAC - Rp, 8.235.600.15 NMAC, 1-1-14]

HISTORY OF 8.235.600 NMAC:

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

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92 - Repealed effective 2-1-95.

8.235.600 NMAC, Benefit Description, filed 5-13-04 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

**TITLE 8 SOCIAL SERVICES
CHAPTER 242 M E D I C A L ASSISTANCE PROGRAM
ELIGIBILITY - QUALIFIED DISABLED INDIVIDUALS WHOSE INCOME EXCEEDS QMB AND SLIMB PART 400 R E C I P I E N T REQUIREMENTS**

8.242.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.242.400.1 NMAC - Rp, 8.242.400.1

NMAC, 1-1-14]

8.242.400.2 SCOPE: The rule applies to the general public.
[8.242.400.2 NMAC - Rp, 8.242.400.2 NMAC, 1-1-14]

8.242.400.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.242.400.3 NMAC - Rp, 8.242.400.3 NMAC, 1-1-14]

8.242.400.4 D U R A T I O N : Permanent.
[8.242.400.4 NMAC - Rp, 8.242.400.4 NMAC, 1-1-14]

8.242.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.242.400.5 NMAC - Rp, 8.242.400.5 NMAC, 1-1-14]

8.242.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility - General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.242.400.6 NMAC - Rp, 8.242.400.6 NMAC, 1-1-14]

8.242.400.7 D E F I N I T I O N S :
[RESERVED]

8.242.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.242.400.8 NMAC - N, 1-1-14]

8.242.400.9 Q U A L I F I E D DISABLED WORKING INDIVIDUALS (QD) - CATEGORY 050:

A. To qualify as a qualified disabled working individual (QD), an applicant or re-determining recipient must meet the following requirements:

(1) lose entitlement to free medicare Part A due to substantial gainful employment;

(2) continue to meet the social

security administration (SSA) disability criteria; and

(3) be enrolled for premium Part A medicare.

B. The date of eligibility is based on the date of application and the date that all eligibility standards, including enrollment for medicare Part A, are met.

[8.242.400.9 NMAC - Rp, 8.242.400.9 NMAC, 1-1-14]

8.242.400.10 [RESERVED]

8.242.400.11 ENUMERATION: An applicant or a re-determining recipient must have a social security number. Refer to 8.200.410.10 NMAC.

[8.242.400.11 NMAC - Rp, 8.242.400.11 NMAC, 1-1-14]

8.242.400.12 CITIZENSHIP: Refer to 8.200.410.11 NMAC.

[8.242.400.12 NMAC - Rp, 8.242.400.12 NMAC, 1-1-14]

8.242.400.13 RESIDENCE: An individual must be either be physically present in New Mexico on the date of his or her application or re-determination or on the eligibility determination date and intend to remain in the state. A temporary absence from the state does not preclude eligibility. A temporary absence is considered to exist when the eligible recipient leaves the state for a specific purpose with a time-limited goal, after accomplishment of which the eligible recipient intends to return to New Mexico. Refer to 8.200.410.12 NMAC.

[8.242.400.13 NMAC - Rp, 8.242.400.13 NMAC, 1-1-14]

8.242.400.14 NONCONCURRENT RECEIPT OF ASSISTANCE: An applicant or re-determining recipient is not eligible for category 050 if he or she is eligible under another medical assistance division (MAD) category of eligibility or if receiving medicaid services from another state.

[8.242.400.14 NMAC - Rp, 8.242.400.14 NMAC, 1-1-14]

8.242.400.15 [RESERVED]

8.242.400.16 AGE: A recipient must be under 65 years of age. When a recipient reaches 65 years of age he or she becomes entitled to free medicare Part A.

[8.242.400.16 NMAC - Rp, 8.242.400.16 NMAC, 1-1-14]

8.242.400.17 RECIPIENT RIGHTS AND RESPONSIBILITIES: It is the responsibility of the applicant or re-determining recipient to provide the required information, documents or undertake the actions necessary for HSD to establish

eligibility. The applicant or re-determining recipient must grant HSD permission to contact other persons, agencies or sources of information which are necessary in the establishment of eligibility. Failure of the applicant or re-determining recipient to provide or take action will result in an HSD action to deny eligibility. Refer to 8.200.430 NMAC.

[8.242.400.17 NMAC - Rp, 8.242.400.17 NMAC, 1-1-14]

8.242.400.18 ASSIGNMENT OF SUPPORT: Assignment of medical support rights is not a factor of eligibility for this category, since medicaid coverage is limited to medicare Part A premium.

[8.242.400.18 NMAC - Rp, 8.242.400.18 NMAC, 1-1-14]

8.242.400.19 R E P O R T I N G REQUIREMENTS: An applicant, re-determining, or eligible recipient must report any change in his or her circumstances which can affect his or her eligibility within 10 calendar days after the change to his or her local income support division (ISD) office. Refer to 8.200.430.19 NMAC.

[8.242.400.19 NMAC - Rp, 8.242.400.19 NMAC, 1-1-14]

HISTORY OF 8.242.400 NMAC:

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

MAD Rule 842.00, Qualified Disabled Working Individuals, filed 10-11-90.

MAD Rule 842, Qualified Disabled Working Individuals, filed 6-30-92.

MAD Rule 842, Qualified Disabled Working Individuals, filed 9-26-94.

History of Repealed Material:

MAD Rule 842, Qualified Disabled Working Individuals, filed 9-26-94 - Repealed effective 2-1-95.

8.242.400 NMAC, Recipient Requirements, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 242 M E D I C A L ASSISTANCE PROGRAM ELIGIBILITY - QUALIFIED DISABLED INDIVIDUALS WHOSE INCOME EXCEEDS QMB AND SLIMB PART 500 INCOME AND RESOURCE STANDARDS

8.242.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.242.500.1 NMAC - Rp, 8.242.500.1

NMAC, 1-1-14]

8.242.500.2 SCOPE: The rule applies to the general public.
[8.242.500.2 NMAC - Rp, 8.242.500.2 NMAC, 1-1-14]

8.242.500.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.242.500.3 NMAC - Rp, 8.242.500.3 NMAC, 1-1-14]

8.242.500.4 D U R A T I O N : Permanent.
[8.242.500.4 NMAC - Rp, 8.242.500.4 NMAC, 1-1-14]

8.242.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.242.500.5 NMAC - Rp, 8.242.500.5 NMAC, 1-1-14]

8.242.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining medical assistance eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.242.500.6 NMAC - Rp, 8.242.500.6 NMAC, 1-1-14]

8.242.500.7 D E F I N I T I O N S : [RESERVED]

8.242.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.242.500.8 NMAC - N, 1-1-14]

8.242.500.9 N E E D D E T E R M I N A T I O N : An applicant or a re-determining recipient for MAD eligibility Category 050 qualified disabled individuals (QD) must apply for and take all necessary actions to obtain any resources to which he or she may be entitled. See 8.215.500 NMAC.
[8.242.500.9 NMAC - Rp, 8.242.500.9 NMAC, 1-1-14]

8.242.500.10 R E S O U R C E S T A N D A R D S : The total value of an applicant or a re-determining recipient's countable resources must not exceed \$4,000. The resource limit for an applicant or re-determining recipient couple is \$6,000. An applicant or a re-determining recipient with an ineligible spouse is eligible if the couple's countable resources do not exceed \$6,000 at the time resources are deemed. The resource determination is always made as of the first moment of the first day of the month. An applicant or a re-determining recipient is ineligible for any month in which countable resources exceed the current resource standard as of the first moment of the first day of the month. Changes in the value of countable resources during a month do not affect eligibility for that month.
[8.242.500.10 NMAC - Rp, 8.242.500.10 NMAC, 1-1-14]

8.242.500.11 R E S O U R C E T R A N S F E R S : The social security administration (SSA) excluded transfer of resources as a factor of eligibility for a non-institutionalized recipient who receives supplemental security income (SSI) benefits. Transfer of resources is not a factor for consideration in categories that use SSI methodology in the eligibility determination.
[8.242.500.11 NMAC - Rp, 8.242.500.11 NMAC, 1-1-14]

8.242.500.12 I N C O M E S T A N D A R D S : The income ceiling for QD eligibility is 200 percent of the federal income poverty (FPL) guidelines. These guidelines are updated annually effective April 1. See 8.200.520 NMAC and 8.215.500 NMAC.
[8.242.500.12 NMAC - Rp, 8.242.500.12 NMAC, 1-1-14]

8.242.500.13 U N E A R N E D I N C O M E : Unearned income exclusions: All social security and railroad retirement beneficiaries receive cost of living adjustments (COLAs) in January of each year. The income support specialist (ISS) must disregard the COLA from January through March when determining or re-determining QD eligibility. For re-determinations made in January, February and March or new QD applications registered in January, February or March, the ISS uses the December social security and railroad retirement benefit amounts. For QD applications registered from April through December, total gross income including the new COLA figures are used to determine income and compared to the new April FPL. This exclusion does not apply to other types of income.
[8.242.500.13 NMAC - Rp, 8.242.500.13 NMAC, 1-1-14]

8.242.500.14 D E E M E D I N C O M E : If an applicant or a re-determining recipient

is married and lives with a spouse, deemed income from the spouse must be considered. See 8.215.500 NMAC.

[8.242.500.14 NMAC - Rp, 8.242.500.14 NMAC, 1-1-14]

HISTORY OF 8.242.500 NMAC:

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

MAD Rule 842.00, Qualified Disabled Working Individuals, filed 10-11-90.

MAD Rule 842, Qualified Disabled Working Individuals, filed 6-30-92.

MAD Rule 842, Qualified Disabled Working Individuals, filed 9-26-94.

History of Repealed Material:

MAD Rule 842, Qualified Disabled Working Individuals, filed 9-26-94 - Repealed effective 2-1-95.

8.242.500 NMAC, Income and Resource Standards, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 242 M E D I C A L ASSISTANCE PROGRAM ELIGIBILITY - QUALIFIED DISABLED INDIVIDUALS WHOSE INCOME EXCEEDS QMB AND SLIMB PART 600 B E N E F I T DESCRIPTION

8.242.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.242.600.1 NMAC - Rp, 8.242.600.1 NMAC, 1-1-14]

8.242.600.2 SCOPE: The rule applies to the general public.
[8.242.600.2 NMAC - Rp, 8.242.600.2 NMAC, 1-1-14]

8.242.600.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.242.600.3 NMAC - Rp, 8.242.600.3 NMAC, 1-1-14]

8.242.600.4 D U R A T I O N : Permanent.
[8.242.600.4 NMAC - Rp, 8.242.600.4

NMAC, 1-1-14]

8.242.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.242.600.5 NMAC - Rp, 8.242.600.5 NMAC, 1-1-14]

8.242.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.242.600.6 NMAC - Rp, 8.242.600.6 NMAC, 1-1-14]

8.242.600.7 DEFINITIONS:
[RESERVED]

8.242.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.242.600.8 NMAC - N, 1-1-14]

8.242.600.9 BENEFIT DESCRIPTION: For Category 050, medicaid coverage is limited to payment of the medicare Part A premium. No medicaid card is issued.
[8.242.600.9 NMAC - Rp, 8.242.600.9 NMAC, 1-1-14]

8.242.600.10 BENEFIT DETERMINATION: Application for Category 050 is made on the assistance application form. Applications must be acted on and notice of action taken must be sent to the applicant within 45 days of receipt of the application.
[8.242.600.10 NMAC - Rp, 8.242.600.10 NMAC, 1-1-14]

8.242.600.11 INITIAL BENEFITS: The effective date of eligibility for QD is based on the date of application and the date on which all eligibility criteria, including enrollment for medicare Part A, are met. Verification of the effective date of medicare Part A enrollment must be obtained from the social security administration (SSA). When the eligibility determination is made, notice of the approval or denial is sent to the applicant. If denied, this notice includes the reason for the denial and an explanation of rights to a hearing.
[8.242.600.11 NMAC - Rp, 8.242.600.11

NMAC, 1-1-14]

8.242.600.12 ONGOING BENEFITS: A redetermination of eligibility must be made every 12 months.
[8.242.600.12 NMAC - Rp, 8.242.600.12 NMAC, 1-1-14]

8.242.600.13 RETROACTIVE SSI BENEFIT COVERAGE: Up to three months of retroactive medicaid coverage can be furnished to applicants who have received medicaid covered services during the retroactive period and who would have met applicable eligibility criteria had they applied during the three months prior to the month of application [42 CFR Section 435.914].

A. Application for retroactive benefit coverage: Application for retroactive medicaid can be made by checking "yes" in the "application for retroactive medicaid payments" box on the application or re-determination of eligibility for medical assistance (MAD 381) form or by checking "yes" to the question "does anyone in your household have unpaid medical expenses in the last three months?" on the application for assistance (ISD 100 S) form. Applications for retroactive supplemental security income (SSI) medicaid benefits for recipients of SSI must be made by 180 days from the date of approval for SSI. Medicaid covered services which were furnished more than two years prior to approval are not covered.

B. Approval requirements: To establish retroactive eligibility, the income support specialist (ISS) must verify that all conditions of eligibility were met for each of the three retroactive months and that the applicant received medicaid covered services. Eligibility for each month is approved or denied on its own merits.

(1) Applicable benefit rate: The federal benefit rate (FBR) in effect during the retroactive months based on the applicant's living arrangements is applicable for retroactive medicaid eligibility determinations. See 8.200.520 NMAC. If the applicant's countable income in a given month exceeds the applicable FBR, the applicant is not eligible for retroactive medicaid for that month. If the countable income is less than the FBR, the applicant is eligible on the factor of income for that month. A separate determination must be made for each of the three months in the retroactive period.

(2) Disability determination required: If a determination is needed of the date of onset of blindness or disability, the ISS must send a referral for disability determination services (ISD 305) to the disability determination unit.

C. Notice:

(1) Notice to applicant: The applicant must be informed if eligibility in any of the retroactive months is denied.

(2) Recipient responsibility to notify provider: After the retroactive eligibility has been established, the ISS must notify the eligible recipient that he or she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the eligible recipient fails to inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the eligible recipient is responsible for payment of the bill.
[8.242.600.13 NMAC - Rp, 8.242.600.13 NMAC, 1-1-14]

8.242.600.14 CHANGES IN ELIGIBILITY: The case is closed when an eligible recipient becomes ineligible and is notified of the ineligibility in an advance notice. The case is closed in the month following the death of an eligible recipient.
[8.242.600.14 NMAC - Rp, 8.242.600.14 NMAC, 1-1-14]

HISTORY OF 8.242.600 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: MAD Rule 842.00, Qualified Disabled Working Individuals, filed 10-11-90. MAD Rule 842, Qualified Disabled Working Individuals, filed 6-30-92. MAD Rule 842, Qualified Disabled Working Individuals, filed 9-26-94.

History of Repealed Material:
MAD Rule 842, Qualified Disabled Working Individuals, filed 9-26-94 - Repealed effective 2-1-95.
8.242.600 NMAC, Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 249 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - REFUGEE MEDICAL ASSISTANCE (RMA) PROGRAM PART 400 RECIPIENT REQUIREMENTS

8.249.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.249.400.1 NMAC - Rp, 8.249.400.1 NMAC, 1-1-14]

8.249.400.2 SCOPE: The rule

applies to the general public.

[8.249.400.2 NMAC - Rp, 8.249.400.2 NMAC, 1-1-14]

8.249.400.3 STATUTORY

AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.249.400.3 NMAC - Rp, 8.249.400.3 NMAC, 1-1-14]

8.249.400.4 DURATION:

Permanent.

[8.249.400.4 NMAC - Rp, 8.249.400.4 NMAC, 1-1-14]

8.249.400.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.249.400.5 NMAC - Rp, 8.249.400.5 NMAC, 1-1-14]

8.249.400.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual 8.200 NMAC, *Medicaid Eligibility - General Recipients Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions policy manual 8.100 NMAC, *General Provisions for Public Assistance Programs*. Refugee medical assistance (RMA): The RMA offers health coverage for a refugee within the first eight months from his or her date of entry to the United States (U.S.) when he or she does not qualify for other medicaid eligibility categories. An RMA eligible refugee has access to a benefit package that parallels the full medicaid services. This program is not funded by medicaid; funds are provided through a grant under Title IV of the Immigration and Nationality Act. The purpose of this grant is to provide for the effective resettlement of a refugee and to assist him or her to achieve economic self-sufficiency as quickly as possible.

[8.249.400.6 NMAC - Rp, 8.249.400.6 NMAC, 1-1-14]

8.249.400.7 DEFINITIONS:

“Refugee” is an immigrant, who because of persecution or fear of persecution on account of race, religion or political opinion, fled from his or her home country and cannot return because of fear of persecution because of race, religion or political opinion.

[8.249.400.7 NMAC - N, 1-1-14]

8.249.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.249.400.8 NMAC - N, 1-1-14]

8.249.400.9 REFUGEE MEDICAL ASSISTANCE ONLY - CATEGORY 049 AND 059:

A. A medicaid eligible refugee recipient must meet the following non-financial eligibility requirements:

(1) is ineligible for full medicaid coverage;

(2) is not a full-time student in an institution of higher education, except where enrollment is part of an individual employability plan for a refugee enrolled in the refugee cash assistance program;

(3) is in the U.S. fewer than eight months and meets one of the following statuses:

(a) is admitted as a refugee under Section 207 of the Immigration and Nationality Act;

(b) is paroled into the U.S. as a refugee or asylee under Section 212 (d)(5) of the Immigration and Nationality Act;

(c) is granted asylum under Section 208 of the Immigration and Nationality Act;

(d) is admitted as an Amerasian immigrant from Vietnam through the orderly departure program, under Section 584 of the Foreign Operations Appropriations Act, incorporated in the fiscal year 1988 Continuing Resolution P.L. 100-212;

(e) is a Cuban-Haitian entrant who was admitted as a public interest parolee under Section 212 (d)(5) of the Immigration and Nationality Act;

(f) is certified as a victim of human trafficking by the federal office of refugee resettlement (ORR);

(g) is an eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 Visa;

(h) is admitted as a special immigrant from Iraq or Afghanistan under Section 101 (a)(27) of the Immigration and Nationality Act; or

(i) is a lawful permanent resident (LPR) when the individual had previously met a status as listed in Subparagraphs (a) through (h) above;

(4) an individual who meets the following eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC of citizenship or alien status, enumeration, residence, non-concurrent receipt of assistance and applications for other benefits;

(5) appropriate to the size of the budget group (not including the ineligible parent due to citizenship or alien status or enumeration), countable gross income must be less than 185 percent of the standard of need (SON) countable net income must be

less than the SON pursuant to 8.200.520 NMAC and 8.202.500 NMAC; and

(6) an applicant or an eligible recipient may have other creditable health insurance coverage.

B. An eligible recipient may have other creditable health insurance coverage. If the eligible recipient has other creditable health insurance coverage, RMA is the second payor.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.

[8.249.400.9 NMAC - Rp, 8.249.400.9 NMAC, 1-1-14]

8.249.400.10 BASIS FOR DEFINING GROUP:

At the time of application, an applicant or an eligible recipient and HSD shall identify everyone who is to be considered for inclusion in the assistance unit and budget group. Each member of the assistance unit and budget group, including each unborn child, is counted as one in the household size.

[8.249.400.10 NMAC - Rp, 8.249.400.10 NMAC, 1-1-14]

8.249.400.11 [RESERVED]

8.249.400.12 ENUMERATION:

Refer to 8.200.410.10 NMAC.

[8.249.400.12 NMAC - Rp, 8.249.400.12 NMAC, 1-1-14]

8.249.400.13 CITIZENSHIP:

Refer to 8.200.410.11 NMAC.

[8.249.400.13 NMAC - Rp, 8.249.400.13 NMAC, 1-1-14]

8.249.400.14 RESIDENCE:

Refer to 8.200.410.12 NMAC.

[8.249.400.14 NMAC - Rp, 8.249.400.14 NMAC, 1-1-14]

8.249.400.15 [RESERVED]

8.249.400.16 [RESERVED]

8.249.400.17 AGE:

Age is not an eligibility requirement.

[8.249.400.17 NMAC - Rp, 8.249.400.17 NMAC, 1-1-14]

8.249.400.18 ALIEN

SPONSORSHIP: The income support division (ISD) caseworker must notify the refugee’s sponsor or local affiliate which provided for the resettlement of the refugee, when a refugee applies for refugee medical assistance.

[8.249.400.18 NMAC - Rp, 8.249.400.18 NMAC, 1-1-14]

8.249.400.19 RECIPIENT RIGHTS AND RESPONSIBILITIES:

Refer to 8.200.430 NMAC.

[8.249.400.19 NMAC - Rp, 8.249.400.19 NMAC, 1-1-14]

8.249.400.20 ASSIGNMENT OF SUPPORT:

A. **Assignment of medical support:** Refer to 8.200.420.12 NMAC.

B. **Assignments of child support:** Assignment of child support is not required for refugee medical assistance.

[8.249.400.20 NMAC - Rp, 8.249.400.20 NMAC, 1-1-14]

8.249.400.21 REPORTING REQUIREMENTS: Refer to 8.200.430.19 NMAC.

[8.249.400.21 NMAC - Rp, 8.249.400.21 NMAC, 1-1-14]

8.249.400.22 ELIGIBLE ASSISTANCE UNIT: The assistance unit includes individuals who apply for RMA and who are determined eligible. Individuals may be ineligible for refugee cash assistance and eligible for RMA. An eligible recipient of refugee cash assistance who is not eligible for full medicaid services is eligible for RMA.

[8.249.400.22 NMAC - N, 1-1-14]

8.249.400.23 BUDGET GROUP: The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for an supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(1) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and

(2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) an SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or a conservator of a child;

(6) an alien sponsor to the assistance unit; and

(7) a sibling to a sibling.

C. Budget group earned income disregards and child care deductions

vary based on the age group of the child. Refer to 8.232.500 NMAC.

[8.249.400.23 NMAC - N, 1-1-14]

8.249.400.24 LIVING IN THE HOME

A. To be included in the assistance unit and budget group, an individual must be living, or considered to be living, in the budget group's home.

B. **A child considered to be living in the home:** A child is considered to be part of the budget group as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

(1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; or

(2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. **Extended living in the home:** An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

(1) Extended living in the home includes:

(a) when an individual is attending college or boarding school; or

(b) when an individual is receiving treatment in a Title XIX medicaid facility, including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated; until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. **Temporary absence such as extended living in the home:** An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

(1) an individual not living in the home due to an emergency, who is expected to return to the household within 60 calendar days, continues to be a member of the household;

(2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory

hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or

(3) a child residing in a detention center:

(a) continues to be a member of the household if he or she resides fewer than 60 calendar days, regardless of adjudication as an inmate of a public institution; or

(b) is not eligible for medicaid enrollment if he or she resides 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

[8.249.400.13 NMAC - N, 1-1-14]

HISTORY OF 8.249.400 NMAC:

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

MAD Rule 822, Refugee Medical Assistance, filed 5-22-92.

History of Repealed Material:

MAD Rule 822 Refugee Medical Assistance, filed 5-22-92 - Repealed effective 2-1-95.

8.249.400 NMAC Recipient Policies, filed 9-3-13 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 249 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - REFUGEE MEDICAL ASSISTANCE (RMA) PROGRAM PART 500 INCOME AND RESOURCE STANDARDS

8.249.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.249.500.1 NMAC - Rp, 8.249.500.1 NMAC, 1-1-14]

8.249.500.2 SCOPE: The rule applies to the general public.

[8.249.500.2 NMAC - Rp, 8.249.500.2 NMAC, 1-1-14]

8.249.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.249.500.3 NMAC - Rp, 8.249.500.3 NMAC, 1-1-14]

8.249.500.4 DURATION: Permanent.

[8.249.500.4 NMAC - Rp, 8.249.500.4 NMAC, 1-1-14]

8.249.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.249.500.5 NMAC - Rp, 8.249.500.5 NMAC, 1-1-14]

8.249.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.249.500.6 NMAC - Rp, 8.249.500.6 NMAC, 1-1-14]

8.249.500.7 DEFINITIONS: [RESERVED]

8.249.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.249.500.8 NMAC - N, 1-1-14]

8.249.500.9 N E E D DETERMINATION:

A. Financial need: The budget group's eligibility is based on financial need. See Section 1931 of the Social Security Act, the rules in this chapter and in 8.200.520 NMAC.

B. Financial eligibility: Pursuant to Section 1931 of the Social Security Act, enacted by Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a new medicaid financial eligibility standard was created. Refugee medical assistance (RMA) uses this same standard.

(1) Income eligibility criteria: The income eligibility criteria for Category 049 are based on New Mexico's aid to families with dependent children (AFDC) program as of July 16, 1996. This is defined as the standard of need (SON) used in AFDC as of July 16, 1996. A refugee can be eligible for Category 059 if income would be below AFDC after deducting medical expenses incurred and paid in that month. Eligibility for Category 059 is determined on a month-to-month basis.

(2) Less restrictive income and resource methodology: Pursuant to Section 1931 of the Social Security Act, as a state option, New Mexico may use income and

resource eligibility methodologies that are less restrictive than the AFDC methodologies used as of July 16, 1996. This chapter defines less restrictive methodologies to be used by New Mexico for resources, countable and excluded earned or unearned income, available or unavailable income and income deductions or disregards.

C. Gross and net income tests: Determining financial need is a two-step process. When the countable gross or net income is exactly equal to the income eligibility standards, eligibility does not exist.

(1) Gross income test: The first step is determining the countable gross income of the budget group. Gross income includes all countable income before taking into account taxes or deductions. Only self employment deductions are allowed in the gross income test. The calculated gross income must be less than 185 percent of the SON. If the budget group's income is more than 185 percent of the SON, the assistance unit is not eligible.

(2) Net income test: The second step is determining the countable net income of the budget group. From the countable gross income in step one, deduct all allowable work related expenses (WRE) and unearned income deductions/disregards. The countable net income must be less than the SON appropriate to the budget group size. If the budget group's income is more than the SON, the assistance unit is not eligible.

[8.249.500.9 NMAC - Rp, 8.249.500.9 NMAC, 1-1-14]

8.249.500.10 RESOURCE STANDARDS: Resources are not an eligibility factor.

[8.249.500.10 NMAC - Rp, 8.249.500.10 NMAC, 1-1-14]

8.249.500.11 INCOME STANDARDS: Refer to 8.249.500.9 NMAC.

[8.249.500.11 NMAC - Rp, 8.249.500.11 NMAC, 1-1-14]

8.249.500.12 INCOME ELIGIBILITY: Income consists of money received by a person whose income is considered available to the budget group as described in this chapter.

A. Income from a 30 day-period is used to determine eligibility. The 30-day period may be any consecutive 30-day period that is prior to the date of the application through the date of timely disposition. The applicant and the caseworker must agree on the 30-day period. Income from a terminated source is not counted.

B. Income received less frequently than monthly: If an amount of

gross income is received less frequently than monthly, that amount is converted to a monthly amount to determine financial eligibility. The conversion is obtained by dividing the total income by the number of months the income is intended to cover. For the purposes of this calculation, a partial month is considered to be one full month. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not have a contract.

C. Use of conversion factors: Whenever a full month's income is received on a weekly or biweekly basis, the income is converted to a monthly amount. Income is rounded down to the nearest whole dollar prior to application of the conversion factor. Weekly income is multiplied by four and biweekly income is multiplied by two.

[8.249.500.12 NMAC - N, 1-1-14]

8.249.500.13 AVAILABLE INCOME:

A. Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined using allowable income exemptions, deductions and disregards. The income of a budget group member who is not included in the assistance unit is deemed available to the assistance unit.

B. Available income includes:

(1) income received by the budget group;

(2) income received by someone not included in the budget group for someone included in the budget group and which is available to the budget group;

(3) income that is withheld as a result of a garnishment or wage withholding; and

(4) income withheld by a source at the request of a budget group member.

[8.249.500.13 NMAC - N, 1-1-14]

8.249.500.14 UNAVAILABLE INCOME:

A. Individuals included in the budget group may have a legal right to income but not access to it; such income is not counted as available income:

(1) old age, survivors, and disability insurance (OASDI);

(2) railroad retirement benefits (RRB);

(3) veterans administration (VA) benefits:

(a) income available to veterans and their dependents from the VA as compensation for service-connected disability;

(b) pension for non-service

connected disability;
 (c) dependency and indemnity compensation; and
 (d) death benefits paid from a government issue (GI) life insurance;
 (4) unemployment compensation benefits (UCB);
 (5) military allotments;
 (6) worker's compensation;
 (7) pension, annuity, and retirement benefits;
 (8) union benefits;
 (9) lodge or fraternal benefits;
 (10) real property income that is not earned income;
 (11) shared shelter and utility payments when the budget group shares shelter with others:
 (a) payments which exceed the budget group's cost are considered income;
 (b) payments which are less than the budget group's cost are not considered; these are the others' share of the shelter cost and are treated as pass-through payments;
 (12) income from the sale of goods or property which are obtained in finished condition;
 (13) child support payments received directly by the budget group and retained for its use;
 (14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;
 (15) individual Indian monies (IIM) payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe;
 (16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments; and
 (17) income that is not listed as available in this chapter where the budget group cannot gain access to the income; this includes wages withheld by an employer that refuses to pay.
 B. Individuals may receive payment of funds "passed through" the individual for the benefit of someone other than themselves. Such pass through payments are not considered available.
 C. A recipient of supplemental security income (SSI) is not part of the budget group. His other income is not considered available to the budget group.
 D. Alien sponsor deeming is not applicable pursuant to 8.200.410 NMAC.
 [8.249.500.14 NMAC - N, 1-1-14]

8.249.500.15 EARNED INCOME: Includes all wages, salaries, tips, and other employee pay from employment and net earnings from self-employment.
 [8.249.500.15 NMAC - N, 1-1-14]

8.249.500.16 EARNED INCOME DEDUCTIONS/DISREGARDS:

A. Self employment: Certain self-employment deductions allowed by the federal internal revenue service (IRS) are allowed in the net and gross income test.
 (1) Self-employment income will be annualized for income projection purposes. If the IRS Form 1040 has been filed, the previous year's tax return is used to anticipate future income, if no significant changes in circumstances have occurred. An alternative method of income anticipation should be used when the amount of self employment income reported on tax returns would no longer be a good indicator of expected income, i.e., loss of cattle or crops due to disease.
 (2) If tax returns are used for annualized projected income, self-employment expenses listed on the return are allowable except:
 (a) the mileage allowance is the New Mexico department of finance and administration (DFA) rate as detailed in 2.42.2 NMAC unless proof that the actual expense is greater; and
 (b) no deduction is allowed for rent or purchase of the place of business if the individual operates the business out of his or her residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines.
 (3) The following deductions are not allowed:
 (a) depreciation;
 (b) personal business and entertainment expenses;
 (c) personal transportation to and from work;
 (d) purchase of capital equipment; and
 (e) payments on the principal of loans for capital assets or durable goods.
 B. WRE income disregards: The WRE disregard of \$120 and one third of the remaining balance is disregarded from earned income during the net income test.
 C. Child care expenses:
 (1) To be eligible for a child care deduction, the child receiving the care must be:
 (a) a dependent of the employed person;
 (b) younger than 13; and
 (c) included in the budget group.
 (2) Standards: Actual costs of child care, not to exceed the applicable limits set forth below are deducted from earnings. The amount to be deducted depends upon whether the person is employed full or part-time and the age of the child. Full-time employment is considered to be 30 hours or more of employment per week; part time is any employment of less than 30 hours per week.

(a) up to \$200 per month per child if the person is employed full-time and the child is under age two;
 (b) up to \$100 per month per child if the person is employed part-time and the child is under age two;
 (c) up to \$175 per month per child if the person is employed full-time and the child's age is two through 12; and
 (d) up to \$87.50 per month per child if the person is employed part-time and the child's age is two through 12.
 (3) Third party child care payments: Child care costs paid by third parties directly to the child care provider cannot be used as child care deductions. Such payments are classified as vendor payments and are not counted as income. If such payments do not meet the full cost of child care, the difference between the deduction and the vendor payment is the amount allowed, up to the stated child care deductions in Paragraph (2) of this subsection. If the third party child care payments are made to the budget group, the payments would be treated as pass through payments and not counted.
 [8.249.500.16 NMAC - N, 1-1-14]

8.249.500.17 UNEARNED INCOME: Unearned income includes benefits, pensions, etc.

A. The following types of unearned income are counted:
 (1) old age, survivors, and disability insurance (OASDI);
 (2) railroad retirement benefits (RRB);
 (3) veterans administration (VA) benefits:
 (a) income available to veterans and their dependents from the VA as compensation for service-connected disability;
 (b) pension for non-service connected disability;
 (c) dependency and indemnity compensation; and
 (d) death benefits paid from a government issue (GI) life insurance;
 (4) unemployment compensation benefits (UCB);
 (5) military allotments;
 (6) worker's compensation;
 (7) pension, annuity, and retirement benefits;
 (8) union benefits;
 (9) lodge or fraternal benefits;
 (10) real property income that is not earned income;
 (11) shared shelter and utility payments when the budget group shares shelter with others:
 (a) payments which exceed the budget group's cost are considered income;
 (b) payments which are less than the budget group's cost are not considered; these are the others' share of the shelter cost

and are treated as pass-through payments;

(12) income from the sale of goods or property which are obtained in finished condition;

(13) child support payments received directly by the budget group and retained for its use;

(14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;

(15) individual Indian monies (IIM) payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe; and

(16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments.

B. The following types of unearned income are not considered in determining eligibility:

(1) cash assistance from HSD or a tribal entity;

(2) supplemental nutritional assistance program (SNAP);

(3) low income home energy assistance program (LIHEAP);

(4) foster care or adoption subsidy;

(5) supplemental security income (SSI);

(6) Child Nutrition and National School Lunch Act;

(7) nutrition programs for the elderly, including meals on wheels and lunches at senior citizen's centers;

(8) bona fide loans from private individuals and commercial institutions as well as loans for the purpose of educational assistance;

(9) work study funds paid by an educational institution, when the purpose is to assist with educational expenses, regardless of the actual use of the funds;

(10) domestic volunteers compensation or any other payments made to or on behalf of volunteers under the Domestic Volunteers Services Act of 1973 including:

(a) volunteers in service to America (VISTA);

(b) university year for action (UYA);

(c) special volunteer programs (SVP);

(d) retired senior volunteer program (RSVP);

(e) foster grandparents program (FGP);

(f) older American community service program (OACSP);

(g) service corps of retired executives (SCORE); and

(h) active corps of executives (ACE);

(11) state and federal income tax returns;

(12) American Indian payments including:

(a) per capita payments distribution of tribal funds to an Indian tribe member by the tribe or by the secretary of the United States department of the interior;

(b) interest derived from retained per capita payments (if kept separately identifiable); and

(c) tribal land claims payments settled by means of case payments;

(13) Job Training Partnership Act of 1982 (JTPA) payments made to dependent children;

(14) Title II Uniform Relocation Assistance and Real Property Acquisition Act of 1970 payments;

(15) supportive service payments made for reimbursement of transportation, child care, or training related expenses under NMW work programs, tribal work programs, and other employment assistance programs;

(16) division of vocational rehabilitation (DVR) training payments made by the for training expenses;

(17) gifts, donations or contribution from other agencies which are intended to meet needs not covered as a benefit; to be exempt, the payment must:

(a) be paid under the auspices of an organization or non-profit entity; and

(b) be for a specific identified purpose, to supplement not duplicate covered benefits for the intended beneficiary of the donation/contribution;

(18) educational loans and grants intended for educational expenses; regardless of actual utilization of the funds;

(19) agent orange settlement fund payments or any fund established pursuant to the agent orange product liability litigation settlement;

(20) radiation exposure compensation settlement fund payments;

(21) Nazi victim payments made to individuals per P.L. 103-286, August 1, 1994; and

(22) vendor payments made on behalf of a budget group member when an individual or organization outside the budget group uses its own funds to make a direct payment to a budget group's service provider.

[8.249.500.17 NMAC - N, 1-1-14]

HISTORY OF 8.249.500 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: MAD Rule 822, Refugee Medical Assistance, filed 5-22-92.

History of Repealed Material:
 MAD Rule 822 Refugee Medical Assistance, filed 5-22-92 - Repealed effective 2-1-95.
 8.249.500 NMAC, Income and Resource Standards, filed 3-25-10 - Repealed effective

1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

**TITLE 8 SOCIAL SERVICES
 CHAPTER 249 MEDICAL ASSISTANCE PROGRAM
 ELIGIBILITY - REFUGEE MEDICAL ASSISTANCE (RMA) PROGRAM
 PART 600 BENEFIT DESCRIPTION**

8.249.600.1 ISSUING AGENCY:
 New Mexico Human Services Department (HSD).
 [8.249.600.1 NMAC - Rp, 8.249.600.1 NMAC, 1-1-14]

8.249.600.2 SCOPE: The rule applies to the general public.
 [8.249.600.2 NMAC - Rp, 8.249.600.2 NMAC, 1-1-14]

8.249.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
 [8.249.600.3 NMAC - Rp, 8.249.600.3 NMAC, 1-1-14]

8.249.600.4 DURATION: Permanent.
 [8.249.600.4 NMAC - Rp, 8.249.600.4 NMAC, 1-1-14]

8.249.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
 [8.249.600.5 NMAC - Rp, 8.249.600.5 NMAC, 1-1-14]

8.249.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
 [8.249.600.6 NMAC - Rp, 8.249.600.6 NMAC, 1-1-14]

8.249.600.7 DEFINITIONS:

[RESERVED]

8.249.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.249.600.8 NMAC - N, 1-1-14]

8.249.600.9 B E N E F I T DESCRIPTION: Refugee medical assistance (RMA) offers health coverage for refugees within the first eight months from their date of entry to the United States, when they do not qualify for medicaid. RMA eligible refugees have access to a benefit package that parallels the full coverage medicaid benefit package. This program is not funded by medicaid. RMA is funded through a grant under Title IV of the Immigration and Nationality Act. The purpose of this grant is to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible. Refer to 8.100.100 NMAC.
[8.249.600.9 NMAC - Rp, 8.249.600.9 NMAC, 1-1-14]

8.249.600.10 B E N E F I T DETERMINATION: Application for refugee medical assistance is made on the assistance application form. The application is acted on and notice of the action sent to the applicant within 45 days of the date of application.
[8.249.600.10 NMAC - Rp, 8.249.600.10 NMAC, 1-1-14]

8.249.600.11 INITIAL BENEFITS:
A. **Approval or denial of application:** After the eligibility determination is made, the income support specialist (ISS) sends notice to the applicant or applicant group. The denial notice contains information on the reason for the denial and explanation of appeal rights to the applicant(s).

B. **Date of eligibility:** Eligibility starts with the first day of the month of application after all eligibility requirements are met. The eight-month period begins with the month the refugee enters the United States, as documented by the INS (form I-94). For cases involving children born in the United States, the child's eligibility period expires when the refugee parent who arrived last in the United States has been in this country for eight months.
[8.249.600.11 NMAC - Rp, 8.249.600.11 NMAC, 1-1-14]

8.249.600.12 O N G O I N G BENEFITS: No periodic review is required, since coverage is limited to a maximum of eight months from the date of entry into the United States.

[8.249.600.12 NMAC - Rp, 8.249.600.12 NMAC, 1-1-14]

8.249.600.13 R E T R O A C T I V E BENEFIT COVERAGE: Up to three months of retroactive medical assistance coverage can be furnished to applicants who have received medicaid-covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three months prior to the month of application [42 CFR Section 435.914].

A. **Application for retroactive benefit coverage:** Application for retroactive medical assistance can be made by checking "yes" in the "application for retroactive medicaid payments" box on the application/redetermination of eligibility for medicaid assistance (MAD 381) form or by checking "yes" to the question "does anyone in your household have unpaid medical expenses in the last three months?" on the application for assistance (ISD 100 S) form. Applications for retroactive medical assistance benefits must be made by 180 days from the date of application for assistance. Covered services which were furnished more than two years prior to application are not payable.

B. **A p p r o v a l requirements:** To establish retroactive eligibility, the ISS must verify that all conditions of eligibility were met for each of the three retroactive months and that the applicant received medicaid covered services. Each month must be approved or denied on its own merits. Retroactive eligibility can be approved on either the eligibility system or on the retroactive medicaid eligibility authorization (MAD 333) form.

C. **Notice:**
(1) Notice to applicant: The applicant must be informed if eligibility in any of the retroactive months is denied.

(2) Recipient responsibility to notify provider: After the retroactive eligibility has been established, the ISS must notify the recipient that he or she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient does not inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the recipient is responsible for payment of the bill.
[8.249.600.13 NMAC - Rp, 8.249.600.13 NMAC, 1-1-14]

[8.249.600.13 NMAC - Rp, 8.249.600.13 NMAC, 1-1-14]

8.249.600.14 CASE CLOSURES: Cases are closed when refugee medical assistance recipients no longer meet eligibility standards or after the eight month

eligibility period expires, whichever comes first.

[8.249.600.14 NMAC - Rp, 8.249.600.14 NMAC, 1-1-14]

8.249.600.15 C H A N G E S AND REDETERMINATIONS OF ELIGIBILITY:

A. A re-determination of eligibility is not required.

B. Changes in income are not reportable. Reported income changes are not acted upon.

C. A refugee who received medicaid for seven or fewer months during the RMA period is eligible for RMA for any remaining months in the eight-month RMA period. Eligibility for RMA is determined without a new eligibility determination or application.

D. Residence changes must be reported within 10 days after the change for individuals placed in a public institution or those individuals moving out of New Mexico. Refer to 8.200.450 NMAC.

[8.249.600.15 NMAC - N, 1-1-14]

HISTORY OF 8.249.600 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: MAD Rule 822, Refugee Medical Assistance, filed 5-22-92.

History of Repealed Material:

MAD Rule 822, Refugee Medical Assistance, filed 5-22-92 - Repealed effective 2-1-95.
8.249.600 NMAC, Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 250 M E D I C A L ASSISTANCE PROGRAM
ELIGIBILITY - QUALIFIED DISABLED INDIVIDUALS
PART 400 R E C I P I E N T POLICIES**

8.250.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.250.400.1 NMAC - Rp, 8.250.400.1 NMAC, 1-1-14]

8.250.400.2 SCOPE: The rule applies to the general public.
[8.250.400.2 NMAC - Rp, 8.250.400.2 NMAC, 1-1-14]

8.250.400.3 S T A T U T O R Y AUTHORITY: The New Mexico medicaid

program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.250.400.3 NMAC - Rp, 8.250.400.3 NMAC, 1-1-14]

8.250.400.4 D U R A T I O N : Permanent.

[8.250.400.4 NMAC - Rp, 8.250.400.4 NMAC, 1-1-14]

8.250.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.250.400.5 NMAC - Rp, 8.250.400.5 NMAC, 1-1-14]

8.250.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*. [8.250.400.6 NMAC - Rp, 8.250.400.6 NMAC, 1-1-14]

8.250.400.7 DEFINITIONS : [RESERVED]

8.250.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance. [8.250.400.8 NMAC - Rp, 8.250.400.8 NMAC, 1-1-14]

8.250.400.9 QUALIFIED INDIVIDUALS 1 (QIIs) - CATEGORY 042: Medical assistance division (MAD) pays the monthly medicare Part B insurance premium for eligible recipients with income between 120 percent and 135 percent of the federal poverty level (FPL) who are not otherwise eligible for another medical assistance program category of eligibility (QIIs). A QII recipient must be covered by medicare Part A. The Part A insurance is a free entitlement to social security beneficiaries who are 65 years of age or older or who have received social security disability payments for 24 months. Fully or currently insured workers, or their dependents, with end-stage renal disease are also covered under medicare. Eligible recipients will be served on a first come, first

served basis, contingent upon availability of federal funds. Eligibility will be offered to individuals on a yearly basis. After 1998, eligible recipients currently enrolled in the program will get the first opportunity to continue to receive benefits under this program.

[8.250.400.9 NMAC - Rp, 8.250.400.9 NMAC, 1-1-14]

8.250.400.10 BASIS FOR DEFINING THE GROUP: QIIs are individuals who would be qualified medicare beneficiaries (QMB) but for the fact that their income exceeds the income levels established for QMB and specified low income medicare beneficiaries (SLIMB). Income eligibility for the QIIs is at least 120 percent of the FPL, but less than 135 percent. The state of New Mexico (the state) will permit all individuals to apply for assistance during a calendar year beginning 1998. However, because of the capped allotments, the state shall limit the number of participants in QIIs selected in a calendar year so that the aggregate amount of benefits provided to such individuals in the calendar year is estimated not to exceed the state's allocation for the fiscal year ending in that calendar year. The state shall select QIIs on a first-come, first-served basis (in the order in which they apply). For calendar years after 1998, the state shall give preference to individuals who were QIIs, QMBs, SLIMBs, or qualified disabled working individuals (QDWI) in the last month of the previous year and who continue to be or become QIIs.

[8.250.400.10 NMAC - Rp, 8.250.400.10 NMAC, 1-1-14]

8.250.400.11 [RESERVED]

8.250.400.12 ENUMERATION: QII applicants or re-determining recipients must furnish their social security numbers (SSN). QII eligibility shall be denied or terminated for applicants or re-determining recipients who fail to furnish social security numbers.

[8.250.400.12 NMAC - Rp, 8.250.400.12 NMAC, 1-1-14]

8.250.400.13 CITIZENSHIP:

A. Undocumented aliens cannot purchase medicare coverage and, therefore, are not eligible for QII benefits. To be eligible for QII an applicant or re-determining recipient must be one of the following:

- (1) a citizen of the United States; or
- (2) an alien who entered the United States prior to August 22, 1996, as one of the classes of aliens described in 8.200.410 NMAC or an alien who entered the United States as a qualified alien on or after August

22, 1996, and who has met the five year bar listed in 8.200.410 NMAC.

B. Verification of citizenship: Individuals entitled to or receiving medicare already meet citizenship and identity requirements.

[8.250.400.13 NMAC - Rp, 8.250.400.13 NMAC, 1-1-14]

8.250.400.14 RESIDENCE: An individual must physically present in New Mexico on the date of his or her application or re-determination or on the eligibility determination date and intends to remain in the state. If the applicant or re-determining recipient does not have the present mental capacity to declare intent, the parent, guardian, or adult child can assume responsibility for a declaration of intent. If there is no guardian or relative to assume responsibility for a declaration of intent, the state in which the applicant or re-determining recipient is living is recognized as the state of residence. A temporary absence from the state does not preclude eligibility. A temporary absence is considered to exist when the eligible recipient leaves the state for a specific purpose with a time-limited goal, after the accomplishment of which the eligible recipient intends to return to New Mexico. Refer to 8.200.410.12 NMAC.

[8.250.400.14 NMAC - Rp, 8.250.400.14 NMAC, 1-1-14]

8.250.400.15 NONCONCURRENT RECEIPT OF ASSISTANCE: An applicant or re-determining recipient is not eligible for Category 042 if he or she is eligible under another medical assistance category of eligibility or if receiving medicaid services from another state.

[8.250.400.15 NMAC - Rp, 8.250.400.15 NMAC, 1-1-14]

8.250.400.16 SPECIAL RECIPIENT REQUIREMENTS: An applicant or re-determining recipient for QII eligibility must meet the specified age or disability requirements to be eligible for medicare Part A.

[8.250.400.16 NMAC - Rp, 8.250.400.16 NMAC, 1-1-14]

8.250.400.17 RECIPIENT RIGHTS AND RESPONSIBILITIES: It is the responsibility of the applicant or re-determining recipient to provide the required information, documents or undertake the actions necessary for HSD to establish eligibility. The applicant or re-determining recipient must grant HSD permission to contact other persons, agencies or sources of information which are necessary in the establishment of eligibility. Failure of the applicant or re-determining recipient to provide or take action will result in a HSD action to deny eligibility.

[8.250.400.17 NMAC - Rp, 8.250.400.17 NMAC, 1-1-14]

8.250.400.18 [RESERVED]

8.250.400.19 REPORTING REQUIREMENTS: An applicant, re-determining or eligible recipient must report any change in his or her circumstances which can affect his or her eligibility within 10 calendar days after the change to his or her local income support division (ISD) office. Refer to 8.200.430.19 NMAC.

[8.250.400.19 NMAC - Rp, 8.250.400.19 NMAC, 1-1-14]

HISTORY OF 8.250.400 NMAC:

History of Repealed Material:

8.250.400 NMAC, Recipient Policies, filed 11-16-09 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 250 MEDICAL ASSISTANCE PROGRAM
ASSISTANCE PROGRAM
ELIGIBILITY - QUALIFIED
DISABLED INDIVIDUALS
PART 500 INCOME AND
RESOURCE STANDARDS**

8.250.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.250.500.1 NMAC - Rp, 8.250.500.1 NMAC, 1-1-14]

8.250.500.2 SCOPE: The rule applies to the general public.

[8.250.500.2 NMAC - Rp, 8.250.500.2 NMAC, 1-1-14]

8.250.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.250.500.3 NMAC - Rp, 8.250.500.3 NMAC, 1-1-14]

8.250.500.4 DURATION: Permanent.

[8.250.500.4 NMAC - Rp, 8.250.500.4 NMAC, 1-1-14]

8.250.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.250.500.5 NMAC - Rp, 8.250.500.5 NMAC, 1-1-14]

8.250.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.250.500.6 NMAC - Rp, 8.250.500.6 NMAC, 1-1-14]

8.250.500.7 DEFINITIONS: [RESERVED]

8.250.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.250.500.8 NMAC - Rp, 8.250.500.8 NMAC, 1-1-14]

8.250.500.9 QUALIFIED INDIVIDUALS 1 (QI1s) - CATEGORY 042: Medical assistance division (MAD) pays the monthly medicare Part B insurance premium for qualified individuals (QI1s) with income between 120 percent and 135 percent of the federal poverty level and who are not otherwise eligible for another MAD category of eligibility. Eligible recipients will be served on a first come, first served basis, contingent upon availability of federal funds. Eligibility will be offered to individuals on a yearly basis. After 1998, eligible recipients currently enrolled in the program will get the first opportunity to continue to receive benefits.

[8.250.500.9 NMAC - N, 1-1-14]

8.250.500.10 NEE D DETERMINATION: An applicant or a re-determining recipient for the medical MAD eligibility Category 042 QI1s must apply for and take all necessary actions to obtain any resources to which he or she may be entitled. See 8.215.500 NMAC.

[8.250.500.10 NMAC - Rp, 8.250.500.9 NMAC, 1-1-14]

8.250.500.11 RESOURCE STANDARDS: The value of an applicant or re-determining recipient's countable resources must not exceed the amount set forth in 8.200.510 NMAC. The resource limit for an applicant or re-determining recipient couple is cannot exceed the amount for a couple set forth in 8.200.510 NMAC.

An applicant or re-determining recipient with an ineligible spouse is eligible if the couple's countable resources do not exceed the amount set forth in 8.200.510 NMAC, when resources are deemed. A resource determination is always made as of the first moment of the first day of the month. An applicant or re-determining recipient is ineligible for any month in which the countable resources exceed the current resource standard as of the first moment of the first day of the month. Changes in the amount of resources during a month do not affect eligibility for that month. See 8.215.500 NMAC for information on exclusions, disregards, and countable resources.

[8.250.500.11 NMAC - Rp, 8.250.500.10 NMAC, 1-1-14]

8.250.500.12 RESOURCE TRANSFERS: The social security administration excluded transfer of resources as a factor of eligibility for a non-institutionalized recipient who receives supplemental security income (SSI) benefits. Transfer of resources is not a factor for consideration in categories that use SSI methodology in the eligibility determination. [8.250.500.12 NMAC - Rp, 8.250.500.11 NMAC, 1-1-14]

8.250.500.13 TRUSTS: See 8.281.510 NMAC.

[8.250.500.13 NMAC - Rp, 8.250.500.12 NMAC, 1-1-14]

8.250.500.14 INCOME STANDARDS: Income standards for this category are at least 120 percent but less than 135 percent of the federal income poverty guidelines. The federal income poverty guidelines are adjusted annually, effective April 1. See 8.200.520 NMAC and 8.215.500 for information on exclusions, disregards and countable income. Verification of income must be documented in the case file.

[8.250.500.14 NMAC - Rp, 8.250.500.13 NMAC, 1-1-14]

8.250.500.15 UNEARNED INCOME EXCLUSIONS: All social security and railroad retirement beneficiaries receive cost of living adjustments (COLAs) in January of each year. The ISD caseworker must disregard the COLA from January through March when determining or re-determining QI1s eligibility. For re-determinations made in January, February and March and for new QI1 applications registered in January, February or March, the ISD caseworker uses the December social security and railroad retirement benefit amounts. For QI1 applications registered from April through December, total gross income including the new COLA figures are

used to determine income and compared to the new April federal poverty levels. This exclusion does not apply to other types of income.

[8.250.500.15 NMAC - Rp, 8.250.500.14 NMAC, 1-1-14]

8.250.500.16 DEEMED INCOME:

If an applicant or re-determining recipient is a minor who lives with a parent(s), deemed income from the parent(s) must be considered. If an applicant or re-determining recipient is married and lives with a spouse, deemed income from the spouse must be considered. See 8.215.500 NMAC for information on deemed income.

[8.250.500.16 NMAC - Rp, 8.250.500.15 NMAC, 1-1-14]

HISTORY OF 8.250.500 NMAC:

History of Repealed Material:

8.250.500 NMAC, Income and Resource Standards, filed 11-16-09 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 252 MEDICAL ASSISTANCE PROGRAM
ELIGIBILITY - BREAST AND CERVICAL CANCER PROGRAM
PART 500 INCOME AND RESOURCE STANDARDS**

8.252.500.1 ISSUING AGENCY:

New Mexico Human Services Department (HSD).

[8.252.500.1 NMAC - Rp, 8.252.500.1 NMAC, 1-1-14]

8.252.500.2 SCOPE: This rule applies to the general public.

[8.252.500.2 NMAC - Rp, 8.252.500.2 NMAC, 1-1-14]

8.252.500.3 STATUTORY AUTHORITY:

The New Mexico Medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.252.500.3 NMAC - Rp, 8.252.500.3 NMAC, 1-1-14]

8.252.500.4 DURATION: Permanent.

[8.252.500.4 NMAC - Rp, 8.252.500.4 NMAC, 1-1-14]

8.252.500.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.252.500.5 NMAC - Rp, 8.252.500.5 NMAC, 1-1-14]

8.252.500.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the Medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.252.500.6 NMAC - Rp, 8.252.500.6 NMAC, 1-1-14]

8.252.500.7 DEFINITIONS:

[RESERVED]

8.252.500.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.252.500.8 NMAC - N, 1-1-14]

8.252.500.9 RESOURCES:

Resources are not an eligibility factor.

[8.252.500.9 NMAC - Rp, 8.252.500.9 NMAC, 1-1-14]

8.252.500.10 INCOME: Income is not an eligibility factor.

[8.252.500.10 NMAC - Rp, 8.252.500.10 NMAC, 1-1-14]

HISTORY OF 8.252.500 NMAC:

History of Repealed Material:

8.252.500 NMAC, Income and Resource Standards, filed 6-14-02 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 252 MEDICAL ASSISTANCE PROGRAM
ELIGIBILITY - BREAST AND CERVICAL CANCER PROGRAM
PART 600 BENEFIT DESCRIPTION**

8.252.600.1 ISSUING AGENCY:

New Mexico Human Services Department (HSD).

[8.252.600.1 NMAC - Rp, 8.252.600.1 NMAC, 1-1-14]

8.252.600.2 SCOPE: This rule applies to the general public.

[8.252.600.2 NMAC - Rp, 8.252.600.2 NMAC, 1-1-14]

8.252.600.3 STATUTORY AUTHORITY:

The New Mexico Medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.252.600.3 NMAC - Rp, 8.252.600.3 NMAC, 1-1-14]

8.252.600.4 DURATION: Permanent.

[8.252.600.4 NMAC - Rp, 8.252.600.4 NMAC, 1-1-14]

8.252.600.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.252.600.5 NMAC - Rp, 8.252.600.5 NMAC, 1-1-14]

8.252.600.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the Medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.252.600.6 NMAC - Rp, 8.252.600.6 NMAC, 1-1-14]

8.252.600.7 DEFINITIONS: [RESERVED]

8.252.600.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.252.600.8 NMAC - N, 1-1-14]

8.252.600.9 GENERAL BENEFIT DESCRIPTION:

A woman who is determined eligible for Medicaid coverage under the breast and cervical cancer program (Category 052) can receive the full range of Medicaid covered.

[8.252.600.9 NMAC - Rp, 8.252.600.9

NMAC, 1-1-14]

8.252.600.10 B E N E F I T DETERMINATION:

Completed applications must be acted upon and notice of approval, denial, or delay sent out within 45 days of the date of application. The applicant will have time limits explained, and be informed of the date by which the application should be processed.

[8.252.600.10 NMAC - Rp, 8.252.600.10 NMAC, 1-1-14]

8.252.600.11 INITIAL BENEFITS:

Eligibility is always prospective and begins the month of application. When an eligibility determination is made, notice of the approval or denial is sent to the applicant. If the application is denied, the notice shall include reason(s) for denial and the applicant's right to request a fair hearing.

[8.252.600.11 NMAC - Rp, 8.252.600.11 NMAC, 1-1-14]

8.252.600.12 O N G O I N G BENEFITS:

An eligible recipient is responsible to report changes affecting eligibility within 10 calendar days from the date on which the change took place. Changes in eligibility status will be effective the first day of the following month. A redetermination of eligibility is made every 12 months.

[8.252.600.12 NMAC - Rp, 8.252.600.12 NMAC, 1-1-14]

8.252.600.13 R E T R O A C T I V E BENEFIT COVERAGE:

Up to three months of retroactive medicaid coverage can be furnished to applicants who have received medicaid-covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three months prior to the month of application.

A. Application for retroactive benefit coverage: Application for retroactive medicaid is made by indicating the existence of medical expenses in the three months prior to the month of application on the medicaid application form.

B. Approval requirements: To establish retroactive eligibility, verification must be provided to demonstrate that all conditions of eligibility were met for each of the three retroactive months, and that the applicant received medicaid covered services. Eligibility for each month is approved or denied on its own merits.

C. Notice:
 (1) **Notice to applicant:** The applicant must be informed of the disposition of each retroactive month.

(2) **Recipient responsibility to notify provider:** After the retroactive

eligibility has been established, the eligible recipient is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the eligible recipient fails to inform all providers and furnish verification of eligibility that can be used for billing, and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the eligible recipient is responsible for payment of the bill.

[8.252.600.13 NMAC - Rp, 8.252.600.13 NMAC, 1-1-14]

8.252.600.14 C H A N G E S I N ELIGIBILITY:

A recipient's eligibility ends when medical assistance division (MAD) receives information from the treating physician or from the recipient that her course of treatment is completed. A case is closed, with provision of advance notice, when the recipient becomes ineligible. The case is closed the month following the death of an eligible recipient.

[8.252.600.14 NMAC - Rp, 8.252.600.14 NMAC, 1-1-14]

HISTORY OF 8.252.600 NMAC:

History of Repealed Material:

8.252.600 NMAC, Benefit Description, filed 6-14-02 - Repealed effective 1-1-14.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 259 M E D I C A L ASSISTANCE PROGRAM ELIGIBILITY - REFUGEES WITH SPEND DOWN PROVISION PART 400 R E C I P I E N T REQUIREMENTS

8.259.400.1 ISSUING AGENCY:

New Mexico Human Services Department (HSD).

[8.259.400.1 NMAC - Rp, 8.259.400.1 NMAC, 1-1-14]

8.259.400.2 SCOPE: The rule applies to the general public.

[8.259.400.2 NMAC - Rp, 8.259.400.2 NMAC, 1-1-14]

8.259.400.3 S T A T U T O R Y AUTHORITY:

The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.259.400.3 NMAC - Rp, 8.259.400.3 NMAC, 1-1-14]

8.259.400.4 D U R A T I O N : Permanent.

[8.259.400.4 NMAC - Rp, 8.259.400.4 NMAC, 1-1-14]

8.259.400.5 EFFECTIVE DATE:

January 1, 2014, unless a later date is cited at the end of a section.

[8.259.400.5 NMAC - Rp, 8.259.400.5 NMAC, 1-1-14]

8.259.400.6 OBJECTIVE:

The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.259.400.6 NMAC - Rp, 8.259.400.6 NMAC, 1-1-14]

8.259.400.7 D E F I N I T I O N S :

[RESERVED]

8.259.400.8 MISSION:

To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.259.400.8 NMAC - N, 1-1-14]

8.259.400.9 REFUGEE MEDICAL ASSISTANCE SPEND DOWN ONLY - CATEGORY 059:

Refer to 8.249.400 NMAC.

[8.259.400.9 NMAC - Rp, 8.259.400.9 NMAC, 1-1-14]

8.259.400.10 BASIS FOR DEFINING THE GROUP:

Refer to 8.249.400 NMAC.

[8.259.400.10 NMAC - Rp, 8.259.400.10 NMAC, 1-1-14]

8.259.400.11 GENERAL RECIPIENT REQUIREMENTS:

Refer to 8.249.400 NMAC.

[8.259.400.11 NMAC - Rp, 8.259.400.11 NMAC, 1-1-14]

8.259.400.12 ENUMERATION:

Refer to 8.249.400 NMAC.

[8.259.400.12 NMAC - Rp, 8.259.400.12 NMAC, 1-1-14]

8.259.400.13 CITIZENSHIP:

Refer to 8.249.400 NMAC.

[8.259.400.13 NMAC - Rp, 8.259.400.13 NMAC, 1-1-14]

8.259.400.14 RESIDENCE: Refer to 8.249.400 NMAC.

[8.259.400.14 NMAC - Rp, 8.259.400.14 NMAC, 1-1-14]

8.259.400.15 SPECIAL RECIPIENT REQUIREMENTS: Refer to 8.249.400 NMAC.

[8.259.400.15 NMAC - Rp, 8.259.400.15 NMAC, 1-1-14]

8.259.400.16 AGE: Refer to 8.249.400 NMAC.

[8.259.400.16 NMAC - Rp, 8.259.400.16 NMAC, 1-1-14]

8.259.400.17 RECIPIENT RIGHTS AND RESPONSIBILITIES: Refer to 8.249.400 NMAC.

[8.259.400.17 NMAC - Rp, 8.259.400.17 NMAC, 1-1-14]

8.259.400.18 ASSIGNMENTS OF MEDICAL SUPPORT: Refer to 8.249.400 NMAC.

[8.259.400.18 NMAC - Rp, 8.259.400.18 NMAC, 1-1-14]

HISTORY OF 8.259.400 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: MAD Rule 822, Refugee Medical Assistance, filed 5-22-92.

History of Repealed Material:

MAD Rule 822, Refugee Medical Assistance, filed 5-22-92 - Repealed effective 2-1-95.
8.259.400 NMAC, Recipient Requirements, filed 6-13-03 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 259 MEDICAL ASSISTANCE PROGRAM
ELIGIBILITY - REFUGEES WITH SPEND DOWN PROVISION
PART 500 INCOME AND RESOURCE STANDARDS**

8.259.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.259.500.1 NMAC - Rp, 8.259.500.1 NMAC, 1-1-14]

8.259.500.2 SCOPE: The rule applies to the general public.

[8.259.500.2 NMAC - Rp, 8.259.500.2

NMAC, 1-1-14]

8.259.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.259.500.3 NMAC - Rp, 8.259.500.3 NMAC, 1-1-14]

8.259.500.4 DURATION: Permanent.

[8.259.500.4 NMAC - Rp, 8.259.500.4 NMAC, 1-1-14]

8.259.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.259.500.5 NMAC - Rp, 8.259.500.5 NMAC, 1-1-14]

8.259.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.

[8.259.500.6 NMAC - Rp, 8.259.500.6 NMAC, 1-1-14]

8.259.500.7 DEFINITIONS: [RESERVED]

8.259.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.259.500.8 NMAC - N, 1-1-14]

8.259.500.9 NEE D DETERMINATION: Refer to 8.249.500 NMAC.

[8.259.500.9 NMAC - Rp, 8.259.500.9 NMAC, 1-1-14]

8.259.500.10 RESOURCE STANDARDS: Refer to 8.249.500 NMAC.

[8.259.500.10 NMAC - Rp, 8.259.500.10 NMAC, 1-1-14]

8.259.500.11 INCOME STANDARDS: Refer to 8.249.500 NMAC.

[8.259.500.11 NMAC - Rp, 8.259.500.11 NMAC, 1-1-14]

HISTORY OF 8.259.500 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records: MAD Rule 822, Refugee Medical Assistance, filed 5-22-92.

History of Repealed Material:

MAD Rule 822, Refugee Medical Assistance filed 5-22-92 - Repealed effective 2-1-95.
8.259.500 NMAC, Income and Resource Standards, filed 3-25-10 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 259 MEDICAL ASSISTANCE PROGRAM
ELIGIBILITY - REFUGEES WITH SPEND DOWN PROVISION
PART 600 BENEFIT DESCRIPTION**

8.259.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).

[8.259.600.1 NMAC - Rp, 8.259.600.1 NMAC, 1-1-14]

8.259.600.2 SCOPE: The rule applies to the general public.

[8.259.600.2 NMAC - Rp, 8.259.600.2 NMAC, 1-1-14]

8.259.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.

[8.259.600.3 NMAC - Rp, 8.259.600.3 NMAC, 1-1-14]

8.259.600.4 DURATION: Permanent.

[8.259.600.4 NMAC - Rp, 8.259.600.4 NMAC, 1-1-14]

8.259.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.259.600.5 NMAC - Rp, 8.259.600.5 NMAC, 1-1-14]

8.259.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health

care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.259.600.6 NMAC - Rp, 8.259.600.6 NMAC, 1-1-14]

8.259.600.7 DEFINITIONS:
[RESERVED]

8.259.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.259.600.8 NMAC - N, 1-1-14]

8.259.600.9 BENEFIT DESCRIPTION: Refer to 8.249.600 NMAC.
[8.259.600.9 NMAC - Rp, 8.259.600.9 NMAC, 1-1-14]

8.259.600.10 BENEFIT DETERMINATION: Refer to 8.249.600 NMAC.
[8.259.600.10 NMAC - Rp, 8.259.600.10 NMAC, 1-1-14]

HISTORY OF 8.259.600 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: MAD Rule 822, Refugee Medical Assistance, filed 5-22-92.

History of Repealed Material:

MAD Rule 822, Refugee Medical Assistance filed 5-22-92 - Repealed effective 2-1-95.
8.259.600 NMAC, Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 285 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - EMERGENCY MEDICAL SERVICES FOR ALIENS
PART 400 RECEIPT REQUIREMENTS**

8.285.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.285.400.1 NMAC - Rp, 8.285.400.1 NMAC, 1-1-14]

8.285.400.2 SCOPE: The rule applies to the general public.
[8.285.400.2 NMAC - Rp, 8.285.400.2 NMAC, 1-1-14]

8.285.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12.

[8.285.400.3 NMAC - Rp, 8.285.400.3 NMAC, 1-1-14]

8.285.400.4 DURATION: Permanent.

[8.285.400.4 NMAC - Rp, 8.285.400.4 NMAC, 1-1-14]

8.285.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.

[8.285.400.5 NMAC - Rp, 8.285.400.5 NMAC, 1-1-14]

8.285.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs.

[8.285.400.6 NMAC - Rp, 8.285.400.6 NMAC, 1-1-14]

8.285.400.7 DEFINITIONS:
[RESERVED]

8.285.400.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.

[8.285.400.8 NMAC - N, 1-1-14]

8.285.400.9 EMERGENCY MEDICAL SERVICES FOR ALIENS - CATEGORY 085:

Certain non-citizens who are undocumented or who do not meet the qualifying immigration criteria specified in 8.200.410 NMAC, but who meet all eligibility criteria for other medical assistance program categories 030, 032, 035, 072, 100, 200, 300, 301, 400, 420 or supplemental security income (SSI) can receive coverage for emergency services. See 42 CFR Section 440.225.

[8.285.400.9 NMAC - Rp, 8.285.400.9 NMAC, 1-1-14]

8.285.400.10 BASIS FOR DEFINING THE GROUP:

The determination of emergency status is made by the medicaid utilization review contractor. For purposes of determining emergency status, the following definition

applies: an emergency condition means a medical or behavioral health condition manifesting itself through acute symptoms of sufficient severity (including severe pain) such that a prudent layperson with average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in the health of the individual or with respect to a pregnant woman, the health of the woman or her unborn child to result in serious jeopardy; serious impairment to the individual's bodily functions; or serious dysfunction of any of his or her bodily organs or parts. With respect to a pregnant woman and her unborn child, emergency services includes all emergency labor and delivery services, such as inductions of labor and caesarean sections.

[8.285.400.10 NMAC - Rp, 8.285.400.10 NMAC, 1-1-14]

8.285.400.11 [RESERVED]

8.285.400.12 ENUMERATION:

An alien applicant is exempt from the requirement to provide a social security number (SSN). If the applicant is found eligible for coverage of emergency services, the claims are paid using a dummy number. Issuance of the dummy number is done on the current eligibility system.

[8.285.400.12 NMAC - Rp, 8.285.400.12 NMAC, 1-1-14]

8.285.400.13 CITIZENSHIP: An applicant must be a noncitizen who is undocumented or who does not meet the qualifying immigration criteria specified in 8.200.410 NMAC.

[8.285.400.13 NMAC - Rp, 8.285.400.13 NMAC, 1-1-14]

8.285.400.14 RESIDENCE: An applicant must provide proof of New Mexico residence. Undocumented aliens traveling through New Mexico, visiting in New Mexico, or touring New Mexico do not meet the residence requirements for eligibility.

[8.285.400.14 NMAC - Rp, 8.285.400.14 NMAC, 1-1-14]

8.285.400.15 EMPLOYMENT, TRAINING, AND WORK REGISTRATION:

Registration for employment or training is not a factor of eligibility.

[8.285.400.15 NMAC - Rp, 8.285.400.15 NMAC, 1-1-14]

8.285.400.16 [RESERVED]

8.285.400.17 SSI STATUS:

Applicants who apply under supplemental security income (SSI) coverage must meet the income and resource limits. Eligibility is determined using the SSI methodology

contained in 8.215 NMAC. Disability is determined by disability determination services.

[8.285.400.17 NMAC - Rp, 8.285.400.17 NMAC, 1-1-14]

8.285.400.18 RECIPIENT RIGHTS AND RESPONSIBILITIES:

It is the responsibility of the applicant to provide the required information, documents or undertake the actions necessary for HSD to establish eligibility. The applicant must grant HSD permission to contact other persons, agencies or sources of information which are necessary in the establishment of eligibility. Failure of the applicant to provide or take action will result in a HSD action to deny eligibility.

[8.285.400.18 NMAC - Rp, 8.285.400.18 NMAC, 1-1-14]

8.285.400.19 ASSIGNMENT OF SUPPORT:

See 8.200.430 NMAC.

[8.285.400.19 NMAC - Rp, 8.285.400.19 NMAC, 1-1-14]

HISTORY OF 8.285.400 NMAC:

History of Repealed Material:

8.285.400 NMAC, Recipient Policies, filed 11-17-08 - Repealed effective 1-1-14.

NEW MEXICO MINING COMMISSION

This is an amendment to 19.10.2 NMAC, Section 202, effective 12-13-2013.

19.10.2.202 ANNUAL FEES:

A. The annual fee for an existing mining operation shall be determined by adding:

(1) \$800.00 base fee;

(2) \$15.00 per acre for the first 50 acres of currently disturbed surface land plus \$3.00 per acre for all disturbed land over 50 acres;

(3) a fee determined in accordance with 19.10.2.203 NMAC;

(4) a surcharge of 75% shall be added to the total annual fees for mining operations that have 500 acres or more disturbed area in their permit as defined in Paragraph (2) of Subsection D of 19.10.1.7 NMAC; substantially reclaimed acreage as defined in Paragraph (1) of Subsection F of 19.10.2.202 NMAC will not be counted as disturbed acreage for purposes of this paragraph;

(5) a surcharge of 50% shall be added to the total annual fees for existing mining operations that did not obtain an extension in accordance with Subsection D of 19.10.5.501 NMAC and have not obtained closeout plan approval; and

(6) the annual fee shall be calculated each year based on cumulative

acreage disturbed as of December 31st of the prior year, and shall be due on or before April 30th of each year until all Mining Act requirements are met.

B. The annual fee for the new mining operation shall be determined by adding:

(1) \$1,000.00 base fee;

(2) \$30.00 per acre for the first 50 acres of currently disturbed surface land plus \$10.00 per acre for all disturbed land over 50 acres;

(3) a fee determined in accordance with 19.10.2.203 NMAC; and

(4) the annual fee shall be calculated each year based on cumulative acreage disturbed as of December 31st of the prior year, and shall be due on or before April 30th of each subsequent year following initial submittal of a permit application.

C. The annual fee for a minimal impact existing mining operation shall be \$250.00. This fee shall be due on or before April 30th of each year following initial submittal of permit application.

D. The annual fee for a minimal impact new mining operation shall be \$250.00. This fee shall be due on or before April 30th of each year following initial submittal of permit application.

~~**E.** The provisions in Subsection A through D of 19.10.2.202 NMAC and Subsection F of 19.10.2.202 NMAC shall not be applicable to any fees due after December 31, 2013.~~

~~**F.** E.~~ Formula for reducing fees for substantially reclaimed acreage.

(1) For the purposes of 19.10.2 NMAC, "substantially reclaimed" means financial assurance has been released pursuant to 19.10.12.1210 NMAC except the amount to establish revegetation pursuant to Subsection A of 19.10.12.1204 NMAC.

(2) For the purposes of 19.10.2 NMAC, the total annual pre-reclamation fee is the total annual fee calculated assuming no reclamation has taken place.

(3) Base fees, disturbance fees and facility fees calculated pursuant to Subsection A of 19.10.2.202 NMAC or Subsection B of 19.10.2.202 NMAC shall be reduced in proportion to the area substantially reclaimed as compared to the total pre-reclamation fee but shall not be reduced to less than 60 percent of the total annual pre-reclamation fee. Formula for fee calculation: Fee owed = pre-reclamation fee - (AR/AT) * (pre-reclamation fee), where AT = total acreage and AR = reclaimed acreage. [7-12-94, 11-15-95, 2-15-96, 5-31-97, 6-30-99, 12-29-2000; 19.10.2.202 NMAC - Rn, 19 NMAC 10.2.2.202, 05-15-2001; A, 05-31-2001; A, 04-30-03; A, 12-30-05; A, 03-16-09; A, 2-15-12; A, 12-13-13]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.5 NMAC, Sections 7 and 8, effective 12-19-2013.

16.19.5.7 DEFINITIONS: As used in the internship program.

A. "Approved training area" means a place for instructing an intern for licensure subject to requirements of the board.

B. "Approved program" means a program of training as outlined by the "standards of practice."

C. "Computed time" means that time credited towards the training period which begins from the date of intern registration and continues under the requirements of the approved program. Computed time shall consist of a maximum of 48 hours per week acquired in the internship program; including those hours acquired in an academic clinical pharmacy program, extern program, radiopharmacy program, or a "demonstration project" approved by the board. Any internship acquired and submitted to the board prior to July 30, 1986, under the November 1980 amended 16.19.5 NMAC INTERNSHIP TRAINING PROGRAM, shall be credited toward the required internship hours, under this regulation.

D. "Intern" means a pharmacy student or a graduate from an accredited college of pharmacy and registered in an approved program of supervised training.

E. "Intern certificate of registration" means that certificate furnished by the board upon approval of, application for registration of intern, received from the intern applicant.

F. "Training period" means 1500 hours [if in the Bachelor of Science program, or 2150 hours] if in the doctor of pharmacy program of structured internship experience under the instruction of a licensed pharmacist that is a board approved or college approved preceptor, said hours to be acquired after the satisfactory completion of [30] 15 semester hours in a college of pharmacy curriculum, or its equivalent.

G. "Structured internship experience" may be obtained through [a combination of] academic internship hours [and employment] for a minimum of 1500 internship hours satisfactorily completed and documented in an academic setting in the doctor of pharmacy program.

[(1) Academic Internship Hours include:

(a) externship not to exceed 675 hours if in the Bachelor of Science program;

(b) A maximum of 1500

clerkship hours satisfactorily completed and documented in an academic setting in the Doctor of Pharmacy program may be counted toward the Structured Internship Experience.

(c) Radiopharmacy not to exceed hours set by Board policy;

(2) Internship as defined in Subsection A of 16.19.5.8 NMAC of this regulation;

(3) The sum of any or all of the above Structured Internship Hours shall equal no less than 1500 hours if in the Bachelor of Science program or 2150 hours if in the Doctor of Pharmacy program.]

H. "Preceptor" means a licensed pharmacist who meets those requirements for the supervision and training of an intern as stipulated in Subsection D of 16.19.5.8 NMAC of this regulation.

I. "Supervision" means that the preceptor shall maintain personal contact with the intern and shall be responsible for the required training at all times during the training period. [08-27-90; 16.19.5.7 NMAC - Rn, 16 NMAC 19.5.7, 03-30-02; A, 12-19-13]

16.19.5.8 SUMMARY OF OBJECTIVES:

A. Internship training, using academic training as a foundation, is to provide a learning experience in real life situations that will result in a complete professional, who is competent to practice pharmacy, and render professional services on his own, without supervision, at the time of licensure. The objectives shall be.

(1) A practically, accurately and safely trained intern.

(2) An ethically trained intern.

(3) A legally trained intern. Standards of practice and internship program constitute the basic implementation of the approved internship program.

B. Instructional materials, affidavits, evaluation forms and reports.

(1) Forms shall be made available by the board.

(a) Application for registration of intern.

(b) Employers affidavit for internship.

(c) Employers affidavit for externship/clinical.

(d) Annual preceptors evaluation of intern.

(e) Annual intern evaluation of preceptor.

(f) Certification as approved preceptor by the board standards of practice.

(2) Reports and project assignments as may be required to accompany forms under the approved program.

(3) This regulation relating to the internship program shall be furnished to the intern. All other laws and regulations or

manuals shall be available at a nominal fee or at reimbursement cost to the board.

C. Requirements for approved training: Areas will include retail and hospital pharmacies, radiopharmacies, state and county institutions, federal installations, agencies and clinics, and board approved researchers, drug manufacturers who participate in the approved NPI programs.

(1) General requirements include.

(a) Current license or permit.

(b) No deficiencies relevant to the observance of all federal, state and municipal laws and regulations governing any phase of activity in which the facility is engaged.

(c) Required references: [±] One current professional reference book of choice or internet access to approved resources.

(2) A preceptor will be in direct supervision of all repackaging, labeling and dispensing of drugs for distribution in field offices by state and county health offices.

D. Requirements for preceptor. Each preceptor shall.

(1) Be certified as a preceptor by the board or be an approved preceptor for intern training in another state, by that state board of pharmacy.

(2) Have been actively engaged in the practice of pharmacy for one year.

(3) Be engaged in full-time practice of pharmacy.

(4) Not have been convicted of violation of any laws or regulations relating to pharmacy, unless this provision is waived by the board on an individual basis.

(5) Submit all required forms, [affidavits,] and evaluations to the board on or before the due date.

(6) Be aware and responsible for following regulations governing legal and ethical professional conduct as outlined in the standards of practice and train the intern in this area.

(7) Notify the board of any change of address or employment in writing, within ten (10) days. Change of employment shall serve to suspend certification as preceptor in the former place of employment where the individual was training an intern.

(8) Not be permitted to leave the intern alone to assume the responsibility of a pharmacist.

E. Requirements for intern.

(1) Application shall be made to the board on the required application form provided by the board prior to the beginning of internship. An applicant for registration as a pharmacist intern shall have satisfactorily completed not less than [30] **15** semester hours or the equivalent thereof, in a college of pharmacy curriculum accredited by the ACPE and meet other requirements established by regulations of the board.

(2) The intern shall wear the standard identification tag, approved and

issued by the board during any pharmacy area employment. A nominal fee is applicable. The intern will be responsible for imprinting his/her name on the identification tag.

(3) The intern shall make such reports and certifications as required under the approved program.

(4) The intern is responsible for the knowledge and observation of the extent of his legal liability and legal restrictions applicable under the federal, state and municipal laws and regulations.

(5) The intern shall be responsible for ascertaining proper certification for [himself] him or herself, completion of all assignments, submittal of all forms, and reports under the approved program. After all assignments have been completed the preceptor will certify the affidavit and verify the completion of all requirements. Internship will not be evaluated or certified by the board until all forms are turned in to the board office in the form of certified affidavits.

(6) Employment and the internship training period are not to be interpreted as being the same. An intern may work in excess of his computed time. A maximum of 48 hours per week, however, shall be considered computed time for the purpose of completing the internship requirement of 1500 hours.

(7) The intern shall submit, annually, at the time of registration renewal, all completed required forms for the prior year or period of computed time.

(8) Any or all of the training period may be obtained after graduation.

(9) The intern shall notify the board of any change of address, employment or preceptor, in writing, within ten (10) days of such change.

(10) The intern certificate of registration and renewal shall be displayed in the training area where the intern is employed.

(11) The registration shall be renewable under the following conditions:

(a) the intern has received a degree from an ACPE accredited college of pharmacy, but has not completed the required intern hours to take the state board examination; or the intern has not completed the required number of hours and is enrolled as a pharmacy student;

(b) a candidate who has failed the NAPLEX exam and the state board jurisprudence examination may renew intern registration to be valid until the next scheduled examination date; provided the renewal does not exceed the period allowed under 16.19.2 NMAC; or

(c) by prior approval or by direction of the board.

(12) The intern registration must be renewed annually on/or before the last

day of September. Annual renewal fee is \$25.00.

F. Revocation of suspension of certification or certificate: A certification or certificate may be revoked or suspended upon violation of a statute or regulation; the failure to comply with the approved program or internship; or suspension of an intern from university or college attendance; and after due notice is filed pursuant to the Uniform Licensing Act.

G. Out-of-state training.

(1) New Mexico registered interns wishing to earn intern hours out of state must comply with the regulation relating to internship and the approved program, or the equivalent thereof; certification of the preceptor shall be made to the board by the board of pharmacy in the reciprocal state.

(2) Out of state registered interns or students wishing to earn internship hours in New Mexico must comply with the regulations relating to internship and the approved program of this state and shall register with the board.

(3) Computed time, under equivalent approved programs, submitted to the board by out-of-state applicants for licensure, will be evaluated.

[08-27-90; A, 03-02-99; 16.19.5.8 NMAC - Rn, 16 NMAC 19.5.8, 03-30-02; A, 07-15-02; A, 08-12-13; A, 12-19-13]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.20 NMAC, Section 65, effective 12-19-2013.

16.19.20.65 SCHEDULE I:

A. NMSA 1978 Section 30-31-6 Schedule I shall consist of the following drugs and other substances, by whatever name, common or usual name, chemical name or brand name designated, listed in this section; **OPIATES**, unless specifically exempt or unless listed in another schedule, any of the following opiates, including its' isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

- (1) Acetylmethadol
- (2) Allylprodine
- (3) Alphacetylmethadol
- (4) Alphameprodine
- (5) Alphamethadol
- (6) Alpha-methyl fentanyl
- (7) Benzethidine
- (8) Betacetylmethadol
- (9) Betameprodine
- (10) Betamethadol
- (11) Betaprodine
- (12) Clonitazene

- (13) Dextromoramide
- (14) Diampromide
- (15) Diethylthiambutene
- (16) Dimethylthiambutene
- (17) Difenoxin
- (18) Dimenoxadol
- (19) Dimepheptanol
- (20) Dimethylthiambutene
- (21) Dioxaphetyl Butyrate
- (22) Dipipanone
- (23) Ethylmethylthiambutene
- (24) Etonitazene
- (25) Etoxidine
- (26) Furethidine
- (27) Hydroxypethidine
- (28) Ketobemidone
- (29) Levomoramide
- (30) Levophenacymorphan
- (31) Morpheridine
- (32) Noracymethadol
- (33) Norlevorphanol
- (34) Normethadone
- (35) Norpipanone
- (36) Phenadoxone
- (37) Phenampromide
- (38) Phenomorphan
- (39) Phenoperidine
- (40) Piritramide
- (41) Proheptazine
- (42) Properidine
- (43) Propiram
- (44) Racemoramide
- (45) Tilidine
- (46) Trimeperidine

B. OPIUM DERIVATIVES: Unless specifically exempt or unless listed in another schedule, any of the following opium derivatives, its' salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation.

- (1) Acetorphine
- (2) Acetyl dihydrocodeine
- (3) Benzyl morphine
- (4) Codeine methylbromide
- (5) Codeine-N-Oxide
- (6) Cyprenorphine
- (7) Desomorphine
- (8) Dehydro morphine
- (9) Etorphine
- (10) Heroin
- (11) Hydromorphenol
- (12) Methyldesorphine
- (13) Methyldihydromorphine
- (14) Morphine methylbromide
- (15) Morphine methylsulfonate
- (16) Morphine-N-Oxide
- (17) Myrophine
- (18) Nicocodeine
- (19) Nicomorphine
- (20) Normorphine
- (21) Pholcodine
- (22) Thebacon
- (23) Drotebanol
- (24) Beta-Hydroxy-3-Methylfentanyl
- (25) 3-Methylthiofentanyl
- (26) Acetyl-Alpha-Methyl fentanyl
- (27) Alpha-Methylthiofentanyl
- (28) Beta-hydroxfentanyl
- (29) Para-Fluoro fentanyl

(30) Thiofentanyl

C. HALLUCINOGENIC SUBSTANCES: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its' salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation (for purpose of this subsection only, the term "isomers" includes the optical position, and geometric isomers).

- (1) 3,4 -methylenedioxy amphetamine
- (2) 5 - methoxy - 3,4-methylenedioxy amphetamine
- (3) 3,4,5 -trimethoxy amphetamine
- (4) Bufotenine
- (5) Diethyltryptamine; DET
- (6) Dimethyltryptamine; DMT
- (7) 4-methyl-2,5-dimethoxy-amphetamine; DOM or STP
- (8) Lysergic acid diethylamide
- (9) Lysergic acid diethylamide
- (10) Marijuana
- (11) Mescaline
- (12) Peyote
- (13) N-ethyl-3-piperidyl benzilate
- (14) N-methyl-3-piperidyl benzilate
- (15) Psilocybin
- (16) Psilocyn
- (17) Tetrahydrocannabinols
- (18) Parahexyl (synthetic analog of delta9tetrahydrocannabinol (THC) an active ingredient of cannabis)
- (19) Hashish
- (20) 2, 5 -dimethoxyamphetamine; 2, 5-DMA
- (21) 4-bromo-2, 5-dimethoxy-amphetamine; 2,5-DMA
- (22) 4-methoxyamphetamine; PMA
- (23) Ethylamine N-ethyl-1-phenylcyclohexylamine (PCE)
- (24) Pyrrolidine 1-(1-phenylcyclohexyl)-pyrrolidine (PCPy), (PHP) analog of the drug phencyclidine
- (25) Thiophene (analog of phencyclidine) TCP or TPCP
- (26) Alpha-ethyltryptamine
- (27) 2, 5-dimethoxy-4-ethylamphet-amine
- (28) Ibogaine
- (29) 2,5 dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)
- (30) Alpha-methyltryptamine (AMT)
- (31) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT)
- (32) Synthetic cannabinoids: Unless specifically exempted or unless listed in another schedule, any material, compound, mixture of preparation which contains any quantity of the following synthetic cannabinoids which demonstrates binding activity to the cannabinoid receptor or analogs or homologs with binding activity:
 - (a) CP 55,244 ((hydroxymethyl)-4-[2-hydroxy-4-(2-methyloctan-2-yl)phenyl] 1,2,3,4,4a,5,6,7,8,8a-decahydronaphthalen-2-ol)
 - (b) CP 55,940 (5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-5-(2-methyloctan-2-yl)phenol)
 - (c) JWH-081 (1-pentyl-3-[1-(4-methoxynaphthoyl)]indole)
 - (d) JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole)
 - (e) JWH-133 3-(1,1-dimethylbutyl)-6a,7,10,10a-tetrahydro -6,6,9-trimethyl-6H dibenzo[b,d]pyran
 - (f) JWH 203 1-pentyl-3-(2-chlorophenylacetyl)indole)
 - (g) JWH 210 4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone
 - (h) AM-694 (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole)
 - (i) AM-1221 (1-(N-methylpiperidin-2-yl)methyl-2-methyl-3-(1-naphthoyl)-6-nitroindole
 - (j) AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole)
 - (k) RCS-4 or SR-19 (1-pentyl-3-[(4-methoxy)-benzoyl]indole)
 - (l) RCS-8 or SR-18 (1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole)
 - (m) JWH-210 (1-pentyl-3-(4-ethylnaphthoyl)indole)
 - (n) WIN-49,098 (Pravadoline) (4-methoxyphenyl)-[2-methyl-1-(2-morpholin-4-ylethyl)indol-3-yl]methanone
 - (o) WIN-55,212-2 (2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo-1,4-benzooxazin-6-yl)-1-naphthalenylmethanone)
 - (p) Any of the following synthetic cannabinoids, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers,

and salts of isomers is possible within the specific chemical designation.

(i) Naphthoylindoles:

Any compound containing a 3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398 and AM-2201.

(ii)

Naphthylmethylindoles: Any compound containing a 1Hindol- 3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-175, JWH-184, and JWH-199.

(iii) Naphthoylpyrroles:

Any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-307.

(iv)

Naphthylmethylindenes: Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-176.

(v) Phenylacetylindoles:

Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, JWH-203, JWH-250, JWH-251, and RCS-8.

(vi) Cyclohexylphenols:

Any compound containing a 2-(3-

hydroxycyclohexyl) phenol structure with substitution at the 5- position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny) methyl, or 2-(4-morpholinyl) ethyl group, whether or not substituted in the cyclohexyl ring to any extent including, but not limited to, Cannabicyclohexanol (CP 47,497 C8 homologue), CP 47,497 and CP 55,490.

(vii) Benzoylindoles: Any compound containing a 3-(benzoyl) [5] OTS-3833.4 indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny) methyl, or 2-(4- morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, and AM-1241.

(q) UR-144 1-(pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone

(r) XLR11 1-(5-fluoro-pentyl)-1H-indol-3-yl(2,2,3,3-tetramethylcyclopropyl) methanone

(s) AKB48 N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide

(33) Substances determined by the board to have the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of 30-31-23C NMSA 1978. Substances include but are not limited to:

(a) salvia divinorum

(b) salvinorin A (methyl (2S,4aR,6aR,7R,9S,10aS,10bR)-9-(acetyloxy)-2-(furan-3-yl)-6a,10b-dimethyl-4,10-dioxododecahydro-2H-benzo[f]isochromene-7-carboxylate)

(34) 4-methyl-ethylcathinone (4-MEC)

(35) 4-ethyl-methcathinone (4-EMC)

(36) 2-ethylamino-1-phenyl-propan-1-one (ethcathinone)

(37) 3',4'-methylenedioxyethcathinone (ethylone)

(38) beta-keto-N-methyl-3,4-benzodioxolybutanamine (bk-MBDB, butylone)

(39) naphthylpyrovalerone (NRG-1, naphyrone)

(40) N,N-dimethylcathinone (metamfepramone)

(41) alpha-pyrrolidinopropiophenone (alpha-PPP)

(42) alpha-pyrrolidinobutiophenone (α-PBP)

(43) 4'-methoxy-alpha-pyrrolidinopropiophenone (MOPPP)

(44) 4'-methyl-α-pyrrolidinopropiophenone (MPPP)

(45) 3',4'-methylenedioxy-alpha-pyrrolidinopropiophenone (MDPPP)

(46) 3',4'-methylenedioxy-alpha-pyrrolidinobutiophenone (MDPBP)

(47) 4'-methyl-α-pyrrolidinobutiophenone (MPBP)

(48) alpha-pyrrolidinovalerophenone (alpha-PVP)

(49) 5,6-methylenedioxy-2-aminoindane (MDAI)

(50) alpha-methylamino-butyrophenone (buphedrone)

(51) beta-keto-ethylbenzodioxolylbutanamine (eutylone)

(52) beta-keto-ethylbenzodioxolylpentanamine (pentylone)

D. DEPRESSANTS: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its' salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone

(2) Methaqualone

(3) Benzodiazepines

(a) bromazepam

(b) camazepam

(c) cloxazolam

(d) delorazepam

(e) ethylloflazepate

(f) fludiazepam

(g) flunitrazepam

(h) haloxazolam

(i) ketazolam

(j) lopraxolam

(k) lorazepam

(l) medazepam

(m) nimetazepam

(n) nitrazepam

(o) nordiazepam

(p) oxazolam

(q) pinazepam

(r) tetrazepam

(4) Gamma hydroxybutyric acid and any chemical compound that is metabolically converted to GHB.

(5) Gamma butyrolactone and any chemical compound that is metabolically converted to GHB.

(6) 1-4 butane diol and any chemical compound that is metabolically converted to GHB.

E. STIMULANTS :

Unless specifically exempted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its' salts, isomers, and salts of isomers.

(1) Fenethylamine

(2) N-ethylamphetamine

(3) cis-4-methylaminorex

(4) N, N-dimethylamphetamine

(5) N-benzylpiperazine (BZP, 1-benzylpiperazine)

F. Any material, compound, mixture or preparation which contains any quantity of the following substances.

(1) 3-Methylfentanyl (N-3-methyl-1-(2-phenyl-ethyl)-4-Piperidyl)-N-phenylpropanamide, its' optical and geometric isomers, salts and salts of isomers.

(2) 3,

4-methylenedioxyamphetamine (MDMA), its' optical, positional and geometric isomers, salts and salts of isomers.

(3) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its' optical isomers, salts, and salts of isomers.

(4) 1-(-2-phenylethyl)-4-phenyl-4-acetoxy piperidine (PEPAP), its' optical isomers, salts and salts of isomers.

(5) Cathinone.

(6) Methcathinone.

[16.19.20.65 NMAC - Rp 16 NMAC 19.20.28, 07-15-02; A, 06-30-05; A, 01-15-08; A, 05-14-10; A, 11-27-11; A, 06-15-12; A, 08-31-12; A, 12-19-13]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.30 NMAC, Section 9, effective 12-19-2013.

16.19.30.9 OPERATIONAL STANDARDS:

A. General requirements.

(1) Non-sterile drug products may be compounded in licensed pharmacies as a result of a practitioner's prescription order based on the practitioner-patient-pharmacist relationship in the course of professional practice.

(2) Preparing limited quantities of prescription drug orders in anticipation based upon a history of receiving valid prescriptions issued within an established practitioner-patient-pharmacist relationship in the course of professional practice.

(a) The beyond-use date should be based on the criteria outlined in USP Chapter <795>.

(b) Any product compounded in anticipation of future prescription drug or medication orders shall be labeled. Each label shall contain:

(i) name and strength of the compounded medication or list of the active ingredient and strengths;

(ii) facility's lot number;

(iii) beyond-use date;

(iv) quantity or amount in the container.

(3) Commercially available product may be compounded for dispensing to individual patients provided the following conditions are met:

(a) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet patient's needs; and

(b) the prescribing practitioner has requested that the drug be compounded; or

(c) if the compounded product is changed to produce for that patient a significant difference, as authorized by the prescriber, between the compounded drug and the comparable commercially available drug product, or if use of the compounded product is in the best interest of the patient; "significant difference" would include the removal of a dye for medical reason such as an allergic reaction; when a compounded product is to be dispensed in place of a commercially available product, the prescriber and patient shall be informed that the product will be compounded.

(4) Compounding veterinarian products.

(a) [Prescriptions] **Products** for animals may be compounded based on an order or prescription from a duly authorized veterinarian.

(b) These [prescriptions] **products** are to be handled and filled the same as the human prescriptions.

(5) Compounding pharmacies/pharmacists may advertise and promote the fact that they provide non-sterile prescription compounding services which may include specific drug products and classes of drugs.

B. Environment.

(1) Pharmacies regularly engaging in compounding shall have a designated and adequate area for the safe and orderly compounding of drug products including the placement of equipment and materials. Pharmacies involved in occasional compounding shall prepare an area prior to each compounding activity, which is

adequate for safe and orderly compounding.

(2) Only personnel authorized by the responsible pharmacist shall be in the immediate vicinity of a drug compounding operation.

(3) A sink with hot and cold running water, exclusive of rest room facilities, shall be accessible to the compounding areas and be maintained in a sanitary condition.

(4) When drug products that require special precautions to prevent contamination, such as penicillin, are involved in a compounding operation, appropriate measures, including dedication of equipment for such operations or the meticulous cleaning of contaminated equipment prior to its use for the preparation of other drug products, must be used in order to prevent cross-contamination.

C. Equipment and supplies.

The pharmacy shall:

(1) have a Class A prescription balance, or analytical balance and weights when necessary which shall be properly maintained and subject to inspection by the New Mexico board of pharmacy; and

(2) have equipment and utensils necessary for the proper compounding of prescription or medication drug orders; such equipment and utensils used in the compounding process shall be:

(a) of appropriate design and capacity, and be operated within designated operational limits;

(b) of suitable composition so that surfaces that contact components, in-process material or drug products shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality or purity of the drug product beyond the desired result;

(c) cleaned and sanitized appropriately prior to each use; and

(d) routinely inspected, calibrated when necessary or checked to ensure proper performance.

D. Labeling.

In addition to the labeling requirements of the pharmacy's specific license classification, the label dispensed or distributed pursuant to a prescription or medication drug order shall contain the following:

(1) the generic name(s) or the designated name and the strength of the compounded preparation;

(2) the quantity dispensed;

(3) the date on which the product was compounded;

(4) a lot or batch number; and

(5) the beyond-use date after which the compounded preparation should not be used;

(a) in the absence of stability information applicable for a specific drug in the USP/NF the preparation shall adhere to the following maximum beyond-use date guidelines:

(i) non-aqueous

liquids and solid formulations (where the manufactured drug product is the source of active ingredient) 25% of the time remaining until the manufacturer's product's expiration date or six (6) months, whichever is earlier;

(ii) water-containing formulations (prepared from ingredients in solid form) not later than fourteen (14) days when refrigerated between 2-8 degrees Celsius or 36-46 degrees Fahrenheit;

(iii) all other formulations: intended duration of therapy or 30 days, whichever is earlier;

(b) beyond-use date limits may be exceeded when supported by valid scientific stability information for the specific compounded preparation.

E. Drugs, components and material used in non-sterile compounding.

(1) Drugs used in non-sterile compounding shall preferably be a USP/NF grade substance manufactured in a FDA registered facility.

(2) In the event that USP/NF grade substances are not available, documentation of stability and purity must be established and documented.

(3) A pharmacy may not compound a drug product which has been withdrawn or removed from the market for safety reasons.

F. Compounding process. The safety, quality and performance of compounded prescriptions depend on correct ingredients and calculations, accurate and precise measurements, appropriate formulation conditions and procedures, and prudent pharmaceutical judgment. Each pharmacy shall develop and follow written SOP's based on established compounding procedures as outlined in chapter 795 of the USP/NF concerning pharmacy compounding of non-sterile preparations designed to ensure accountability, accuracy, quality, safety, and uniformity in the compounding process.

G. Quality control.

(1) The safety, quality, and monitoring is used to insure that the output of compounded drug products for uniformity and consistency such as capsule weight variations, adequacy of mixing, clarity or pH of solutions are met. When developing these procedures, pharmacy personnel shall consider the provisions of Chapter 795 of the USP/NF concerning pharmacy compounding of non-sterile preparations, chapter 1075 of the USP/NF concerning good compounding practices, and chapter 1160 of the USP/NF concerning pharmaceutical calculations in prescription compounding. Such procedures shall be documented and be available for inspection.

(2) Compounding procedures that are routinely performed, including batch compounding, shall be completed and verified according to written procedures.

The act of verification of a compounding procedure involves checking to ensure that calculations, weighing and measuring, order of mixing, and compounding techniques were appropriate and accurately performed.

(3) Unless otherwise indicated or appropriate, compounded preparations are to be prepared to ensure that each preparation shall contain not less than 90.0 percent and not more than 110.0 percent of the theoretically calculated and labeled quantity of active ingredient per unit volume and not less than 90.0 percent and not more than 110.0 percent of the theoretically calculated weight or volume per unit of the preparation. [16.19.30.9 NMAC - N, 09-15-06; A, 06-29-13; A, 12-19-13]

**NEW MEXICO
COMMISSIONER OF
PUBLIC LANDS
AND
NEW MEXICO STATE LAND
OFFICE**

Ray Powell, M.S., D.V.M., New Mexico Commissioner of Public Lands, hereby gives notice to repeal State Land Office Rule: Title 19 - Natural Resources and Wildlife, Chapter 2 - State Trust Lands, Part 19 - Relating to Recreational Access to State Trust Lands (19.2.19 NMAC), effective December 13, 2013, and that it is hereby replaced with Title 19 - Natural Resources and Wildlife, Chapter 2 - State Trust Lands, Part 19 - Relating to Recreational and Educational Access to State Trust Lands (19.2.19 NMAC) effective December 13, 2013.

**NEW MEXICO
COMMISSIONER OF
PUBLIC LANDS
AND
NEW MEXICO STATE LAND
OFFICE**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST
LANDS
PART 19 RELATING TO
RECREATIONAL AND EDUCATIONAL
ACCESS TO STATE TRUST LANDS**

19.2.19.1 ISSUING AGENCY: Commissioner of Public Lands, New Mexico State Land Office, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501; or, P. O. Box 1148, Santa Fe, New Mexico 87504-1148, Phone: (505) 827-5713. [19.2.19.1 NMAC - Rp, 19.2.19.1 NMAC, 12/13/13]

19.2.19.2 SCOPE: This rule governs recreational and educational access to state trust lands open to such access and assures that recreational and educational access are conducted in a manner consistent with the purposes of the trust. [19.2.19.2 NMAC - Rp, 19.2.19.2 NMAC, 12/13/13]

19.2.19.3 S T A T U T O R Y AUTHORITY: The commissioner's authority to manage the state trust lands is found in N.M. Const., Art. XIII, Section 2, and in Section 19-1-1 NMSA 1978. The authority to promulgate this rule is found in Section 19-1-2 NMSA 1978. [19.2.19.3 NMAC - Rp, 19.2.19.3 NMAC, 12/13/13]

19.2.19.4 D U R A T I O N : Permanent. [19.2.19.4 NMAC - Rp, 19.2.19.4 NMAC, 12/13/13]

19.2.19.5 EFFECTIVE DATE: December 13, 2013 unless a later date is cited at the end of a section. [19.2.19.5 NMAC - Rp, 19.2.19.5 NMAC, 12/13/13]

19.2.19.6 OBJECTIVE: The objective of 19.2.19 NMAC is to provide for the orderly and lawful use of state trust lands open to recreational and educational access. [19.2.19.6 NMAC - Rp, 19.2.19.6 NMAC, 12/13/13]

19.2.19.7 DEFINITIONS: As used in this rule, the following terms shall have the meaning here indicated:

A. "Commissioner" - the commissioner of public lands or any agent or employee of the commissioner who is authorized to act in the commissioner's stead.

B. "Recreational access" - access to state trust lands open to recreational and educational access described in Subsection D of 19.2.19.7 NMAC for the purpose of conducting non-commercial permitted activities thereon.

C. "Permitted activities" - those activities on lands open to recreational access that are authorized by the issuance of a recreational access permit and are not prohibited under 19.2.19.18 NMAC. Permitted activities include, but are not limited to, such activities as hiking, sightseeing, picnicking, observing wildlife, non-commercial pinon nut gathering, photographing, and cross country skiing.

D. "Lands open to recreational access" - those lands, other than lands leased under a New Mexico state land office business lease, that are identified by the surface tract books of the New Mexico state land office as in the care, custody, and

control of the commissioner, that have not been withdrawn from recreational access by the commissioner, and on which no oil and gas operations or mining operations are being conducted.

E. "Recreational access permit" - an instrument issued by the commissioner that authorizes recreational access by the recreational access permittee and a certain number of persons accompanying the permittee. A recreational access permit shall be valid only in the possession of the recreational access permittee and shall be rendered invalid by its transfer to another. Recreational access permits shall be of two types:

(1) "Individual/family permit" - a recreational access permit issued to a recreational access permittee that authorizes recreational access by the permittee and all family members (not to exceed 10 other persons) in the company of the permittee. The permit shall be valid for one year from the date of issuance, such term to apply retroactively to any individual/family permit issued during the 12-month period prior to the effective date of this rule.

(2) "School/educational permit" - a recreational access permit issued to a recreational access permittee who is the teacher, leader, or sponsor of a school class or educational group, that authorizes recreational access by the permittee and no more than 50 members of the permittee's school class or educational group for up to three days. The permit shall be valid from sunrise to sunset for one to three consecutive calendar days.

F. "Recreational access permittee" - any person 18 years old or older to whom or in whose name a recreational access permit is issued.

G. "Established road" - A road built or maintained by equipment, and which shows no evidence of being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades, or posted closures. In addition, this includes observable two-track roads. A two-track road is one which shows use for purposes such as recreation, mining, logging, or ranching, and which shows no evidence of being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades, or posted closures. [19.2.19.7 NMAC - Rp, 19.2.19.7 NMAC, 12/13/13]

19.2.19.8 WITHDRAWAL OF LANDS FROM RECREATIONAL ACCESS: The commissioner, in his/her sole discretion, may at any time withdraw any state trust lands from recreational access if the commissioner determines that such withdrawal is in the best interests of the trust. Any lands so withdrawn shall remain

unavailable for recreational access until the commissioner, in his/her sole discretion, determines that the availability of the lands for recreational access is in the best interests of the trust.

[19.2.19.8 NMAC – Rp, 19.2.19.8 NMAC, 12/13/13]

19.2.19.9 RECREATIONAL ACCESS PROHIBITED WITHOUT A PERMIT:

Recreational access to state trust lands is prohibited in the absence of a recreational access permit issued pursuant to this rule or other express, written authorization from the commissioner. Access in accordance with an easement issued to the New Mexico state game commission does not require an additional recreational access permit or other express, written authorization. A person engaged in recreational access in accordance with this rule shall, upon request by a state land office employee or lessee, present his or her written authorization for inspection.

[19.2.19.9 NMAC – N, 12/13/13]

19.2.19.10 INTERFERENCE WITH LAWFUL RECREATIONAL ACCESS:

No lessee or other person shall interfere with lawful recreational access permitted in accordance with this rule. The lessee of the subject state trust lands may, without such interference, make inquiry concerning the status of those using state lands.

[19.2.19.10 NMAC – N, 12/13/13]

19.2.19.11 PERMIT APPLICATION AND FEES:

Applications for recreational access permits shall be written in ink upon forms prescribed by the commissioner and shall contain information the commissioner deems appropriate, or applications shall be submitted electronically if allowed by the commissioner's web site. Each application shall be accompanied by the appropriate fees as posted on the web site from time to time, which shall be non-refundable, and which are subject to change without notice. The commissioner reserves the right to reject any and all applications if the commissioner determines such rejection is in the best interests of the trust.

[19.2.19.11 NMAC – Rp, 19.2.19.9 NMAC, 12/13/13]

19.2.19.12 PERMIT APPLICATION AVAILABILITY:

Applications for recreational access permits may be obtained: 1) by mailing a written request to the commissioner of public lands, New Mexico state land office, P. O. Box 1148, Santa Fe, New Mexico 87504-1148; 2) by telephone, 505-827-5724; 3) on the web site, nmstatelands.org; or, 4) in person at the New Mexico state land office, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501.

[19.2.19.12 NMAC – Rp, 19.2.19.10 NMAC, 12/13/13]

19.2.19.13 IDENTIFICATION AND LOCATION OF RECREATIONAL ACCESS LANDS:

Recreational access permittees are solely responsible for correctly identifying and locating the lands they seek to visit pursuant to a recreational access permit. Maps are available at the New Mexico state land office at a nominal fee, or they may be obtained from the web site, nmstatelands.org.

[19.2.19.13 NMAC – Rp, 19.2.19.11 NMAC, 12/13/13]

19.2.19.14 TRAVEL:

A recreational access permit does not grant a right to enter upon or cross lands not under the control of the commissioner. Also, a recreational access permit does not grant a right to access lands by motorized vehicle. The use of motorized vehicles or any mechanical form of transportation for recreational access is restricted to public highways and roads, as defined by Section 67-2-1 NMSA 1978, and to established roads that cross the lands to which access is granted under the recreational access permit. When lands open to recreational access are fenced, vehicle access is allowed only where there is an unlocked gate that can be accessed from an immediately adjacent public highway or road, or from an immediately adjacent established road that crosses the lands to which access is granted. When a recreational access permittee opens an unlocked gate to gain access to lands by motorized vehicle, the permittee must close the gate after passing through. Where there is no such access through an unlocked gate in the fence, recreational access beyond the fence shall be limited to travel by foot.

[19.2.19.14 NMAC – Rp, 19.2.19.12 NMAC, 12/13/13]

19.2.19.15 TRESPASS AND WASTE:

Prohibited activities as described in 19.2.19.18 NMAC, on lands open to recreational access are deemed to be in trespass, waste, or both.

[19.2.19.15 NMAC – Rp, 19.2.19.13 NMAC, 12/13/13]

19.2.19.16 LIABILITY:

Each recreational access permittee shall agree, as a condition of permit issuance, to assume all liability for claims, losses or damages arising out of, alleged to arise out of, or indirectly connected with activities conducted during recreational access by the permittee and any and all individuals accompanying the permittee. Each recreational access permittee shall further agree to save, hold harmless, indemnify, and defend from all such liability, claims, losses, or damages lessees of state trust land, the commissioner,

and the commissioner's agents and employees in their official and individual capacities.

[19.2.19.16 NMAC – Rp, 19.2.19.14 NMAC, 12/13/13]

19.2.19.17 CANCELLATION:

The commissioner may cancel any recreational access permit by providing oral notice of cancellation to the permittee or by mailing written notice of cancellation to the permittee.

[19.2.19.17 NMAC – Rp, 19.2.19.15 NMAC, 12/13/13]

19.2.19.18 PROHIBITED ACTIVITIES:

A. Those activities that are not allowed on lands open to recreational access include, but are not limited to:

(1) disturbing, harassing, injuring, destroying or removing wildlife, livestock, or any other animal life;

(2) disturbing, dislodging, damaging, destroying or removing native plants, standing timber, wood products, flowers, growing crops, or any other plant life other than pinon nuts gathered non-commercially;

(3) disturbing, dislodging, damaging, defacing, destroying or removing historical, archaeological, paleontological or cultural sites, or artifacts;

(4) disturbing, dislodging, defacing, damaging or destroying any improvement, fixture, item, object, or thing placed or located in, under, or upon the land;

(5) crossing lands not open to recreational access under this rule, without permission, to gain access to state trust lands that are open to recreational access;

(6) conducting off-road vehicle activities;

(7) bringing unrestrained (unleashed) animals to state trust lands;

(8) discarding refuse, waste, or litter of any kind;

(9) building open fires, igniting fireworks, or conducting any other activity that increases the risk of range, brush, or forest fires;

(10) conducting any type of commercial operation;

(11) discharging firearms, camping overnight, opening (without closing) gates;

(12) bringing onto state trust lands or consuming thereon any type of alcoholic beverage;

(13) violating any applicable law, statute, regulation, ordinance, or rule enacted by a governmental entity;

(14) fishing, trapping, or hunting without a valid New Mexico license;

(15) mineral exploration, development, or mining, or collecting valuable rocks or minerals;

(16) interfering with the authorized

activities of other land users; or,

(17) entering, climbing, or accessing in any way structures, buildings, fixtures, or improvements other than fences located on state trust lands.

B. Recreational access shall not be exercised in a manner that materially interferes with other authorized uses of state trust lands or valid existing rights, such as agricultural leases or rights-of-way, or in a manner that prevents or limits the commissioner's exercise of his/her constitutional, statutory, or regulatory responsibilities.

C. The commission of a prohibited activity by one who gained access to state trust lands pursuant to a recreational access permit shall render the permit invalid, and shall constitute grounds for the commissioner to deny recreational access to, and to reject permit applications by, any person who gained recreational access pursuant to the invalid permit.

[19.2.19.18 NMAC - Rp, 19.2.19.16 NMAC, 12/13/13]

HISTORY OF 19.2.19 NMAC:

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

SLO Rule 19, Relating to Recreational Access to State Trust Lands, filed 08/13/90. SLO Rule 19, Amendment No. 1, filed 11/04/91.

History of Repealed Material: 19.2.19 NMAC, Relating to Recreational Access to State Trust Lands, filed 9/16/02 repealed effective 12/13/13 and replaced with 19.2.19 NMAC, Relating to Recreational and Educational Access to State Trust Lands effective 12/13/13.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

14.6.6 NMAC, Classifications and Scopes (filed 01-03-06) repealed and replaced by 14.6.6 NMAC, Classifications and Scopes effective 1-1-14.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 6 CONSTRUCTION
INDUSTRIES LICENSING
PART 6 CLASSIFICATIONS
AND SCOPES**

14.6.6.1 ISSUING AGENCY: The Construction Industries Division (CID) of the Regulation and Licensing Department. [14.6.6.1 NMAC - Rp, 14.6.6.1 NMAC, 1-1-14]

14.6.6.2 SCOPE: This rule applies to any person who engages in contracting, as that term is defined in Section 60-13-3 of the act within the state of New Mexico. [14.6.6.2 NMAC - Rp, 14.6.6.2 NMAC, 1-1-14]

14.6.6.3 STATUTORY AUTHORITY: NMSA 1978, Sections 60-13-9 A., B. and K. [14.6.6.3 NMAC - Rp, 14.6.6.3 NMAC, 1-1-14]

14.6.6.4 DURATION: Permanent. [14.6.6.4 NMAC - Rp, 14.6.6.4 NMAC, 1-1-14]

14.6.6.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section. [14.6.6.5 NMAC - Rp, 14.6.6.5 NMAC, 1-1-14]

14.6.6.6 OBJECTIVE: The objective of 14.6.6 NMAC is to set forth the classifications of licenses and certificates issued by CID. [14.6.6.6 NMAC - Rp, 14.6.6.6 NMAC, 1-1-14]

14.6.6.7 DEFINITIONS:

A. Electrical wiring means installation; alteration; connection; maintenance; demolition; or repair of raceways; conduits; conductors; cables; boxes; fittings; wiring devices; luminaires; overcurrent devices; distribution equipment; or other equipment or apparatus that is used as part of, or in connection with, an electrical installation.

B. Mechanical and or plumbing work means installation; alteration; connection; maintenance; demolition; or repair or piping; fixture; equipment; ducts or appurtenances other equipment that is used

as part of, or in connection with a mechanical or plumbing system installation.

C. Commercial or industrial work means all electrical, mechanical or plumbing work not defined as residential work in this rule.

D. Residential work means work on one and two family dwelling units, as defined in the 14.7.3 NMAC, 2006 New Mexico Residential Building Code. Residential work does not include work on apartment buildings or wiring for commercial use such as motels, hotels and similar occupancies.

E. Unregistered apprentice means a person who, for the purpose of learning a trade of journeyman and is not registered in an apprenticeship program recognized by the New Mexico state apprenticeship council.

F. Direct supervision means reasonable oversight, inspection and evaluation of the work of a person by constant on the jobsite supervision by a certified journeyman.

[14.6.6.7 NMAC - Rp, 14.6.6.7 NMAC, 1-1-14]
[See Sections 60-13-2 and 3 of the act.]

14.6.6.8 GENERAL INFORMATION:

A. Any license issued pursuant to the act and Title 14 NMAC authorizes contracting in the activities covered by the classification(s) of the issued license only. Work performed outside that scope constitutes a violation of the act and these rules and constitutes grounds for disciplinary action.

B. A validly licensed person may bid and contract as the prime contractor of a project only if the major portion of the work, based on dollar amount, is authorized by the classification of the prime contractor's license. Any work outside the scope of the prime contractor's license classification(s) must be subcontracted. This provision is subject to the exception set forth in Subsection A of 14.6.6.9 NMAC, below.

C. Any work subcontracted by a prime contractor must be performed by an entity that is validly licensed in the classification(s) of the work that is to be subcontracted.

D. Any license issued in a classification that is subsequently discontinued, shall be renewed under that classification until the license becomes invalid. When a license issued in a discontinued classification becomes invalid, the entity that held that license will be required to apply for a new license in the appropriate classification in effect at the time of the application in order to be validly licensed to engage in contracting in the state of New Mexico. Such an applicant will be required to satisfy all requirements for

licensure as provided in the act and Title 14 NMAC.

[14.6.6.8 NMAC - Rp, 14.6.6.8 NMAC, 1-1-14]

14.6.6.9 GENERAL CONSTRUCTION CLASSIFICATIONS:

A. General information.

(1) A GB-98 contractor may bid and contract as the prime contractor of a project that involves work authorized by the GB-98 license classification, regardless of the percentage of work in the mechanical/plumbing or electrical trades. The work outside the scope of the prime contractor's license classification(s) must be subcontracted to an entity validly licensed in the appropriate classification(s).

(2) A GB-98 contractor may not bid and contract as the prime contractor of an entire project if the major portion of the work to be performed, based on dollar amount, is covered by the scope of any GA or GF classification.

B. Classifications.

(1) **GA Asphalt, bitumen and concrete construction:** Applies to surfaces used by vehicular traffic, not airborne craft.

(a) **GA-1. Streets, roads and highways, including tunnels, parking lots, alleys, seal coat and surfacing.** Requires two years experience. Clear, align, fill, compress, compact, build up or remove earth and do all work necessary to prepare, within the assigned rights-of-way, the land to accept a street, road, highway, including tunnels, parking lots, alleys or driveways, including curbs, gutters, public sidewalks and land fencing. Place and finish concrete and/or bituminous materials and apply sealcoat.

(b) **GA-2. Maintenance and repair.** Requires two years experience. Fix, maintain, repair, patch, mend, cover, fill or replace materials of like substances to that being repaired on streets, roads, highways, parking lots, driveways and alleys. Apply seal coat to driveways and parking lots. Install rumble strips.

(c) **GA-3. Curbs, gutters and culverts.** Requires two years experience. Form, place and finish concrete curbs, gutters, culverts, public sidewalks and bituminous ridge curbs for the deflection of water.

(d) **GA-4. Striping.** Requires two years' experience. Paint directional stripes on paved roads, streets, highways, alleys and parking lots. Install auto parking bumpers or stops and highway lane markers/reflectors.

(e) **GA-5. Highway signs and guard rails.** Requires two years experience. Erect and stabilize signs and guard rails along public highways, streets, roads and alleys, which are used for the direction and safety of vehicular traffic. Electrical signs must be installed by a properly licensed electrical contractor.

(f) **GA-98. Asphalt, bitumen and concrete construction.** Requires licensure in classifications GA-1 through GA-5, and covers all work authorized in those classifications.

(2) **Residential and commercial building.**

(a) **GB-2. Residential.** Requires two years experience. Erect, alter, repair or demolish homes, residences and apartment houses accommodating not in excess of four family units, Groups R-1 and R-3, as those groups are defined in 14.7.3 NMAC. May also bid and contract for items included in Group U, as defined in 14.7.3 NMAC, when incidental to these structures. Includes all work described by the GS specialty classifications, provided the work is limited to residential construction as defined under this provision.

(b) **GB-98. General building.** Requires four years experience. Erect, alter, repair or demolish residential and commercial buildings, and certain structures, excluding those structures covered by the EE, GA, GF or MM classifications. Includes all work described by the GB-2 and GS specialty classifications.

(3) **Fixed works.** Authorized to construct, alter or repair fixed works facilities; provided, however, that work in any trade or craft that is authorized by any one, or a combination of, the mechanical, electrical, general building or LP Gas classifications must be performed by an entity validly licensed in the appropriate classification. Except as may be expressly provided in a specific classification description, fixed works classifications may not construct buildings that are primarily for the use and occupancy of the general public, but may bid and contract for such buildings when they are incidental to a fixed works project, pursuant to Subsection B of 14.6.6.8 NMAC, above.

(a) **GF-1. Airports.** Requires two years experience. Construct, alter and repair airports, including marking, excavating, grading, fencing, surfacing and subsurfacing (dirt or bitumen and concrete), compacting and other work on surfaces to be used for aircraft traffic, landing, take-off and taxi.

(b) **GF-2. Bridges.** Requires two years experience. Erect, construct, alter, repair or demolish any bridge, overpass or underpass, culvert and ramp, generally used for vehicular traffic.

(c) **GF-3. Canals, reservoirs, irrigation systems.** Requires two years experience. Construct, erect, alter, repair, or demolish canals, reservoirs or irrigation systems, including pivot irrigation systems. May excavate, ditch, fill, compact and place pre-cast components, waterproof membranes and liners, concrete reinforcement, abutments and buttresses in connection therewith. May install tanks,

pumps, pipe lines and substations incidental to the project.

(d) **GF-4. Drainage or flood control systems.** Requires two years experience. Construct, erect, install, repair and alter drainage or flood control systems. May dig, excavate, fill, prepare embankments for such purposes, place pre-cast components, concrete reinforcement and perform all other work incidental to these projects. May install storm sewers, including trenching, boring, shoring, backfilling, compacting, and paving.

(e) **GF-5. Recreation areas.** Requires two years experience. Construct, prepare, clear, repair or alter facilities for use as recreation areas, including but not limited to golf courses, tennis courts, playgrounds, outdoor athletic facilities, miniature golf courses, pitch-and-putt golf courses. May prepare the area by excavation, fill, including foundations, retaining walls, sprinkler systems, rest benches, shade and rain shelters. Also includes public campgrounds and parks, including toilet facilities and lean-tos.

(f) **GF-6. Railroad and tunnel construction.** Requires two years experience. Construct railroad lines, including clearing, filling, shaping, compacting, placing rip-rap, stabilizing, setting roadbeds, ties, tie plates, rails, rail connectors, frogs, switch plates, switches, and all appurtenances necessary for an operational railroad line, including bridges, culverts, tunnels, retaining walls, dikes, fences, gates, tool sheds and landing or parking platforms for equipment. Includes welding operations necessary for rail construction.

(g) **GF-7. Tanks and towers.** Requires two years experience. Fabricate and install tanks for the storage of solids or liquids, above or below ground, and towers such as radio and microwave towers, including all necessary site-work, excavation and the construction of concrete pads and foundations, cutting, welding, placement of structural members, engineered structural support systems for elevated tanks, and engineered or prefabricated towers. Includes the repair, cleaning, and placement of liners in tanks, and incidental fencing and buildings.

(h) **GF-8. Transmission lines, tanks and substations (non-electrical).** Requires two years experience. Build, construct and place lines for the transmission or conveyance of petroleum and other fluid substances, including the application of protective coatings, trenching, boring, shoring, backfilling, compacting, paving and surfacing necessary and incidental to the completion of the installation of such facilities. Includes incidental buildings, tanks, and substations required for the project.

(i) **GF-9. Utility lines (sewage,**

natural gas and underground telephone cables). Requires two years experience. Construct, install, alter or repair utility lines for the transmission of sewage, natural gas and water, including excavating, grading, trenching, boring, shoring, backfilling, compacting, paving and surfacing. Construct, alter, or repair treatment plants and facilities incidental thereto. Install direct burial telephone or data cable and vaults as directed by the telephone utility. May not perform installation of electrical raceways, splicing, termination, installation of load pots, overhead cabling work, or other activities considered under the scope of the ES-7, EL-1 or EE-98 electrical classifications.

(j) GF-98. Construct, alter or repair fixed works facilities. Requires four years experience. Requires licensure in classifications GF-1 through GF-9 and covers all work described in these classifications.

(4) Specialty classifications. General construction includes numerous specialties. Therefore, CID has established the GS classification series to enable entities that perform this kind of work to be licensed in their respective areas of expertise. The most common of these specialties are described below.

(a) GS-1 Acoustical and/or insulation, urethane foam. Requires two years experience. Install any insulating material, including urethane foam and approved waterproof membranes and coatings, in or on buildings, structures and on piping for the purpose of energy conservation, temperature and sound control, and fireproofing. Does not include the installation of urethane roof systems.

(b) GS-2 Awnings and canopies. Requires two years experience. Construct, erect and install awnings and canopies, attached to buildings and structures or free standing, including, but not limited to carports and service station canopies, and including necessary excavation and foundation work. All electrical work shall be performed by a properly licensed electrical contractor.

(c) GS-3 Tile, marble and terrazzo. Requires two years experience. Install tile, marble, granite, cultured stone, and terrazzo, including preparing surfaces and placing material, with or without adhesives, mortar, or sealants.

(d) GS-4. Concrete, cement, walkways and driveways. Requires two years experience. Mix, pour, place, and finish concrete, including all necessary preparatory work including excavation, form work, and placing of reinforcement materials. May not perform this work in street construction.

(e) GS-5 Demolition. Requires two years experience. Demolish all or any portion of a building and certain structures, including such demolition to portions

of buildings and structures as to permit additions and alterations to the remaining portions of the building and structure.

(f) GS-6 Door installation. Requires two years experience. Install doors in buildings and structures, including the necessary installation of material embracing essential and acceptable door framing, and install hardware necessary to connecting, closing and locking of such doors.

(g) GS-7. Drywall installation and texture. Requires two years experience. Install gypsum wallboard, gypsum sheathing, taping, bedding and coating the surfaces of the wallboard and sheathing with gypsum joint systems, tape and drywall mud, or a combination of other materials to create a permanent surface of coating. Includes texturing of walls and ceilings.

(h) GS-8. Earthmoving, excavating and ditching. Requires two years experience. Perform earthwork, using hand or power tools, machines that use air, fluids, or other material under pressure, or heavy equipment, in such a manner that cutting, filling, excavating, grading, trenching, backfilling, boring and any similar excavating activity can be executed. Includes the use of explosives for such purposes and may be subject to certain restrictions.

(i) GS-9. Elevators, escalators, conveyors and related machinery (non-electrical). Requires two years experience. Erect, install or repair elevators, escalators and related machinery, including sheave beams, sheaves, cable and wire rope, guides, cab, counterweights, doors, including sidewalk elevators, automatic and manual controls, signal systems and all other devices, apparatus, machinery and equipment (including fabrication on job site) essential to the safe and efficient installation and operation of electrical, hydraulic and manually operated elevators, escalators and conveyors.

(j) GS-10 Fencing. Requires two years experience. Install fencing including cutting, shaping, fabricating and installing barbed wire, wood or metal fencing, masonry brick or block fence walls, including incidental concrete work and hardware necessary to connecting, closing and locking of gates. May not erect retaining walls.

(k) GS-11 Fixtures, cabinets and millwork. Requires two years experience. Install cabinets and countertops, fixtures that are permanently attached to floors, walls, and ceilings, and perform finish carpentry work, excluding installation of doors and windows.

(l) GS-12 Floor covering, seamless floors and wood floors and finish. Requires two years experience. Install flooring including the work necessary to bring surfaces to a condition where acceptable finished floors can be installed with the use of composition materials and

fabrics and such other materials as are by custom and usage accepted in the building and construction industry as floor covering, excluding tile. Install, finish and repair wood floors and flooring, including the scraping, sanding, filling, staining, shellacking and waxing of such wood floors and flooring. This authorization does not include the installation of carpeting.

(m) GS-13. Framing. Requires two years experience. Cut, join and install wood, and wood and metal products for the framing of a structure or building, including bearing and non-bearing walls, rafters, headers, trusses, joists, studs, door and window rough frames, and roof decks, including repair to any of the above.

(n) GS-14 Glazing, windows, weather stripping, storm door and window installation. Requires two years experience. Fabricate and install windows in buildings and structures, including the necessary installation of material embracing essential and acceptable window framing, and the installation of hardware necessary to connecting, closing and locking of such windows. Cut, assemble and install all makes and kinds of glass work, and execute the glazing of frames, panels, sash and doors. Fabricate and install storm doors and windows. Install weather stripping and caulking.

(o) GS-15 Caissons, piers and pile driving. Requires two years experience. Install piers, caissons and pilings through the use of pile driving equipment and machinery, including necessary excavation, grading and clearing for site preparation for pile driving activities. Cut, weld, join and fabricate caissons or piles. Install all necessary concrete and reinforcing steel within the caissons to create a structural member.

(p) GS-16. Masonry. Requires two years experience. Install or erect brick and other baked clay products, rough cut and dressed stone, artificial stone and pre-cast blocks, structural glass brick or block adobe, laid at random or in courses, with or without mortar, to form masonry walls, including retaining walls, and flatwork including brick and flagstone installed on concrete or sand. Does not include the application of the tile to existing surfaces or the execution, fabrication and erecting of poured cement and concrete, except as a foundation for a wall or surface for flagstone installation.

(q) GS-17 Ornamental iron and welding. Requires two years experience. Install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, stainless steel or any other metal for the architectural treatment and ornamental decoration of buildings and structures, including all necessary welding. Does not include the work of a GS-29 miscellaneous sheet metal contractor as provided in these classifications. Welding performed at a

welding or fabricating establishment, and not installed by employees of the welding establishment, is considered manufacturing and does not require a contractor's license.

(r) GS-18 Painting and decorating. Requires two years experience. Apply wallpaper, paints, pigments, oils, turpentine, japans, driers, thinners, varnishes, shellacs, stains, fillers, waxes and any other vehicles that may be mixed, used and applied to the surfaces of buildings, tanks, structures, monuments and appurtenances thereto. Includes the preparation of surfaces to bring them to a condition such that acceptable work can be executed thereon. Includes the painting portions of the GA-4, striping classification.

(s) GS-21. Roofing. Requires two years experience. Install, alter or repair roof systems on existing roof decks to create a weatherproof and waterproof protective membrane, with or without insulation, using asphalt, pitch, tar, sealants, felt, shakes, shingles, roof tile, slate, urethane or any other approved materials, including the preparatory work necessary to bring such surfaces to a condition where roofing can be installed, sealed or repaired. Includes cutting, shaping, fabricating, and installing of sheet metal such as cornices, flashing, gutters, leaders, rainwater downspouts, pans, prefabricated chimneys, at or near roof lines, metal flues, or doing any part of any combination thereof, which relate to and are incidental to the principal contracting business of installing roofing.

(t) GS-22 Sandblasting. Requires two years experience. Clean or remove paint or other coatings from buildings or structures, by hand or mechanical devices using sand, air, water and other forms of mixed abrasives.

(u) GS-23 Sign construction (non-electrical). Requires two years experience. Fabricate, install and erect signs of wood, steel, plastic or any material, or any combination of materials, which are to be embedded in the earth, in concrete or other base material, or attached to buildings or structures using anchors, attached cables, bars or similar devices and appurtenances. Electrified signs may be installed by contractors holding ES-1 without being classified hereunder.

(v) GS-24. Structural steel erection. Requires two years experience. Fabricate and erect structural steel shapes and plates, of any profile, perimeter or cross-section that may be used as structural members for buildings and structures, including riveting and welding.

(w) GS-25. Swimming pools (non-mechanical/electrical). Requires two years experience. Construct and repair swimming pools including excavation, installation of reinforcing steel or mesh, application of concrete and special coatings.

May not perform any trade or craft which is authorized by any mechanical, electrical or LP Gas classification.

(x) GS-26 Vaults and depositories. Requires two years experience. Install safes, vaults and depositories of any size, shape or form, fabricated with wood, steel, concrete or any other material including the preparation of those areas and specific sections of buildings and structures to house such safes, vaults, depositories. Includes constructing, erecting, or installing buildings or vaults to be used for interring deceased persons.

(y) GS-28 Gunite. Requires two years experience. Install gunite in areas which include, but are not limited to, swimming pools, canals, reservoirs, bank stabilization and open ditch irrigation systems including the application of steel or wire mesh reinforcement.

(z) GS-30. Plastering, stucco and lathing. Requires two years experience. Prepare wall and ceiling surfaces, interior or exterior, with wood, metal lath, wallboard or other properly prepared surfaces which will accept and hold a mixture of sand, plaster (including gypsum plaster), lime and water, or sand and cement with water or any combination of materials to create a permanent surface coating. These coatings may be applied manually or mechanically on surfaces which will support such coating. May install steel stud systems (non-structural), channel iron work and affix lath or any other materials or products, prepared or manufactured to provide a base for such coatings.

(aa) GS-31 Siding. Requires two years experience. Apply siding consisting of slate, gypsum, wood, plastics or other products, including the application of furred up networks on which the siding can be installed. May not install or paint doors or windows.

(bb) GS-32 Miscellaneous sheet metal. Requires two years experience. Fabricate and install sheet metal (galvanized iron) such as cornices, flashing, gutters, leaders, rainwater downspouts, pans, prefabricated chimneys, hoods, skylights and metal flues. May not install HVAC duct systems, vents, grease hoods, or other appurtenances that are authorized by any mechanical classification.

(cc) GS-34 Concrete coring, drilling and slab sawing. Requires two years experience. Coring, boring, drilling, cutting, and sawing concrete, including the removal or demolition of the material. Does not include the installation of wiring or plumbing in such bored, drilled, cut or sawed concrete.

(5) GS-29 specialties. The GS-29 classification is a sub-category of the specialty classification. It is a miscellaneous classification that is used to identify

uncommon specialties on a case-by-case basis. Requires two years experience.

[14.6.6.9 NMAC - Rp, 14.6.6.9 NMAC, 1-1-14]

14.6.6.10 ELECTRICAL CLASSIFICATIONS:

A. General information.

(1) A journeyman certificate of competence in the appropriate trade classification for the work to be performed is required of all individuals performing electrical wiring; provided however, that an apprentice, as defined in Section 60-13-2 of the act, may work under the direct supervision of a validly certified journeyman, as defined in Section 60-13-2 of the act, who is employed by a validly licensed person, as defined in Section 60-13-2 of the act, or a holder of a valid annual permit. Journeyman certifications shall be issued such that the certificates parallel the electrical license classification numbers and scopes. Ratio of unregistered apprentices. The ratio of certified journeyman to unregistered apprentices must not exceed:

(a) one journeyman to two unregistered apprentices on commercial or industrial work;

(b) one journeyman to two unregistered apprentices on commercial or industrial special systems low-voltage work;

(c) one journeyman to three unregistered apprentices on residential work.

(2) Conduit installation: All conduit installations within, or on, buildings shall be performed by a contractor holding a EE-98 license, except where ER-1 licensees and journeymen are installing conduit that is incidental to residential wiring. Specialty electrical license holders (ES-1, 2, 3, and 7) shall not install conduit within, or on, buildings.

(3) Electrical contracting defined: The definition of contracting is set forth in Section 60-13-3 of the act, and nothing in this rule shall be construed to conflict with that definition. However, for the purposes of clarity in this rule, contracting is understood to include installations, alterations, repairs, servicing and maintenance involving electrical work.

(4) Electrical customer-owned distribution systems are subject to all adopted codes, standards, and regulations. Customer-owned distribution systems include all (non-utility owned or operated) overhead or underground primary or secondary voltage electrical power line construction, installation, alteration, repairs, and maintenance.

B. License classifications.

(1) Residential and commercial.

(a) EE-98. Residential and commercial electrical wiring 5000 volts, nominal or less. Requires four years experience. Includes all electrical wiring

operating at 5000 volts, nominal, or less, electrical wiring identified in electrical specialty classifications ES-1, ES-2, ES-3 and ES-7, residential electrical wiring identified in classification ER-1, and only trenching and ductwork associated with classification EL-1. Does not include electrical wiring defined in the EL-1 classification other than trenching and duct work as specified above. May bid and contract as the prime contractor of an entire project provided the electrical contractor's portion of the contract, based on dollar amount, is the major portion of the contract.

(b) ER-1. Residential electrical wiring. Requires two years experience. Includes one and two-family dwelling units and multi-family dwellings when all such units are all on the ground floor with no occupancies above or below, as set forth in 14.10.4 NMAC. May not install wiring for commercial use, such as motels, hotels and similar occupancies. May not contract for more than four dwelling units in any single building or structure.

(c) EL-1. Electrical distribution and transmission systems over 5000 volts, nominal. Requires four years experience. Includes all electrical wiring operating at over 5000 volts, nominal, including overhead or underground electrical distribution and transmission circuits, equipment, associated towers, tower foundations and other supporting structures, trenching and ductwork and sub-stations and terminal facilities. Does not include any electrical wiring specified on other electrical classifications EE-98, ER-1, ES-1, ES-2, ES-3 or ES-7.

(2) Specialty licenses.

(a) ES-1. Electrical signs and outline lighting. Requires two years experience. Electrical signs and outline lighting, including electrical wiring to connect signs installed where a "sign circuit" has been provided within 10 feet, and concrete for the foundation of poles, and build structures for the support of such signs. Outline lighting is an arrangement of incandescent lamps or gaseous tubes to outline and call attention to certain features such as the shape of a building or the decoration of a window and may or may not contribute to the general illumination of an area.

(b) ES-2. Cathodic protection and lightening protection systems. Requires two years experience. Electrically activated systems to prevent galvanic damage to metallic pipelines or structures, usually underground and electrical work involved in the equipment for connection rectifier systems. Also includes lightning protection systems. May not install the service riser, main service or service grounding.

(c) ES-3. Low voltage special systems (under 50 volts). Requires two years

experience. Public address or other sound, voice communication systems normally involving low energy signal circuits. Also, electrical burglar and fire alarm systems, computer data systems, one and two-family and multifamily dwelling telephone systems and cable TV systems normally involving coaxial cable for the purpose of transmitting R.F. signals and other intelligence by wire and cable. Includes other low voltage specialty systems such as, but not limited to, door and gate operated control circuits, and temperature control circuits. An installer of TVROs (dishes) is not required to have a contractor's license when the installation is in a single-family dwelling and does not require the use of 120 volts for tracking.

(d) ES-7. Telephone communication systems. Requires two years experience. In-plant and out-plant telephone systems, telephone interconnections in public or privately owned buildings, computer data systems and underground cables or aerial supporting structures, trenching, duct work, terminal facilities, repeaters, including the installation of instruments at their terminating locations. Interior wiring of a building housing any of the above equipment requires an EE-98 classification. Note: Refer to GF-9 classification for additional underground telephone cable installations. The GF-9 classification does not include electrical raceway installation.

(e) ES-10 R. Residential water well pump installer. Requires two years experience. This classification covers residential water well pumps, 120/240 volts or less, single phase 15 HP or less. Install, maintain, repair or replace electrical equipment, wiring, and accessories used in connection with water well pump systems, including single phase variable frequency drives. Also includes subpanels, luminaires, and receptacle outlets installed within the well pit or well enclosure. Branch circuit or feeder conductors from the service equipment or panelboard to the well pump location. Incidental excavation, trenching and solar photo-voltaic arrays 5 kW or less when dedicated to pumping equipment. This classification does not include systems over 240 volts, pumps over 15 HP, electrical services, building wiring or any other electrical wiring.

(f) ES-10. Water well pump installer. Requires two years experience. This classification covers residential and commercial water well pumps, 600 volts or less, single or three phase. Install, maintain, repair or replace electrical equipment wiring and accessories used in connection with water well pump systems, including variable frequency drives. Also includes subpanels, luminaires, and receptacle outlets installed within the well pit or well enclosure, Branch circuit or feeder conductors from the service

equipment or panelboard to the well pump location. Incidental excavation, trenching and solar photo-voltaic arrays 5 kW or less when dedicated to pumping equipment. This classification does not include systems over 600 volts, electrical services, building wiring or any other electrical wiring.

C. Journeyman classifications.

(1) EE-98J. Journeyman residential and commercial electrical. Requires four years experience.

(2) ER-1J. Journeyman residential wiring. Requires two years experience.

(3) EL-1J. Journeyman electrical distribution systems, including transmission lines. Requires four years experience.

(4) ES-1J. Journeyman electrical signs and outline lighting. Requires two years experience.

(5) ES-2J. Journeyman cathodic protection and lightening protection systems. Requires two years experience.

(6) ES-3J. Journeyman sound, intercommunication, electrical alarm systems, and systems 50 volts and under. Requires two years experience.

(7) ES-7J. Journeyman telephone communication systems and telephone interconnect systems. Requires two years experience.

(8) ES-10RJ. Journeyman residential water well pump installer. Requires two years experience.

(9) ES-10J. Journey man water well pump installer. Requires two years experience.

[14.6.6.10 NMAC - Rp, 14.6.6.10 NMAC, 1-1-14]

14.6.6.11 MECHANICAL AND PLUMBING CLASSIFICATIONS:

A. General information.

(1) A journeyman certificate of competence in the appropriate trade classification for the work to be performed is required of all individuals performing mechanical and plumbing work; provided however, that an apprentice, as that term is defined in Section 60-13-2 of the act, may work under the direct supervision of a validly certified journeyman, as that term is defined in Section 60-13-2 of the act, who is employed by a validly licensed person, as that term is defined in Section 60-13-2 of the act, or a holder of a valid annual permit. Journeyman certifications shall be issued such that the certificates parallel the mechanical and plumbing license classification numbers and scopes. Ratio of unregistered apprentices. The ratio of certified journeyman to unregistered apprentices must not exceed:

(a) one journeyman to two unregistered apprentices on commercial or

industrial work;

(b) one journeyman to three unregistered apprentices on residential work.

(2) The definition of contracting is set forth in Section 60-13-3 of the act and nothing in this rule shall be construed to conflict with that definition. However, for the purpose of clarity in this rule, contracting is understood to include installations, alterations, repairs, servicing and maintenance involving plumbing or mechanical work.

(3) The definitions of plumbing, fixtures and gas fitting as set forth in Section 60-13-32 of the act should be referenced when reading these classifications.

B. License classifications.

(1) Residential and commercial.

(a) MM-1. Plumbing. Requires four years experience. Install, alter, repair and service plumbing fixtures, and piping, including pneumatic or electric controls and control wiring not greater than 24 volts, concrete supports, and excavating, trenching and backfilling. Includes hot water heating systems not exceeding 30 p.s.i. or 400,00 b.t.u./hour input; piping for fuel, oil and gasoline and for solar energy systems; septic tanks, manholes and sewer lines; irrigation sprinkler systems; swimming pools and spas. Does not include installation of natural gas fired appliances or natural gas piping.

(b) MM-2. Natural gas fitting. Requires four years experience. Install, alter, repair and service natural gas piping and fittings and incidental controls and control wiring, pneumatic control systems, excavating, trenching and backfilling. Includes installation of hot water systems exceeding 30 p.s.i. or 400,000 b.t.u./hour input; steam and hot water boilers; and warm air heating systems such as chimney connections, flues, refractories, burners, fittings valves, thermal insulation, accessories and incidental piping; warm air appliances and other listed gas appliances. May not install LP Gas systems.

(c) MM-3. Heating, ventilation & air conditioning (HVAC). Requires four years experience. Install, alter, repair and service HVAC air handling and refrigeration equipment and piping, including fans, coils, condensing units, self-contained packaged air conditioning or heating units, evaporative cooling units, solar energy systems, ductwork and pneumatic tube systems. May connect water to existing valved outlets, and install controls, and control wiring not to exceed 24 volts. May bid and contract for structural alterations, painting, electrical wiring and other work incidental to this scope of work, provided such work is performed by a properly licensed contractor.

(d) MM-4. Heating, cooling and process piping. Requires four years experience. Install, alter, repair and service hydronic heating, cooling and process

piping for steam hot water systems of any temperature pressure range, chilled water systems, condensing water systems and process piping systems. Includes pressure vessels, heat exchangers, boilers, refrigeration water chillers, cooling towers, fuel oil tanks and fuel oil piping, and pneumatic or electric controls and control wiring not to exceed 24 volts. Install high pressure and process piping solar energy systems of any temperature or any pressure conveying gas or fluids other than potable water, and pneumatic tube systems.

(e) MM-98 Mechanical.

Requires four years experience. Requires licensure in classifications MM-1 through MM-4 and covers all work described in these classifications, as well as work described in the MS-3, MS-6, MS-12 and MS-14.

(2) Specialty classifications:

(a) MS-3 Septic tanks & sewer.

Requires two years experience. Install, alter, repair or service septic tanks and systems, manholes and sewer lines, starting at a point five feet beyond the outside wall of a building and ending at a connection to a public or private utility. May excavate, trench, backfill and grade as necessary, and install or repair plug-in type electrical control panels, controls and control wiring not to exceed 24 volts.

(b) MS-6. Lawn sprinklers.

Requires two years experience. Install, alter, repair or service sprinkler systems which are connected to a potable water supply. May excavate and backfill as necessary and install or repair plug-in type electrical control panels, controls and control wiring not to exceed 24 volts.

(c) MS-12. Fire protection sprinkler systems. Requires four years experience. Install alter, repair or service fire protection systems using water, including any pressure or storage tanks required, controls and control wiring up to 24 volts. May excavate and backfill and install piping from structure to off-premise water supply adjacent to property involving a fire protection system. May bid or contract for structural alterations, painting, electrical wiring, etc., incidental to the system installation, provided such work is performed by a properly licensed contractor.

(d) MS-14. Dry chemical fire protection. Requires four years experience. Install, alter, repair or service fire protection systems using gas or chemical, including CO, clean agent. Includes pressurized storage tanks, valves, temperature sensing devices and other incidental control wiring up to 24 volts. May install solenoid or shut-off valve devices in these systems. May bid or contract for structural alterations, painting, electrical wiring, etc., incidental to the system installation, provided such work is performed by a properly licensed contractor.

C. Journeyman classifications. Requires two years experience.

(1) JP. Journeyman plumber.

(2) JPF. Journeyman pipe fitter.

(3) JG. Journeyman natural gas fitter.

(4) JPG. Journeyman plumber and natural gas fitter.

(5) JR. Journeyman refrigeration. Must demonstrate compliance with EPA Recovery requirements before certificate may be issued.

(6) JS. Journeyman sprinkler.

(7) JSM. Journeyman sheet metal.

(8) JW. Journeyman welder. Must obtain either a JP or JG or JPG or JSM certification and show ASME Section 9 certification. Is not required to test separately for this certificate of competence.

(9) JMG Journeyman Medical Gas Installer. Must obtain either JP, JG, JPG or JPF certification and show approved medical gas certification as referenced in 14.9.5 NMAC.

(10) BO1. Journeyman boiler operator. Low pressure only.

(11) BO2. Journeyman boiler operator. Low and high pressure.

(12) MS-12J. Journeyman fire protection sprinkler systems. Requires four years experience.

(13) MS-14J. Journeyman dry chemical fire protection. Requires four years experience.

[14.6.6.11 NMAC - Rp, 14.6.6.11 NMAC, 1-1-14]

History of 14.6.6 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11-25-70;

CIC 72-4, General Construction Classifications, filed 02-16-72;

CIC 76-2, Rules And Regulations, filed 05-05-76;

CID 78-2, Rules And Regulations, filed 12-05-78;

CID 79-1, Rules And Regulations, filed 06-06-79;

CID 82-1, Construction Industries Rules And Regulations, filed 04-14-82;

CID 85-1, Construction Industries Rules And Regulations, filed 02-04-85;

CID 90-1, Construction Industries Rules And Regulations, filed 05-31-90.

History of Repealed Material:

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 09-02-97), repealed effective 12-1-00.

14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 10-16-2000), repealed 7-1-04.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 5-27-04), repealed 2-1-06.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1-3-06), repealed 1-1-14.

Other History:

That portion of CID 90-1, Construction Industries Rules And Regulations, filed 05-31-90 - renumbered, reformatted and amended to 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications And Scopes, effective 09-14-96.

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications And Scopes (filed 09-03-96) replaced by 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, effective 09-23-97.

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, filed 09-02-97 replaced by 14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, effective 12-1-00.

14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 10-16-2000), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 7-1-04.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 5-27-04), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 2-1-06.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1-3-06), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 1-1-14.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.5.2 NMAC, Section 10, effective 02-01-14.

**14.5.2.10 S U B M I T T A L
DOCUMENTS:**

A. Submittal documents.

(1) With each application for a permit, two (2) sets of the following documents (collectively, submittal documents) must be submitted:

- (a) type, occupancy including occupant load and kind of structure;
- (b) plans;
- (c) specifications;
- (d) engineering calculations;
- (e) diagrams;
- (f) soil investigation reports;
- (g) other any other data or document required by the building official or the plan review official; and

(h) exterior wall envelope; submittal documents for all buildings shall describe the exterior wall envelope in sufficient detail to enable the plan review to determine compliance with the NMCBC the NMRBC and NMECC; the submittal documents shall show the exterior wall envelope in detail as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings; roofing systems and manufacturers specifications are required to be submitted;

(i) mechanical design criteria for all buildings must be included with the submittal documents.

(2) For construction subject to the NMCBC, see sections 107.1.1, 107.1.2, 107.2 of the IBC for other requirements regarding submittal documents, including form, means of egress, and site plans.

(3) For construction subject to NMRBC, see sections 106.1.1, 106.1.2, 106.1.3 and 106.2 of the IRC for other requirements regarding submittal documents, including form, manufacturer's installation instructions, construction in flood areas, and site plans.

(4) Upon approval, one (1) set of the submittal documents shall be retained by the division, and one (1) set shall be returned to the permittee, shall be available at the work site, and shall be available for inspection by the building official or inspector during the performance of the permitted work.

(5) The building official may require submission of any specifications,

drawings or diagrams necessary to show clearly the kind and extent of building construction work for which a permit application has been submitted.

B. Professional seals requirements: The building official or the plan review official is authorized to require submittal documents to be prepared and sealed by an architect, registered in accordance with the New Mexico Architectural Act, and the rules promulgated pursuant thereto, or by a professional structural engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act, and the rules promulgated pursuant thereto. An architect or engineer stamp is required for all uses listed in table 1004.1.1 in the IBC.

C. Exceptions: The requirement for plans and specifications to be prepared by an architect or engineer shall not be required in any of the following instances unless, in the discretion of the building official, an exception is not in the best interests of public safety or health.

(1) Multiple dwellings of not more than two (2) stories in height and containing not more than four (4) dwelling units constructed of materials approved for use pursuant to the NMRBC, and provided that this exception is not construed to allow a person who is not an architect to design multiple clusters of four (4) dwelling units each where the total exceeds four (4) dwelling units on each lawfully divided lot.

(2) Garages or other structures not more than two (2) stories in height which are appurtenant to buildings described in paragraph (a) of this section.

(3) Group A, B, E divisions 1 and 2, F, M, S, U buildings or additions having a total occupant load of ten (10) or less (as defined in section 1003.2.2 and table 1003.2.2.2 of the IBC), and not more than two (2) stories in height.

(4) Alteration to buildings or structures that present no unusual conditions or hazards or change in occupancy.

(5) Single-family dwellings, not more than three stories in height.

D. Submission may be waived. The building official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that plan review is not necessary to obtain compliance with the New Mexico construction codes.

E. Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted with the application for the permit, and that are to be submitted, thereafter, within a period specified by the building official or the plan review official.

F. Approval. Deferral

of any submittal items must have the prior approval of the building official. The responsible design professional shall list the deferred submittals on the submittal documents accompanying the permit application. Submittal documents for deferred submittal items must be submitted to the responsible design professional who shall review and forward them to the division with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The items identified in the deferred submittals shall not be installed until the building official has approved their design and submittal documents.

G. Responsible design professional. When submittal documents are required to be prepared by a registered design professional, the permit application shall indicate the registered design professional who shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. This design professional shall be deemed to be the "responsible design professional." The permittee shall notify the division in writing within a reasonable period of time, not to exceed ten (10) business days, if the responsible design professional is changed or is unable to continue to perform the duties required.

H. Special submissions. The building official or the plan review official is authorized to require, before and after the commencement of a project, the submission of any specification, drawing or diagram necessary to adequately and clearly show the kind, extent, and occupancy of the general building, mechanical or plumbing, and electrical work on the project that is covered by the permit issued, or that is required to be permitted under the CID rules.

I. Phased approval. See section 106.3.3 of the IBC for work subject to the NMCBC, and section 106.3.3 of the IRC for work subject to the NMRBC.

J. Correction of submittal documents. The issuance of a permit based on certain plans and specifications shall not prevent the building official from thereafter requiring the correction of any error in such plans or specifications, or from prohibiting work pursuant to those plans or specifications when a violation of the applicable code would result.

K. Electrical projects.

(1) Any installation with a calculated service capacity over 100 kVA single-phase or over 225 kVA three phase must be stamped by an electrical engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act. This requirement shall not apply to

remote installations such as irrigation pumps. Any commercial project that requires an architect or engineer seal pursuant to this part shall be submitted to the electrical bureau for review and approval.

(2) Submittal documents shall show the electrical riser, conductor size, grounding conductor size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules, wiring methods, site and floor plan. General expressions such as "work shall be done in accordance with the New Mexico Electrical Code" or "work shall be done to the satisfaction of the state building official" shall be considered inadequate, and incomplete.

(3) No permit for electrical work shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, except that those portions of the existing wiring that have not been disturbed and are deemed safe by the inspector may remain in service.

L. Mechanical projects.

(1) The building official is authorized to require the stamp of a professional engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act on permits for mechanical or plumbing work with a total value of [~~\$50,000.00~~] \$200,000.00, or more, or for commercial buildings three stories and higher.

(2) For plans for buildings for more than two stories in height, other than R-3 and U occupancies, see the second paragraph of section 113.3 of the UMC.

M. Permit contents and display. Pursuant to CILA Section 60-13-59, every permit or notice of permit issued by the division shall:

(1) clearly indicate the name and address of the owner of the property;

(2) contain a legal description of the property being built on either by "lot and block" description in a subdivision, by street address in a municipality, or by township, range and section numbers if outside a municipality or platted subdivision;

(3) contain the name, address and license number of the contractor or the homeowner to whom the permit is to be issued, and the name of the architect or engineer as may be required by the building official; and

(4) be prominently displayed on the site where the permitted work is to be performed.

N. Retention.

The division shall retain construction documents, including submittal documents and permit applications, in accordance with New Mexico state laws governing document

retention.

O. Preliminary inspection. As part of the document review process, before issuing a building permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application for a building permit has been filed.

[14.5.2.10 NMAC - Rp, 14.5.2.8 NMAC, 14.5.2.9 NMAC, 14.5.2.10 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.1.100, 14 NMAC 9.2.11.100 NMAC & 14.10.4.8 NMAC, 7-1-04; A, 1-01-08; A, 1-28-11; A, 2-1-14]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**This is an amendment to 14.5.3 NMAC,
Section 9, effective 01-01-14.**

14.5.3.9 INSPECTIONS: The following inspections are required unless otherwise indicated.

A. For work subject to the NMCBC.

(1) Footing and foundation inspection, see section 110 of the IBC.

(2) Concrete slab or under floor inspection, see section 110 of the IBC.

(3) Lowest floor elevation, see section 110 of the IBC.

(4) Frame inspection, see section 110 of the IBC.

(5) Roof assembly inspection.

(6) Exterior wall opening flashings.

(7) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.

(8) Lath and gypsum board, see section 110 of the IBC.

(9) Fire and Smoke-resistant penetrations, see section 110 of the IBC.

(10) Energy efficiency inspection, see section 110 of the IBC.

(11) Other inspections required by the building official, see section 110 of the IBC.

(12) Special inspections, see section 110 of the IBC.

(13) Final inspection, see section 110 of the IBC.

B. For work subject to the NMRBC.

(1) Footing and foundation inspection, see section 109.1.1 of the IRC.

(2) Concrete slab or under floor inspection, see section 109 of the IRC.

(3) Frame and masonry

inspections, see section 109.1.4 of the IRC.

(4) Roof assembly inspection.

(5) Exterior wall opening flashings.

(6) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.

(7) Energy efficiency inspections and **state of New Mexico thermal bypass inspection checklist** verification.

(8) Lath and gypsum board, see section 1209 of the IRC.

(9) Other inspections required by the building official, see section 109 of the IRC.

(10) Fire resistance rated construction inspection, see section 109.1.5.1 of the IRC.

(11) Special inspections, see section 109 of the IRC.

(12) Final inspection, see section 109 of the IRC.

C. For work subject to the NMEC.

(1) Temporary pole (if applicable).

(2) Underground or under-slab (if applicable).

(3) Rough-in:

(a) on residential projects, all wiring must be installed and connections made-up;

(b) on commercial projects, perform inspections as required.

(4) Pre-final (if applicable).

(5) Final (electrical system is complete and energized).

D. For work subject to the NMMC.

(1) Rough inspection of all mechanical work covered by permit after work has been installed and before it is covered or concealed.

(2) Temporary heat (if applicable).

(3) Final inspection after all mechanical work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(4) Operation of mechanical equipment installed to replace existing equipment or fixtures. See section 116.2 of the UMC.

E. For work subject to the NMPC.

(1) Rough inspection of all plumbing work covered by permit after work has been installed and before it is covered or concealed.

(2) Top-out inspection of all vented piping above floor and all extensions through the roof and/or walls. The top-out testing procedures are at the option of the inspector to insure the system is free from leaks or defects.

(3) Water distribution including all water piping inside and/or under a building.

(4) Water service piping from a

service meter to a connection outside the building.

(5) Final inspection after all plumbing work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(6) Operation of plumbing equipment to replace existing equipment or fixtures, see Section 103.5.2 of the UPC.

(7) Testing of systems, see sections 103.5.3, including subsections 103.5.3.1 through 5, 103.5.6.2, 103.5.4.2 and 103.5.5.2 of the UPC.

F. Additional inspections.

In addition to required inspections, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the applicable New Mexico construction codes.

G. Reinspections.

(1) A reinspection fee shall be permitted to be assessed for each inspection or reinspection when such portion of work for which an inspection is called and is not complete or when the required corrections have not been made. This provision shall not to be interpreted as requiring a reinspection fee the first time work is rejected for failure to comply with the applicable New Mexico construction codes, but for controlling the practice of requesting inspections before the work is ready for inspection or reinspection. No additional inspections of the work will be performed until the required fees have been paid and reinspection has been made.

(2) Reinspection fees may be assessed when the approved plans are not readily available to the inspector, or for deviating from plans without the approval of the authority having jurisdiction.

(3) Reinspection fees may be assessed for failure to provide access on the date for which the inspection is requested. [14.5.3.9 NMAC - Rp, 14.5.3.8 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 & 14.10.4.8 NMAC, 7-1-04; A, 1-28-11; A, 1-1-14]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

NMAC Chapter Name Changes

By request of the Human Services Department, the State Records Administrator considered and approved to change the names of the following chapters of Title 8, Social Services. The name changes will take effect on January 1, 2014.

CHAPTER 202	MEDICAID ELIGIBILITY - JUL MEDICAID
CHAPTER 227	TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID DUE TO CHILD OR SPOUSAL SUPPORT
CHAPTER 228	TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID
CHAPTER 234	MEDICAID ELIGIBILITY - SSI INELIGIBILITY - DUE TO INCOME OR RESOURCES FROM AN ALIEN SPONSOR
CHAPTER 206	MEDICAID ELIGIBILITY - RECIPIENTS FOR WHOM CYFD HAS FULL OR PARTIAL RESPONSIBILITY
CHAPTER 230	MEDICAID ELIGIBILITY - FULL COVERAGE FOR PREGNANT WOMEN
CHAPTER 231	MEDICAID ELIGIBILITY - INFANTS OF MOTHERS WHO ARE MEDICAID OR MEDICAL ASSISTANCE PROGRAM ELIGIBLE
CHAPTER 232	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - CHILDREN UNDER 19 - 235 PERCENT OR LOWER OF FEDERAL POVERTY GUIDELINES
CHAPTER 235	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - PREGNANCY OR FAMILY PLANNING SERVICES
CHAPTER 242	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - QUALIFIED DISABLED INDIVIDUALS WHOSE INCOME EXCEEDS QMB AND SLIMB
CHAPTER 249	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - REFUGEE MEDICAL ASSISTANCE (RMA) PROGRAM
CHAPTER 250	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - QUALIFIED DISABLED INDIVIDUALS
CHAPTER 252	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - BREAST AND CERVICAL CANCER PROGRAM
CHAPTER 259	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - REFUGEES WITH SPEND DOWN PROVISION
CHAPTER 285	MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - EMERGENCY MEDICAL SERVICES FOR ALIENS
CHAPTER 321	SPECIALIZED BEHAVIORAL HEALTH SERVICES
CHAPTER 352	ADMINISTRATIVE HEARINGS
CHAPTER 308	MANAGED CARE PROGRAM
CHAPTER 309	ALTERNATIVE BENEFIT PROGRAM

End of Other Related Material Section

Submittal Deadlines and Publication Dates 2013

Volume XXIV	Submittal Deadline	Publication Date
Issue Number 24	December 16	December 30

Submittal Deadlines and Publication Dates 2014

Volume XXV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 3	February 14
Issue Number 4	February 17	February 28
Issue Number 5	March 3	March 14
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 30
Issue Number 11	June 2	June 13
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 18	August 29
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all notices of rule making, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

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