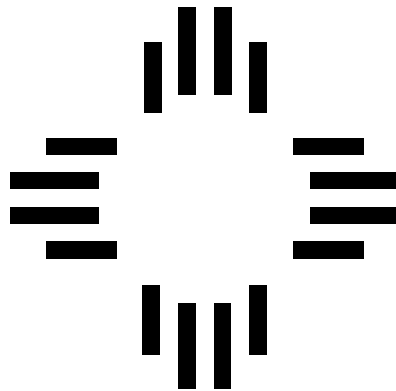


# **New Mexico Register**

**Volume XII, Issue Number 18**  
**September 28, 2001**



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  
2001

COPYRIGHT © 2001  
BY  
THE STATE OF NEW MEXICO

---

ALL RIGHTS RESERVED

# New Mexico Register

Volume XII, Number 18

September 28, 2001

## Table of Contents

### Notices of Rulemaking and Proposed Rules

<b>Education, Board of</b>	
Notice of Proposed Rulemaking	1193
<b>Gaming Control Board</b>	
Notice of Hearing on Amendments to Rules	1194
<b>Health, Department of</b>	
Notice Of Public Hearing	1194
<b>Psychologist Examiners, Board of</b>	
Public Rule Hearing	1194
<b>Public Regulation Commission</b>	
Notice of Hearing on Proposed Rulemaking and Procedural Order Related to Multiple Employer Welfare Arrangements	1194

### Adopted Rules and Regulations

#### Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." 14-4-5 NMSA 1978

#### A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

<b>Education, Board of</b>		
* 6.10.7 NMAC	N	Statewide Standardized Testing Security Issues And Irregularities . . . 1197
<b>Health, Department of</b>		
Long Term Services Division		
7 NMAC 30.8	R	Repeal of 7 NMAC 30.8 . . . 1200
* 7.30.8 NMAC	N	Requirements For Family Infant Toddler Early Intervention Services . . . 1200
<b>Human Services Department</b>		
Income Support Division		
* 8.102.410 NMAC	A	Cash Assistance Program - Recipient Policies - General Recipient Requirements . . . 1213
<b>Human Services Department</b>		
Income Support Division - Community Development and Commodities		
8.150 NMAC – LIHEAP	Rn	Notice of renumber . . . 1213
* 8.150.110 NMAC	Rn & A	Applications . . . 1214
* 8.150.410 NMAC	Rn & A	General Recipient Responsibilities . . . 1214
* 8.150.420 NMAC	Rn & A	Special Recipient Requirements . . . 1215
* 8.150.500 NMAC	Rn & A	Eligibility . . . 1215
* 8.150.510 NMAC	Rn & A	Resources/Property . . . 1216
* 8.150.524 NMAC	Rn & A	Gross Income Eligibility . . . 1216
* 8.150.600 NMAC	Rn & A	Description Of Program/Benefits . . . 1216
* 8.150.620 NMAC	Rn & A	Benefit Determination General . . . 1217
* 8.150.640 NMAC	Rn & A	Benefit Corrections . . . 1218

**Human Services Department**

Medical Assistance Division

* 8.202.400 NMAC	A	Recipient Policies . . . . .	1218
* 8.202.500 NMAC	Rn & A	Income And Resource Standards . . . . .	1222
* 8.202.600 NMAC	Rn & A	Benefit Description . . . . .	1224

**Water Quality Control Commission**

* 20.7.4 NMAC	A	Utility Operator Certification . . . . .	1225
---------------	---	--	------

**Please note that the (\*) entries obey the reformatting rules set forth in 1.24.10 NMAC, effective 2/29/00**

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, except the first subscription from each New Mexico state agency may be ordered at \$85.00. 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 [rules@rain.state.nm.us](mailto:rules@rain.state.nm.us).

**Go to the online version of the New Mexico Register**

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

## Notices of Rulemaking and Proposed Rules

### NEW MEXICO STATE BOARD OF EDUCATION NOTICE OF PROPOSED RULEMAKING

The New Mexico State Board of Education ("Board") will convene on Tuesday, October 2, 2001. Committee meetings scheduled for October 2, 2001 will be held at the Performing Arts Center at Rio Rancho High School, 301 Loma Colorado, Rio Rancho, New Mexico. Committee meetings scheduled for Wednesday, October 3 and Thursday, October 4, 2001, will be held in Room 317 of the State Capitol Building, Santa Fe, New Mexico. The Regular Meeting will begin on Thursday, October 4, 2001 at 3:15 p.m. in Room 317 of the State Capitol and will continue on Friday, October 5, 2001 at 8:00 a.m. Notice of the meeting is given in accordance with the Board's Open Meetings Policy. The agenda will be available at least twenty-four hours prior to the meeting from the Administrative Assistant to the State Board and on the State Board's web page of the State Department of Public Education's website (<http://sde.state.nm.us/>).

The New Mexico State Department of Public Education will recommend that the Board take action on the following

#### REGULATIONS RECOMMENDED FOR REFORMATTING TO NMAC II/TECHNICAL REVISION

NMAC I Part #	PROPOSED PART #	NAME
6 NMAC 4.2.4.1	6.60.2 NMAC	Definitions of "License", "Licensed", and "Licensure"
6 NMAC 4.2.4.3	6.60.6 NMAC	Continuing Licensure for Licensed Educators in New Mexico
6 NMAC 4.2.3.3	6.61.3 NMAC	Licensure in Middle Level Education, Grades 5-9
6 NMAC 4.2.3.1	6.63.2 NMAC	Licensure for School Nurses, Grades K - 12
6 NMAC 4.2.3.13	6.63.7 NMAC	Licensure for School Social Workers, K-12
6 NMAC 4.7.1.1	6.64.2 NMAC	Competencies for Entry-Level Language Arts Teachers
6 NMAC 4.7.1.2	6.64.3 NMAC	Competencies for Entry-Level Reading Teachers
6 NMAC 4.7.1.3	6.64.4 NMAC	Competencies for Entry-Level Mathematics Teachers
6 NMAC 4.7.1.5	6.64.6 NMAC	Competencies for Entry-Level Social Studies Teachers
6 NMAC 4.7.1.6	6.64.7 NMAC	Competencies for Entry-Level Health Education Teachers
6 NMAC 4.7.1.7	6.64.8 NMAC	Competencies for Entry-Level Library Media Specialists
6 NMAC 4.7.1.8	6.64.9 NMAC	Competencies for Entry-Level Information Technology Coordinators

The New Mexico State Department of Public Education will further recommend that the Board adopt the following new regulations:

#### PROPOSED NEW REGULATION

PROPOSED NEW NUMBER	NAME
6.80.4 NMAC	Procedures for Application and Renewal as a Charter School

A public hearing for the purpose of affording members of the public the opportunity to offer comments on the REGULATIONS RECOMMENDED FOR REFORMATTING TO NMAC II/TECHNICAL REVISION was held on August 17, 2001, at 3:00 p.m. in Wood Hall, NEA Building, Santa Fe, New Mexico in accordance with a previously published Notice of Proposed Rulemaking. A public hearing for the purpose of affording members of the public the opportunity to offer comments on proposed new regulation 6.80.4 NMAC (Procedures for Application and Renewal as a Charter School) was held on September 19, 2001, from 5:30 to 7:30 pm. Notice was provided to the public through mailings and publication on the State Department of Public Education's website. Copies of the proposed reformatted regulations may be obtained from Linda Olivas at 827-6581. Copies of proposed new regulation 6.80.4 NMAC may be obtained from Ms. Annette Larkin at (505) 827-6909. Written comments regarding the proposed rulemaking should be directed to Mary Jo Bradley at the State Department of Public Education, State Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 or faxed to Ms. Bradley at (505) 827-5066 before 5 p.m. on October 1, 2001. However, the submission of written comments as soon as possible is encouraged.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting, please contact the State Board of Education Office at 827-6571 by October 1, 2001.

The Board attempts to follow the order and date of items as listed on the Agenda; however, the order and date of specific items are tentative and may vary from the printed Agenda.

Comments, questions, or requests for copies of the Agenda should be directed to Mary Jo Bradley, State Department of Education, Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 or (505) 827-6571.

## NEW MEXICO GAMING CONTROL BOARD

### NOTICE OF HEARING ON AMENDMENTS TO RULES

The New Mexico Gaming Control Board ("Board"), will hold a public hearing at 10:30 a.m. on November 6, 2001, at New Mexico Library, Records Center and Archives, 1205 Camino Carlos Rey, Room 2027, Santa Fe, New Mexico, to consider amendments for the following rules: **15.1.1 NMAC, Requirements and Procedures Governing Procurement by the Gaming Control Board, 15.1.2 NMAC, Confidential Treatment of Certain Information, 15.1.3 NMAC, Adoption, Construction and Severability of Rules Promulgated by the Gaming Control Board, 15.1.4 NMAC, Participation in Gaming Control Board Meetings by Telephone, 15.1.5 NMAC, Application for Licensure under the Gaming Control Act, 15.1.6 NMAC, Premised Licensed under the Gaming Control Act, 15.1.7 NMAC, Gaming Machines, New Games and Associated Equipment, 15.1.8 NMAC, Accounting Requirements under the Gaming Control Act, 15.1.9 NMAC, Internal Control Minimum Standards for Gaming Devices under the Gaming Control Act, 15.1.10 NMAC, Conduct of Gaming Activity under the Gaming Control Act, 15.1.11 NMAC, List of Excluded Persons under the Gaming Control Act, 15.1.12 NMAC, Use of Tokens under the Gaming Control Act, 15.1.13 NMAC, License and Certification Renewal Requirements under the Gaming Control Act, 15.1.14 NMAC, Enforcement Proceedings under the Gaming Control Act, 15.1.15 NMAC, Administrative Appeal of Gaming Control Board Action, 15.1.16 NMAC, Transportation, Receipt and Replacement of Gaming Devices, 15.1.17 NMAC, Schedule of Penalties under the Gaming Control Act, 15.1.18 NMAC, Compulsive Gambling Assistance Plan Standards, 15.1.19 NMAC, Payment of Winnings over \$600 under the Gaming Control Act, 15.1.20 NMAC, Emergency Orders of the Gaming Control Board, 15.1.21 NMAC, Enforcement of Security Interests under the Gaming Control Act, 15.1.22 NMAC, Forfeiture Proceedings under the Gaming Control Act, 15.1.23 NMAC, Work Permit Revocation by the Gaming Control Board, 15.1.24 NMAC, Progressive Games and Gaming Devices.**

Copies of the proposed amendments are available on request to the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E,

Albuquerque, New Mexico 87110, or by calling (505) 841-9733. The proposed changes are also available on our website at [www.nmgcb.org](http://www.nmgcb.org). The Board can provide public documents in various accessible formats.

The hearing will be held before a hearing officer appointed by the Board. All interested parties may attend the hearing and present their views orally or submit written comments prior to the hearing. Written comments should be directed to the Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110.

If you are an individual with a disability who is in need of an auxiliary air or service to attend or participate in the hearing, please contact Loretta Chavez, Gaming Control Board, at least one week prior to the hearing at (505) 841-9711.

## NEW MEXICO DEPARTMENT OF HEALTH

### DIVISION OF HEALTH IMPROVEMENT

#### HEALTH FACILITY LICENSING AND CERTIFICATION BUREAU

### NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on proposed changes to "Requirements For General and Special Hospitals" 7.7.2 NMAC. The hearing will be held on Tuesday, October 30, 2001 at 9:00 a.m. in the auditorium of the Harold Runnels Building at 1190 St. Francis Drive, Santa Fe, New Mexico.

The current version of the regulation for the Requirements For General and Special Hospitals is proposed to be amended to comply with legislative changes resulting from Senate Bill 101 passed and signed into law during the New Mexico 2001 legislative session that requires newborn infants be screened for hearing sensitivity prior to being discharged.

A draft of the proposed changes to Requirements For General and Special Hospitals can be obtained from:

Renee Lovato or Mary E. CdeBaca  
Division of Health Improvement  
1190 St. Francis Drive, Room N-3078  
P.O. Box 26110, Santa Fe, New Mexico  
87504-6110  
(505) 827-1416 or (505) 827-5361

Please submit any written comments regarding the proposed changes to 7.7.2 NMAC "Requirements For General and Special Hospitals" to Division of Health Improvement to the attention of Renee Lovato or Mary E. CdeBaca at the address indicated above.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or other form of auxiliary aide or service to attend or participate in the hearing, please contact Renee Lovato or Mary E. CdeBaca at the address or telephone number listed above. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

## NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

### PUBLIC RULE HEARING

The New Mexico Board of Psychologist Examiners will convene a public rule hearing on Wednesday, October 31, 2001. The hearing will begin at 9:00 a.m. at the New Mexico State Bar, 5121 Masthead NE, Albuquerque, New Mexico. The purpose of the rule hearing is to hear public testimony and comments regarding the proposed rules and regulations:

#### Amendment to Current Rules and Regulations

Title 16, Chapter 22, Part 5 – Application Procedures and Requirements for Licensure As A Psychologist.

## NEW MEXICO PUBLIC REGULATION COMMISSION

### INSURANCE DIVISION

IN THE MATTER OF  
PROMULGATION  
OF RULES RELATED TO MULTIPLE  
EMPLOYER WEL-  
FARE ARRANGE-  
MENTS

DOCKET NO.  
01-239-IN

### NOTICE OF HEARING ON PROPOSED RULEMAKING AND PROCEDURAL ORDER

The purpose of this hearing is to

obtain input on promulgation of proposed rules related to Multiple Employer Welfare Arrangements pursuant to House Bill 406 (2001 N.M. Laws, ch. 223).

### I. SOLICITATION OF COMMENTS

The Superintendent of Insurance is issuing this Notice of Hearing on Proposed Rulemaking and Procedural Order to provide an opportunity for public comment and to create a record for a decision on proposed rules related to multiple employer welfare arrangements. The Superintendent requests written and oral comments from all interested persons and entities on the proposed rules.

All relevant and timely comments, including data, views, or arguments, will be considered by the Superintendent. In reaching his decision, the Superintendent may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of the Superintendent's reliance on such information is noted in the Order the Superintendent ultimately issues.

### II. ORDER

IT IS THEREFORE ORDERED that this Notice of Hearing on Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that an informal public hearing be held on Thursday, November 8, 2001, at 9:30 a.m. in the Fourth Floor Hearing Room of the P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico for the purpose of receiving oral public comments including data, views, or arguments on the proposed rule. All interested persons wishing to present testimony may do so at the hearing. Interested persons should contact the Insurance Division ahead of time to confirm the hearing date, time, and place since hearings are occasionally rescheduled.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposed rule on or before November 8, 2001. All relevant and timely comments, including data, views, or arguments will be considered by the Superintendent before final action is taken in this proceeding. An original and two copies of written comments must be filed prior to the hearing with the Public Regulation Commission Docketing Office, Room 406, P.O. Box 1269, Santa Fe, NM 87504-1269. The docket number must appear on each submittal. If possible, please also submit a diskette copy of written comments to the Docketing Office or e-mail

a copy of written comments to elizabeth.bustos@state.nm.us. Comments will be available for public inspection during regular business hours in the Commission's Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

IT IS FURTHER ORDERED that the Superintendent may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that staff of the Superintendent of Insurance's Office shall cause a copy of this Notice to be published once in the *New Mexico Register* and once in the *Albuquerque Journal*, both on or before September 28, 2001. To obtain a copy of the proposed rule: (1) send the docket number, rule name, and rule number to the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269 along with a self-addressed envelope and a check for \$5.00 made payable to the Public Regulation Commission to cover the cost of copying and postage; (2) call the Docketing Office at 505-827-4526 with the docket number, rule name, and rule number (you will be billed \$5.00 to cover the cost of copying and postage); or e-mail Elizabeth Bustos at elizabeth.bustos@state.nm.us with the docket number, rule name, and rule number (you will receive a copy of the rule in Microsoft WORD format by return e-mail at no charge). The proposed rule is also available for inspection and copying during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

### III. ADVISEMENTS

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, NMSA 1978, §§2-11-1 *et seq.*, regulates lobbying activities before state agencies, officers, boards and commissions in rule-making and other policy-making proceedings. A person is a lobbyist and must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol

Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

PLEASE BE ADVISED THAT individuals with a disability who are in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, may contact Ms. Ann Echols, on or before June 15, 2001, at (505) 827-4559. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms should also be addressed to Ms. Echols.

DONE, this \_\_\_ day of September, 2001.

NEW MEXICO PUBLIC REGULATION  
COMMISSION  
INSURANCE DIVISION

ERIC P. SERNA, Superintendent of  
Insurance

---

**End of Notices and  
Proposed Rules Section**

---

**This Page Intentionally Left Blank**



## Adopted Rules and Regulations

### NEW MEXICO BOARD OF EDUCATION

**TITLE 6            PRIMARY AND  
SECONDARY EDUCATION  
CHAPTER 10       PUBLIC SCHOOL  
ADMINISTRATION - PROCEDURAL  
REQUIREMENTS  
PART 7            STATEWIDE STAN-  
DARDIZED TESTING SECURITY  
ISSUES AND IRREGULARITIES**

**6.10.7.1 ISSUING AGENCY:** State Board of Education  
[6.10.7.1 NMAC – N, 09-28-01]

**6.10.7.2 SCOPE:** All school districts and all individuals employed by or volunteering in school districts, other than student test-takers, who have access to standardized tests.  
[6.10.7.2 NMAC – N, 09-28-01]

**6.10.7.3 STATUTORY AUTHORITY:** Sections 22-1-6, 22-2-1, and 22-2-2, NMSA 1978.  
[6.10.7.3 NMAC – N, 09-28-01]

**6.10.7.4 DURATION:** Permanent  
[6.10.7.4 NMAC – N, 09-28-01]

**6.10.7.5 EFFECTIVE DATE:** September 28, 2001, unless a later date is cited at the end of a section.  
[6.10.7.5 NMAC – N, 09-28-01]

**6.10.7.6 OBJECTIVE:** The State Board of Education (“SBE”) is required by statute to measure student achievement through standardized tests administered in the school districts. To carry out this duty, the SBE hereby establishes uniform procedures for preparation, security, administration, and safeguarding standardized tests in the school districts.  
[6.10.7.6 NMAC – N, 09-28-01]

**6.10.7.7 DEFINITIONS:**

A. **“testing irregularity”** means any circumstance within or beyond the control of a school district that in the opinion of the State Department of Public Education (“SDE”) or a school district raises doubts about the propriety of standardized testing procedures, preparation materials, standardized testing administration, standardized testing security, student scores attained from standardized testing, or teacher or student conduct observed during standardized testing.

B. **“standardized test”** means any nationally norm-referenced test,

state or national performance assessment, state or national criterion-referenced assessment or state or national standards-based assessment that is required by law to be administered in all school districts and is required to be administered with standard procedures.

C. **“standardized test material”** means a standardized test or any related items such as examiner guides, preparation materials, test security guides, answer sheets or booklets and any student notes, answers, or essays generated during the administration of a standardized test.

D. **“nationally norm-referenced test”** means a timed test whose purpose is to measure student performance against a national norming group.

E. **“criterion-referenced assessment”** means an assessment that is based upon identified criteria.

F. **“standards-based assessment”** means a standardized assessment whose purpose is to measure student performance against state standards and benchmarks.

G. **“performance assessment”** means an assessment based on an extended task which is a demonstration of student ability.

H. **“district test coordinator”** means the licensed school instructor or administrator in a district with the overall responsibility for district handling, storing, distributing and recording such distribution by booklet or answer sheet number, collecting, and administering standardized tests, training school personnel in test security matters and proper administration procedures, and shall be that district’s superintendent unless another licensed school instructor or administrator is formally designated.

I. **“school test coordinator”** means the licensed school instructor or administrator in a school with the responsibility for handling, storing, distributing assessments for administration to test examiners and recording such distribution by booklet or answer sheet number, collecting, and administering standardized tests, training school personnel in test security matters and proper administration procedures within the school site, and shall be designated by the district’s superintendent.

J. **“test examiner”** means every licensed school instructor or administrator in a school district with the responsibility of administering tests under this regulation.

K. **“New Mexico Assessment Program “(“NMAP”)”** means the assessment program that is approved by

the State Board of Education and designates the required standardized tests to be administered in New Mexico public school districts.

L. **“test administration window”** means a specified period of time, as designated by the SDE Assessment and Evaluation unit, during which statewide tests must be administered.

M. **“proctor”** means a designated, trained person(s) to assist the test administrator during the time of testing.  
[6.10.7.7 NMAC – N, 09-28-01]

**6.10.7.8 DISTRICT SUPERINTENDENT’S RESPONSIBILITY:** It shall be the responsibility of each school district superintendent to ensure that standardized tests are handled, stored, prepared for, and administered in accordance with this regulation and in accordance with any precautionary instructions provided with the tests.

A. The superintendent may designate one district test coordinator and additional school test coordinators for the purpose of delegating the duties necessary to carry out compliance with this regulation. The district test coordinator must attend standardized test training workshops provided by the SDE. The district test coordinator shall hold a valid SBE certified school instructor or administrator license, excluding licenses for substitutes, educational assistants, school nurses, and coaches.

B. Any such designation shall:

- (1) Be in writing;
- (2) Identify the name and title if any of the person(s) so delegated;
- (3) Indicate the duration of their assignment which shall be no less than one nor more than three calendar years; and
- (4) Indicate that this person(s) has been given a copy of this regulation together with any written district policies relating to standardized test preparation, administration and security.

[6.10.7.8 NMAC – N, 09-28-01]

**6.10.7.9 DISTRICT TEST COORDINATOR’S RESPONSIBILITY:** To produce valid results, standardized test materials should be stored, handled, disposed of and administered in a uniform and secure manner. This requires adherence to training procedures and topics, test preparation procedures and administration practices that emphasize test security, compliance with test vendor legal, administration, handling, and disposal procedures, and adherence to the New Mexico Code of Professional Responsibilities. These practices are intend-

ed to apply to all individuals, other than the tested students themselves, who are expressly or implicitly given access to standardized tests. The district test coordinator shall attend semiannual workshops held by SDE in order to be trained and then shall provide training for all district personnel involved in test administration, preparation, and security. It shall be the responsibility of each school district's test coordinator to, at a minimum, implement and carry out the following test material preparation, handling, storage, administration, and secure disposal practices.

A. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist and written procedure for storing and handling standardized test material whereby:

(1) standardized tests shall be counted, inventoried and stored in a secure area;

(2) space permitting, standardized test material should be stored in sealed containers in a secure area;

(3) standardized test material not stored in sealed containers shall be segregated, wrapped in clear or unclear paper, and sealed securely with packing tape bearing the sealing date and the initials of the person sealing it; and

(4) standardized test material, as directed by the SDE, shall be disposed of by either shredding or returning such materials to the test vendor.

B. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist and procedure for accessing standardized test material whereby:

(1) access to standardized test material shall be restricted, limited and controlled, with personnel having access designated by the district superintendent;

(2) records shall be maintained that identify the individual who removed a standardized test(s) or other standardized test material, the name of the standardized test(s) or standardized test material that was removed, how many standardized tests or standardized test materials were removed, the identifying number of the standardized test(s) or standardized test material removed, and the date the standardized test(s) or standardized test material was removed;

(3) each standardized test material access record shall be maintained for at least five (5) calendar years and be made available for review by the SDE upon request;

(4) records similar to paragraph

(2) of subsection B of section 9 of 6.10.7 NMAC above shall be maintained on the return of any standardized test material removed; and

(5) the district test coordinator shall inform all district teachers, aides, educational assistants, substitutes, volunteers, licensed and unlicensed office staff, and anyone else who is likely to come into contact with standardized testing material, of the need to maintain strict standardized test security by:

(a) developing and disseminating handouts to these individuals;

(b) offering in-service training to these individuals; and

(c) prior to and during a state-mandated assessment administration window, posting conspicuous signs near school copy machines warning that SBE regulations prohibit the copying of any portion of a standardized test including a student's answer, and any other standardized testing material.

C. In the absence of a written district policy that includes the following procedures, the district test coordinator shall develop a checklist, in-service training and a written procedure for administering standardized tests whereby:

(1) In-service training shall be provided to all persons who administer or proctor a standardized test, and no one shall be permitted to administer or proctor a standardized test without first completing training in accordance with timelines, topics, and materials designated by the SDE;

(2) Only certified school instructors and administrators, excluding substitutes, educational assistants, school nurses, and coaches, shall administer a standardized test;

(3) SDE sign-in forms, listing training topics and printed name and signature, shall be maintained as a record by date to identify all individuals who have completed the district training in test security, practice materials, and administration of standardized tests;

(4) Each sign-in record shall be maintained for at least five (5) calendar years and be made available for review by the SDE upon request;

(5) All test examiners and proctors shall be informed that prohibited test practices include but are not limited to:

(a) changing a student's standardized test answers or directing a student to change a standardized test answer;

(b) providing students with a review of specific standardized test items, specific standardized test items with minor changes in settings or numbers, verbal or written restatements of standardized test items, specific vocabulary from standard-

ized test directions or standardized test items, or answers before, during or after a standardized test;

(c) discussing, photocopying, or reproducing in any other fashion including paraphrasing, any portion of a standardized test or a student's answer;

(d) affording any student under a standardized administration extra time to complete a timed subtest, unless permitted as an accommodation;

(e) reading standardized test items aloud to students unless required in a specific standardized test or unless a student is required to be provided with special accommodations; permitting students to talk, become disruptive or exchange any papers during a standardized test;

(f) permitting students during a standardized test to have on their desk or use any unauthorized items, including but not limited to, scrap paper (if not required for a subtest), hand computers, laptop computers, cell phones, calculators, calculator watches and rulers unless any of these are required or permitted by standardized test instructions;

(g) permitting students to observe standardized test vocabulary words with definitions, addition or multiplication tables (in various forms), spelling words on the standardized test, or similar assistance material during the administration of the standardized test;

(i) permitting students to begin a subtest, leave the testing room, and return to finish the subtest;

(j) permitting students to enter a testing room after the standardized test has already commenced;

(k) permitting state-mandated test material to remain unattended in an unlocked room;

(l) taking standardized or state-mandated test material off campus unless specifically authorized by the district test coordinator.

(6) Test examiners shall take prompt, corrective action if they observe a student engaged in any prohibited conduct during a standardized test; and

(7) All test examiners shall be informed of their duty to promptly report testing irregularities as soon as they are aware to the district test coordinator.

D. Regardless of whether a district elects to appoint a school test coordinator, district test coordinators shall provide in-service training to all principals in their district in the storing, handling, destruction, and administration of standardized test material.

(1) Principals shall receive the same in-service training and be charged

with the same knowledge as those administering standardized test material and those serving as test examiners as set forth in Subsection C of Section 6.10.7.9 NMAC above.

(2) Although district test coordinators need not directly train assistant principals within their districts, if they choose not to train them, they shall at a minimum require assistant principals to be knowledgeable in accordance with subsection C of section 9 of 6.10.7 NMAC above.

E. All training required by this section shall be administered prior to the fall and spring test administration windows. The Assessment and Evaluation Unit of the SDE shall inform the district test coordinators of the dates of those test administration windows in a memo disseminated to each district test coordinator at least annually.

[6.10.7.9 NMAC – N, 09-28-01]

#### **6.10.7.10 SCHOOL TEST COORDINATOR'S RESPONSIBILITY:**

A. The school test coordinator(s), if one or more are appointed by the superintendent, shall be trained by the district test coordinator and then shall provide training for all school personnel involved in test administration, preparation, and security, unless the district test coordinator provides such training. It shall be the responsibility of each school's test coordinator to, at a minimum, implement and carry out the following test material preparation, handling, storage, administration, and secure disposal practices.

B. The school test coordinator(s), if one or more are appointed by the superintendent, shall utilize the written district policy or checklist and written procedure developed by the district test coordinator for storing, accessing and administering standardized tests.

[6.10.7.10 NMAC – N – 09-28-01]

#### **6.10.7.11 STAFF RESPONSIBILITY:**

A. All school district staff, including administrators, teachers, volunteers and office personnel who come in contact with standardized tests, shall familiarize themselves with basic principles of standardized test security. Any specific questions should be directed, first to their school or district test coordinator, then to the Assessment and Evaluation Unit of the SDE.

B. Test examiners shall:

(1) Administer the standardized test according to the directions and specifications in the standardized test examiner's manual and during the designated test administration window;

(2) Return the standardized tests to the school or district test coordinator after testing each day during the test administration window for secure overnight storage;

(3) Use test monitors in the hall to gather additional materials or deal with medical situations; and

(4) Review the standardized test examiner's manual so that administration procedures are understood.

C. It shall be a prohibitive practice for anyone to:

(1) Photocopy or reproduce in any other fashion including paraphrasing, any portion of a standardized test including a student's answer;

(2) Teach from, possess or in any way disseminate a photocopy or other reproduced or paraphrased standardized test or portion of a standardized test;

(3) Copy copyrighted test preparation materials for the purpose of distribution;

(4) Provide students with a review of specific standardized test questions or answers before, during or after a standardized test;

(5) Permit secure standardized test material to remain unattended in an unlocked room;

(6) Coach or otherwise inappropriately assist with the selection or writing of student answers; and

(7) Take standardized test material off campus unless specifically authorized by the district test coordinator or the Assessment and Evaluation Unit of the SDE.

[6.10.7.11 NMAC – N, 09-28-01]

#### **6.10.7.12 NON-DISCLOSURE OF STUDENT TEST MATERIALS:**

All standardized tests in the NMAP are the sole State Board-approved and mandated assessments for the State of New Mexico. Each, with the exception of off-the-shelf standardized assessments, was developed by the SDE, or the test vendor under contract with the SDE, to help identify academic progress made by public education students and evaluate the program effectiveness of New Mexico public schools. The SDE has a proprietary interest in the assessments within the NMAP. As such, the SDE must safeguard not only its proprietary interest, but also the confidentiality of each standardized test.

A. Any person suspected of engaging in a testing irregularity who requests a meeting, review, or hearing under state law or regulation shall have only limited access to test items within the NMAP.

(1) Given the proprietary nature of any assessment which is part of the NMAP, under no circumstance shall a stan-

dardized test which is part of the NMAP be released.

(2) Upon request, a person suspected of engaging in a testing irregularity shall be given as much access to an NMAP assessment as is reasonably necessary to prepare for a pending meeting or hearing.

(3) The original or copy of any NMAP assessment used as evidence at any meeting or hearing shall also be subject to confidentiality by all attendees and participants.

B. Any person given permission to view an NMAP assessment may only view the assessment during routine office hours of the SDE under supervision of an SDE employee and on the SDE's premises, unless permission is given to review the assessment under the direction of an appointee of the SDE. No NMAP may be written on, marked, electronically copied, hand-duplicated, or otherwise removed from the premises of the SDE or a local education agency in possession of an NMAP assessment.

C. Any person permitted to review any standardized test which is part of the NMAP or participating in a review associated with assessment development procedures shall sign a non-disclosure form offered by the SDE agreeing not to reveal any confidential materials, specific standardized test items, or specific concepts or skills to be measured on the standardized test to include verbal or written restatements of standardized test items, minor changes in settings or numbers, and specific vocabulary from standardized test directions or standardized test items.

[6.10.7.12 NMAC – N, 09-28-01]

#### **6.10.7.13 REPORTING TESTING**

**IRREGULARITIES:** The SBE finds that measuring student achievement through the administration of standardized tests will have a positive, long reaching impact on students, school districts and school improvement. To ensure the integrity of these tests and their results, the principles of test security must be strictly followed. Accordingly, material violations of this regulation or breaches of test security shall constitute good and just cause to suspend or revoke a person's SBE licensure. Additionally:

A. School district personnel and volunteers shall promptly report suspected testing irregularities to the district test coordinator. Where the district test coordinator is suspected of having engaged in a testing irregularity, reporting shall be made within three (3) days of learning of the suspected irregularity by telephoning the Assessment and Evaluation Unit of the SDE.

B. School districts shall report by telephone suspected testing irregularities to the Assessment and Evaluation Unit of the SDE within three (3) working days of being notified of a suspected testing irregularity.

C. The district test coordinator shall submit a report to the Assessment and Evaluation Unit of the SDE that contains the allegation(s), his/her findings and corrective action taken, if any.

D. School districts shall cooperate with the SDE if the SDE determines that further investigation or action is needed.

[6.10.7.13 NMAC – N, 09-28-01]

#### 6.10.7.14 CORRECTIVE MEASURES:

After investigating suspected testing irregularities and confiscating any standardized test material it deems necessary to conclude its investigation, the SDE may take any combination of the following corrective measures:

A. Direct the district or a named individual to cease and desist engaging in a particular testing irregularity and/or the administration of further standardized tests during the current school year;

B. Confiscate any standardized test materials that jeopardizes the security of the standardized test;

C. Recommend any further action it deems reasonable and necessary to maintain test security;

D. Invalidate the standardized test results and inform the district that a specific standardized test or portion of a standardized test must be replaced with a re-administered similar or alternative form, or any affected student will not receive scores on portions or all of a standardized assessment;

E. Refer the matter for possible suspension or revocation of a person's educator or administrator licensure or other SBE licensure pursuant to procedures set forth in the SBE's suspension/revocation regulation;

F. Refer the matter to the accreditation team for appropriate action;

G. Take any other action authorized by state or federal law or regulation.

[6.10.7.14 NMAC – N, 09-28-01]

#### HISTORY OF 6.10.7 NMAC [RESERVED]

## NEW MEXICO DEPARTMENT OF HEALTH

### LONG TERM SERVICES DIVISION

This Part 7 NMAC 30. 8, Requirements For Family Infant Toddler Early Intervention Services, filed September 16, 1997, is hereby repealed and replaced by 7.30.8 NMAC, effective October 1, 2001.

## NEW MEXICO DEPARTMENT OF HEALTH

### LONG TERM SERVICES DIVISION

#### TITLE 7 HEALTH CHAPTER 30 FAMILY & CHILDREN HEALTH CARE SERVICES PART 8 REQUIREMENTS FOR FAMILY INFANT TODDLER EARLY INTERVENTION SERVICES

**7.30.8.1 Issuing Agency:** Department of Health, Long Term Services Division  
[7.30.8.1 NMAC – Rp 7 NMAC 30.8.1, 10/01/2001]

**7.30.8.2 Scope:** These regulations apply to all entities in New Mexico providing early intervention services to eligible children birth to three years of age and their families.  
[7.30.8.2 NMAC – Rp 7 NMAC 30.8.2, 10/01/2001]

**7.30.8.3 Statutory Authority:** Section 28-18-1 NMSA, Chapter 178  
[7.30.8.3 NMAC – Rp 7 NMAC 30.8.3, 10/01/2001]

**7.30.8.4 Duration:** Permanent  
[7.30.8.4 NMAC – Rp 7 NMAC 30.8.4, 10/01/2001]

**7.30.8.5 Effective Date:** October 01, 2001, unless a later date is cited in a Section.  
[7.30.8.5 NMAC – Rp 7 NMAC 30.8.5, 10/01/2001]

**7.30.8.6 Objective:** These regulations are being promulgated to govern the provision of early intervention services to eligible children and their families and to assure that such services meet the requirements of state and federal statutes, in accordance with the Individuals with Disabilities Education Act.  
[7.30.8.6 NMAC – Rp 7 NMAC 30.8.6, 10/01/2001]

#### 7.30.8.7 DEFINITIONS:

A. “**Adaptive Development**” means the development of self-help skills, such as eating, dressing, and toileting.

B. “**Assessment**” means the ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility to identify: the child's unique strengths and needs; the resources, priorities, and concerns of the family; and services to address family priorities and concerns and the child developmental needs identified.

C. “**At Risk for Developmental Delay**” means a child birth to three years of age who is at risk of experiencing a substantial delay (defined as a 25% or more discrepancy between chronological age after correction for prematurity and developmental age) if early intervention services are not provided. Risk can be biological /medical or environmental. “**Biological / medical risk**” means the presence of early medical conditions that are known to produce developmental delays in some children. “**Environmental risk**” means the presence of two or more physical, social, and/or economic factors in the child's environment which pose a substantial threat to development.

D. “**Child Identification (Child Find)**” means New Mexico's activities and procedures to locate, identify, and refer children from birth to twenty-one years of age with or at risk of having a developmental delay or developmental disabilities. Children birth to three years who may be in need of early intervention services, may be referred, with parental permission, to the Family Infant Toddler Program. Children three through twenty-one years of age who may be in need of special education shall be referred to the local education agency. The responsibility for Child Find is shared by the Family Infant Toddler Program of the Department of Health, the Department of Education, and through other agencies through interagency agreement.

E. “**Clinical Opinion**” means the statement from a team of qualified professionals based on experience, training, and structured interaction with an infant or toddler, concerning the child's developmental and health status. The team organizes and weighs information including impressions regarding the child's skills, abilities, weaknesses, developmental processes, emotional and temperamental patterns, as well as more traditional testing information.

F. “**Cognitive Development**” means the progressive and orderly changes in a child's thinking processes affecting perception, memory,

judgment, and reasoning.

**G. "Communication Development"** means the progressive and orderly acquisition of communication skills, during pre-verbal and verbal phases of development; receptive and expressive language, including spoken, non-spoken, sign language and assistive or augmentative communication devices as a means of expression; and speech production and perception. It also includes oral-motor development, speech sound production, and eating and swallowing processes. Related to hearing, communication development includes development of auditory awareness; auditory, visual, tactile, and kinesthetic skills; and auditory processing for speech or language development.

**H. "Confidentiality"** means protection of the family's right to privacy of all personally identifiable information, in accordance with all applicable federal and state laws.

**I. "Consent"** means informed written prior authorization by the parent(s) to participate in the early intervention system. The parent has been fully informed of all information relevant to the activity for which consent is sought in the parent's native language and mode(s) of communication and agrees to the activity for which consent is sought.

**J. "Criterion Referenced Assessment Instrument"** means a test that is interpreted with reference to the framework of a specified content area skill rather than by comparison with the performance of a specified population of persons. The criterion-referenced test would supply information on whether a child has accomplished a skill or task and what skills or tasks need to be acquired.

**K. "Days"** means calendar days, unless otherwise indicated in these regulations.

**L. "Developmental Delay"** means an evaluated discrepancy between chronological age and developmental age, after correction for prematurity, in one or more of the following areas of development: cognitive, communication, physical/motor (including vision and hearing), social or emotional, and adaptive. To be eligible for services under the definition of developmental delay, a child must demonstrate 25% or more discrepancy between chronological age, after correction for prematurity, and developmental age.

**M. "Developmental Specialist"** means an individual who meets the criteria established in these regulations (see Section 9) and is certified to provide early intervention services such as 'developmental consultation' and 'family training, counseling and home visits'. A develop-

mental specialist works directly with the child, family and other personnel to implement the IFSP. The role and scope of responsibility of the developmental specialist with the family and the team shall be dictated by the individual's level of certification as defined in Long Term Services Division (LTSD) policy and Service Standards.

**N. "Direct Supervision"** means in-view observation and guidance while a direct service activity is performed. Additional consultation and guidance reflective of the observation is also provided.

**O. "Dispute Resolution Process"** means the array of formal and informal options available to parents and providers for resolving disputes related to early intervention services and the system responsible for the delivery of those services. This process is described in Section 15 of these Regulations.

**P. "Due Process"** means the regular administration of procedures that must conform to fundamental and generally accepted legal principles and be applied to all without favor or prejudice.

**Q. "Due Process Hearing"** means a forum in which all parties present their viewpoint and evidence in front of an impartial hearing officer in order to resolve a dispute.

**R. "Duration"** means the length of calendar time that services included in the IFSP will be delivered.

**S. "Early Intervention Provider"** means an organization or individual that provides any service(s) covered under these regulations (including the requirements of the New Mexico Department of Health, the Department of Human Services, and the Children, Youth and Families Department), meets the requirements established for early intervention services, and has either been certified as a provider of early intervention services by the Department of Health or provides services through an intra-agency or inter-agency agreement with that Department.

**T. "Early Intervention Services"** means any or all services specified in the IFSP that are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development. Early intervention services are described in detail in Section 12 A of these regulations.

**U. "Eligible Children"** means children birth up to three years of age who reside in the state and meet the criteria within these regulations for "Developmental Delay", "Established Condition", or "At Risk for Developmental Delay". Children who turn three 3 years of

age during the school year can continue to be eligible for the Family Infant Toddler Program until the beginning of the next school year if this is documented as part of the IFSP transition plan (see section 13 D)

**V. "EPSDT"** means the Early Periodic Screening, Diagnosis and Treatment Program of Medicaid (Title XIX of the Social Security Act). It is administered by the New Mexico Department of Human Services and offered to all eligible children by health care providers in the state. Referral to the EPSDT program is a prerequisite for children participating in the Family Infant Toddler Program who may be Medicaid eligible. A family may receive service coordination in accordance with these regulations to assist them in accessing the EPSDT program for a potentially eligible child.

**W. "Established Condition"** means a diagnosed physical, mental, or neurobiological condition that has a high probability of resulting in developmental delay. A delay in development may or may not be exhibited at the time of diagnosis.

**X. "Evaluation"** means the process through which a child's eligibility for early intervention services is determined. It involves a review of pertinent records related to the child's current health status and medical history; a determination of strengths, needs, quality of performance, and level of functioning of the child in each developmental area (cognitive, communication, physical/motor (including vision and hearing), social or emotional, and adaptive); and an explanation of how the status in each of the developmental areas affects the child's overall functioning.

**Y. "Family"** means a basic unit of society typically composed of adults and children having as its nucleus one or more primary nurturing caregivers cooperating in the care and rearing of their children. Primary nurturing caregivers may include, but are not limited to, parents, guardians, siblings, extended family members, and others defined by the family.

**Z. "Family Assessment"** means a family-directed information gathering process that may use formal instruments (e.g., interviews, questionnaires) or informal methods (e.g., conversations, observations) to determine and record a family's concerns, priorities and resources.

**AA. "Family Infant Toddler Program (FIT)"** means the program within state government that administers New Mexico's early intervention system for children (from birth to age three) who have or are at risk for developmental delay and their families. The FIT Program is established in accordance with 28-18-1

NMSA, Chapter 178, and administered in accordance with the Individuals with Disabilities Education Act (IDEA), as amended, and other applicable state and federal statutes and regulations. The New Mexico Department of Health is the lead agency for the administration of this system as defined by IDEA.

**BB. "Fiscal Year"** means July 1 of any given year through June 30 of the subsequent year.

**CC. "Free Appropriate Public Education (FAPE)"** means special education and related services which are: provided at public expense under public supervision and direction and without charge to parents; meet the rules of the New Mexico State Board of Education and the New Mexico State Department of Education, including the requirements under the Individuals with Disabilities Education Act (IDEA); and are provided in conformity with an individualized education program (IEP).

**DD. "Frequency"** means the number of times that a service is provided or an event occurs within a specified period.

**EE. "Head Start/Early Head Start"** means a comprehensive child development program for children of low income families established under the Head Start Act, as amended (42 U.S.C. 9801 et seq.).

**FF. "IFSP Team"** means the persons responsible for determining eligibility and developing, reviewing the IFSP. The team shall include the parent(s), the service coordinator, person(s) directly involved in conducting evaluations and assessments, and, as appropriate, persons who will be providing services to the child or family, and other persons, including family members, as requested by the family.

**GG. "Individuals with Disabilities Education Act (IDEA)"** means the federal law that contains requirements for serving eligible children. Part C of IDEA refers to the section of the law entitled The Early Intervention Program for Infants and Toddlers with Disabilities and Part B of IDEA refers to the section of the law called Assistance to States for the Education of Children with Disabilities (20 U.S.C. 1400 et seq.)

**HH. "Individualized Family Service Plan (IFSP)"** means the written plan for providing early intervention services to an eligible child and the child's family. The plan is developed jointly with the family and appropriate qualified personnel involved. The plan is developed around family identified outcomes and includes strategies to enhance the family's capacity to meet the developmental needs of the eli-

gible child. An IEP-IFSP that meets the requirements of both Parts B and C of IDEA may be used in place of an IFSP to serve eligible children and families. All requirements in these regulations that refer to the IFSP shall also apply to an IEP-IFSP.

**II. "Individualized Family Service Plan Process (IFSP Process)"** means a process that recognizes the family as the expert in identifying concerns and priorities for the child's development and which occurs from the time of referral through transition. The service coordinator facilitates the IFSP Process.

**JJ. "Intensity"** means the length of time the service is provided during each session.

**KK. "Interagency Agreement"** means a document signed by authorized representatives of at least two agencies outlining mutually agreed upon responsibilities to perform certain duties under specified conditions. Governmental interagency agreements include Joint Powers' Agreements, Memoranda of Understanding, and Memoranda of Agreement and are defined in statute.

**LL. "Interdisciplinary Process"** means the collaborative effort of professionals from various disciplines, including at least one professional with knowledge of the child's disability or major area of developmental concern, who work in collaboration with the family to evaluate, plan and deliver services. This includes interpretation of data obtained from the evaluation process and development of recommendations for intervention.

**MM. "Interim IFSP"** means an IFSP that is developed only under extraordinary circumstances for a child and family within forty-five days of referral (before the completion of the evaluation and assessment), used to facilitate the provision of services to a child and family with obvious immediate needs according to clinical opinion. Use of an Interim IFSP does not extend the forty five day timeline for completion of the evaluation process.

**NN. "Intra-agency Agreement"** means a document signed by authorized representation of at least two units within an agency outlining mutually agreed upon responsibilities to perform certain duties under specified conditions.

**OO. "Lead Agency"** means the New Mexico Department of Health (DOH) that has been designated as the lead agency for early intervention services under IDEA and state statute. DOH, as the lead agency, has the responsibility and authority to assure the state meets the requirements of IDEA.

**PP. "Local Education Agency (LEA)"** means the local public

school district, (the New Mexico School for the Deaf and the New Mexico School for the Visually Handicapped shall be considered as LEA's for purposes of transition).

**QQ. "Location"** means the places in which early intervention services are delivered. Services will be delivered in locations that meet the criteria for natural environments as described in these regulations.

**RR. "Mediation"** means an impartial and neutral third party, who without decision-making authority will help parties to voluntarily reach an acceptable settlement on issues in dispute. A parent(s) may choose to use mediation to resolve a formal complaint concerning the provision of any aspect of early intervention services. Mediation may also be used to resolve disputes and differences between parties prior to the parent(s)'s filing of a formal complaint. Mediation is not applicable in cases of a criminal nature including abuse, neglect or exploitation.

**SS. "Medicaid"** means the federal medical assistance program under Title XIX of the Social Security Act. The EPSDT program is part of Medicaid. This program provides reimbursement for some services delivered by early intervention providers to Medicaid-eligible children.

**TT. "Method"** means the way in which a specific early intervention service is delivered. Examples include group and individual services.

**UU. "Multidisciplinary Process"** means more than one individual working independently in their own domains to evaluate and work with the same child/family. Each professional independently seeks information from the family and elicits responses from the child. Each applies the expertise and techniques of his/her discipline or knowledge base in isolation of what others are doing.

**VV. "Native Language"** means the language or mode of communication normally used by the parent(s) and/or family of an eligible child.

**WW. "Natural Environments"** means places that are natural or normal for children of the same age who have no apparent developmental delay. Early intervention services are provided in natural environments in a manner/method that promotes the use of naturally occurring learning opportunities and supports the integration of skills and knowledge into the family's typical daily routine and lifestyle.

**XX. "Norm-Referenced Test"** means a test in which the level of achievement is determined by the norms of the sample or population of persons on which the test was standardized. Norm-referenced tests assess competencies in a glob-

al fashion reflecting a child's overall development in a specified area with respect to other children the same age. Norm-referenced tests are often used in the diagnostic process.

**YY. "Other Early Intervention Services"** means early intervention services, as described in IDEA Part C that are not otherwise explicitly listed or defined under early intervention services, but which the child and or family need in order to achieve outcomes as listed on the IFSP

**ZZ. "Other Services"** means services that the child and family need, and that are not early intervention services, but should be included in the IFSP. Other services does not mean routine medical services unless a child needs those services and the services are not otherwise available or being provided. Some examples include, but are not limited to, child care, play groups, community facilities.

**AAA. "Outcome"** means a written statement of changes that the family desires to achieve for their child and themselves as a result of early intervention services. Outcomes are documented on the IFSP.

**BBB. "Parent(s)"** means a natural or adoptive parent(s) of a child; a guardian; a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or a surrogate parent who has been assigned in accordance with these regulations. A foster parent may act as a parent under this program if the natural parents' authority to make the decisions required of parents has been removed under State law and the foster parent has an ongoing, long-term parental relationship with the child; is willing to make the decisions required of parents under the Act; and has no interest that would conflict with the interests of the child.

**CCC. "Permission"** means verbal authorization from the parents to carry out a function and shall be documented. Documentation of permission does not constitute written consent.

**DDD. "Personally Identifiable"** means that information in any form which includes the names of the child or family members, the child's or family's address, any personal identifier of the child and family such as a social security number, or a list of personal characteristics or any other information that would make it possible to identify the child or the family.

**EEE. "Personnel"** means those persons responsible for providing early intervention services.

**FFF. "Personnel"**

**"Development"** means preservice and inservice training provided to a variety of personnel needed to meet the professional credentialing requirements of the Family Infant Toddler Program or to enhance the competence of individuals working at any level within the early intervention system.

**GGG. "Physical/Motor Development"** means the progressive and orderly changes to a child's vision, hearing, gross and fine motor development, quality of movement, and health status.

**HHH. "Primary Referral Source"** means parents, physicians, hospitals, (including prenatal and postnatal care facilities), child care programs, local education agencies, public health care providers, Children's Medical Services, social services agencies, Early Head Start, and other qualified individuals or agencies which have identified a child as needing evaluation or early intervention services.

**III. "Prior Notice"** means written notice given to the parents of an eligible infant or toddler a reasonable time before the responsible public agency, or its designee including the early intervention provider, either proposes or refuses to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family. Prior notice must contain the action being proposed or refused, the reasons for taking the action and all procedural safeguards that are available.

**JJJ. "Procedural Safeguards"** means the requirements set forth by IDEA, as amended, which specify families' rights and protections relating to the provision of early intervention services and the process for resolving individual complaints related to services for a child and family.

**KKK. "Professional Judgment"** means a process in which a qualified individual or a team uses professional knowledge, experience and skills to organize and weigh information about a child. This information includes observations and impressions regarding skills, abilities, weaknesses, developmental processes, emotional and temperamental patterns as well as more traditional testing information. Professional judgment is used to support and supplement other information gathered during the IFSP process for the purposes of eligibility determination and planning.

**LLL. "Public Agency"** means the lead agency and any other political subdivision of the state government that is responsible for providing early intervention services to eligible children and their families.

**MMM. "Record"** means the

early intervention records maintained by the early intervention provider and are defined as educational records in accordance with the Family Educational Rights and Privacy Act (FERPA). Early intervention records include files, documents, and other material that contain information directly related to a child, and are maintained by the early intervention provider. Early intervention records do not include records of instructional, supervisory, and administrative personnel, which are in the sole possession of the maker and which are not accessible or revealed to any other person except to substitute staff.

**NNN. "Referral"** means the direction of a family into the early intervention system for assistance in obtaining information, evaluation, assessment, IFSP development, and needed support services.

**OOO. "School Year"** means the period of time between the fall and spring dates established by each public school district which mark the first and last days of school for any given year for children ages three through twenty-one years.

**PPP. "Service Coordinator"** means the person responsible for coordination of all services and supports listed on the IFSP and ensuring that they are delivered in a timely manner. The initial service coordinator assists the family with intake activities such as eligibility determination and development of an initial Individualized Family Service Plan (IFSP). The ongoing service coordinator is selected at the initial IFSP meeting and designated on the IFSP form. The service coordinator may work for one of a number of agencies; however, a family will have only one service coordinator regardless of its eligibility for more than one program.

**QQQ. "Service Delivery"** means the provision of specific early intervention services by qualified personnel in accordance with the IFSP. It includes participation in the periodic review and modifications of the IFSP; the documentation of all services delivered; the monitoring of progress toward the intended outcomes; and access to the dispute resolution process.

**RRR. "Social or Emotional Development"** means the progressive and orderly changes to a child's affective state and ability to interact with people.

**SSS. "Standardized Tests"** means tests with written uniform procedures for administration, scoring, and interpretation.

**TTT. "Supervision of Personnel"** means defining and communicating job requirements; counseling, mentoring and coaching for improved performance; providing job-related instruction; planning, organizing, and delegating work;

evaluating performance; providing corrective and formative feedback; providing consequences for performance; and arranging the environment to support performance.

**UUU. "Surrogate Parent"** means the person appointed in accordance with these regulations to represent the eligible child in the IFSP Process when no parent can be identified or located or the child is a ward of the state. A surrogate parent has all the rights and responsibilities afforded to a parent under Part C of IDEA.

**VVV. "Transition"** means the process for a family and eligible child of moving from one service provider or service system to another. This process includes discussions with, and training of, parents regarding future placements and other matters related to the child's transition; procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and with parental consent, the transmission of information about the child to a program into which the child might transition to ensure continuity of services, including evaluation and assessment information required and copies of IFSPs that have been developed and implemented.

**WWW. "Transition Plan"** means a component of the IFSP that addresses the process of a family and eligible child of moving from one service location to another. The plan defines the roles, responsibilities, activities and timelines for ensuring a smooth and effective transition. [7.30.8.7 NMAC – Rp 7 NMAC 30.8.7, 10/01/2001]

### 7.30.8.8 ADMINISTRATION

#### A. Supervisory Authority

(1) Any agency, organization, or individual that provides early intervention services to eligible children and families shall do so in accordance with these regulations and under the supervisory authority of the lead agency for Part C of IDEA, the New Mexico Department of Health.

(2) An agency that has entered into a contract or provider agreement or an inter- or intra-agency agreement with the New Mexico Department of Health to provide early intervention services shall be considered an "early intervention provider" under these regulations.

#### B. Provider Requirements

(1) All early intervention providers shall comply with these regulations and all other applicable state and federal regulations. All early intervention providers who provide such services shall do so under the administrative oversight of the lead agency for IDEA, Part C, the New Mexico Department of Health through the

Family Infant Toddler Program.

(2) All early intervention providers shall establish and maintain separate financial reporting and accounting procedures for the delivery of early intervention services and related activities. They shall generate and maintain documentation and reports required in accordance with these regulations, the provisions of the contract/provider agreement, or an inter- or intra-agency agreement. This information shall be kept on file with the early intervention provider and shall be available to the New Mexico Department of Health or its designee upon request.

(3) All early intervention providers shall employ individuals who maintain current licenses and/or certifications required of all staff providing early intervention services. Documentation concerning the licenses and certifications shall be kept on file with the early intervention provider and shall be available to the New Mexico Department of Health or its designee upon request. The provider of early intervention services cannot employ an immediate family member of an eligible and enrolled child to work directly with that child. Exceptions can be made with prior approval by the New Mexico Department of Health.

(4) Early intervention providers shall ensure that personnel receive adequate planned and ongoing supervision. The nature of supervision shall depend on the complexity of the duties to be performed, and the individual's prior education, knowledge and experience relative to the role performed. The early intervention provider shall maintain documentation of supervision activities. Supervision shall comply with requirements of appropriate licensing and regulatory agencies for each discipline.

(5) Early intervention providers shall provide access to information necessary for the New Mexico Department of Health or its designee to monitor compliance with applicable state and federal regulations.

(6) Failing to comply with these regulations on the part of early intervention providers will be addressed in accordance with provisions in the contract/provider agreement or interagency agreement and the requirements of state and federal statutes and regulations.

(7) Early intervention providers shall ensure free and appropriate public education (FAPE) at the child's third birthday for those children who are eligible for Part B and continue within the Part C program.

#### C. Financial Matters –Reimbursement to Providers

(1) Reimbursement for early

intervention services to eligible children and families by the Family Infant Toddler Program shall conform to the method established by the New Mexico Department of Health, as delineated in the early intervention provider's contract/provider agreement.

(2) The following services shall be available at no cost to families:

- (a) Child find activities,
- (b) Evaluation and assessment,
- (c) Service coordination,

(d) Administrative and coordinative activities related to the development, review and evaluation of IFSPs, and

(e) Implementation of procedural safeguards and the other components of the statewide system of early intervention.

No eligible child or family shall be denied any early intervention service because of the family's inability to pay.

(3) Early intervention providers shall not bill for early intervention services delivered by personnel who do not possess relevant, valid licenses and/or certification. When no relevant credential exists or is required for personnel providing specific early intervention services, the provider shall assure that persons employed are competent and trained to perform those duties. [7.30.8.8 NMAC – N, 10/01/2001]

### 7.30.8.9 PERSONNEL

#### A. Personnel Requirements

(1) Early intervention services shall be delivered by qualified personnel. Personnel shall be deemed "qualified" based upon the standards of their discipline and in accordance with these regulations and shall be supervised in accordance with these regulations.

(2) Individuals who hold a professional license or certificate from an approved field as listed in Section 9B of these regulations, and provide services in that discipline, do not require certification as a Developmental Specialist. However, individuals who hold a professional license or certificate in one of these fields and who spend 60% or more of their time employed in the role of Developmental Specialist must obtain certification as a Developmental Specialist.

(3) Personnel may delegate and perform tasks within the specific scope of their discipline. The legal and ethical responsibilities of personnel within their discipline cannot be delegated and they remain the shared responsibility of the employing agency and the supervisor, according to discipline.

**B. Qualified Personnel** may include individuals from the following disciplines who meet the state's entry level



requirements and possess a valid license and or certification:

- (1) Audiology
- (2) Developmental Specialist
- (3) Early Childhood Development and Education
- (4) Education of the Deaf/Hard of Hearing
- (5) Family Therapy and Counseling
- (6) Nutrition/Dietetics
- (7) Occupational Therapy (including Certified Occupational Therapy Assistants)
- (8) Pediatric Nursing
- (9) Pediatric Nutrition
- (10) Pediatric Orientation/Mobility Training
- (11) Physical Therapy (including Physical Therapy Assistants)
- (12) Physician (pediatrics or other medical specialty)
- (13) Psychology (Psychologist or Psychological Associate)
- (14) Social Work
- (15) Special Education
- (16) Speech and Language Pathology
- (17) Vision Training

Individuals with a valid license and certification in other related fields may be considered to be qualified in accordance with policy and procedures established by the Family Infant Toddler Program. Qualified personnel may also include individuals trained to perform specific functions, such as respite providers, family liaisons and parent-to parent support staff.

#### C. Certification of Developmental Specialists

(1) Certification is required for individuals providing early intervention services functioning in the position of developmental specialist.

(2) Developmental Specialists must have the appropriate certificate issued by the Office of Child Development at the Children, Youth and Families Department based on entry level requirements, except as noted below in Section 9 D.

(3) The term of certification as a Developmental Specialist is a five year period granted from the date the application is approved.

**D. Reciprocity of Certification:** An applicant for a Developmental Specialist certificate who possesses a comparable certificate from another state shall be eligible to receive a New Mexico Developmental Specialist Certificate, at the discretion of the Department of Health or its designee.

**E. Certification Renewal:** The individual seeking renewal of a Developmental Specialist certificate

shall provide the required application and documentation in accordance with policy and procedures established by the Family Infant Toddler Program.

#### F. Agency Exemptions from Personnel Certification Requirements

(1) At its discretion, the Family Infant Toddler Program or its designee may issue to an early intervention provider an exemption from personnel qualifications for a particular Developmental Specialist position. The exemption shall be in effect only for the fiscal year in which it is issued.

(2) An exemption from certification is for a specific position and is to be used in situations when the early intervention provider can demonstrate that it has attempted actively to recruit personnel who meet the certification requirements but is currently unable to locate qualified personnel.

(3) Early intervention providers shall not bill for early intervention services delivered by a non-certified Developmental Specialist unless the Family Infant Toddler Program has issued an exemption for that position.

(4) Documentation of efforts to hire personnel meeting the certification requirements shall be maintained.

#### G. Service Coordinators

(1) Service coordinators shall possess a bachelor's degree in health, education or social service field or a bachelor's degree in another field plus two years experience serving individuals with disabilities and their families.

(2) If an early intervention provider is unable to hire suitable candidates meeting the above requirements, a person can be hired as a service coordinator with an Associate of Arts degree and at least three years experience in community, health or social services.

(3) Early intervention providers may hire, with approval from the Family Infant Toddler Program, service coordinators who do not meet the qualifications listed above but do meet cultural, linguistic, or other specific needs of the population served and or an individual who is the parent of a child with a developmental delay or disability. Such individuals must meet all training requirements for Service Coordinators in accordance with Family Infant Toddler Program standards.

#### H. Supervision of Early Intervention Personnel

(1) Early intervention providers shall ensure that all personnel (employees and subcontractors) providing early intervention services receive adequate planned and ongoing general supervision. The amount of supervision required shall

depend on the complexity of the duties to be performed and the experience of the personnel. The early intervention provider shall maintain documentation of supervision activities conducted.

(2) Supervision shall comply with the requirements of other appropriate licensing and regulatory agencies for each discipline.

(3) Supervision shall comply with personnel policies and procedures established by the Family Infant Toddler Program.

(4) The early intervention provider shall ensure that supervision is available to support the re-certification of the Developmental Specialists they employ.

(5) The early intervention provider shall ensure that a supervisor is on call, readily available and responsive in a timely manner to requests for assistance. [7.30.8.9 NMAC – Rp 7 NMAC 30.8.14, 10/01/2001]

#### 7.30.8.10 CHILD IDENTIFICATION

**A.** Early intervention providers shall collaborate with the New Mexico Department of Health and other state, federal and tribal government agencies in a coordinated Child Find effort to locate, identify and evaluate all children residing in the state who may be eligible for early intervention services. Child find efforts shall include families and children in rural and Native American communities.

**B.** Early intervention providers shall collaborate with the New Mexico Department of Health and shall inform primary referral sources, especially hospitals and physicians, public health facilities, child care programs, social service agencies, and other health care providers, of their responsibilities related to child identification and referral under federal and state statute and regulations.

**C.** Early intervention providers in collaboration with the New Mexico Department of Health shall inform parents, medical personnel, local education agencies and the general public of the availability and benefits of early intervention services. This collaboration shall include an ongoing public awareness campaign that is sensitive to issues related to accessibility, culture, language, and modes of communication.

#### D. Referral and Intake

(1) All children from birth to three years of age in need of evaluation, assessment, and early intervention services whose parents give permission for referral shall be referred to the Family Infant Toddler Program.

(2) Primary referral sources shall inform parent(s) of their intent to refer and

the purpose for the referral. Primary referral sources are required to refer within two working days of identification.

(3) Intake shall be conducted with families in a prompt, professional and family-centered manner. Specific early intervention providers are designated by the New Mexico Department of Health as points of entry into the early intervention system. Such points of entry shall be responsible for receiving referrals of children and their families for early intervention. The points of entry will provide a timely written response to all referrals. The designated provider will assign a service coordinator who will assist the family with intake, evaluation, eligibility determination, planning and facilitation of the initial IFSP.

(4) The service coordinator shall contact the family and arrange a meeting(s) at the earliest possible time that is convenient for the family in order to:

(a) Inform the family about early intervention services and the IFSP process;

(b) Explain the family's rights and procedural safeguards;

(c) Provide information about evaluation options; and

(d) With parental consent, arrange the evaluation.

(5) The service coordinator shall assist the IFSP team in determining eligibility; and schedule and facilitate the initial IFSP.

(6) The service coordinator shall ensure that within forty-five (45) days of referral to the FIT Program

for early intervention services, that with parental consent a child shall receive a comprehensive evaluation and assessment and with parental consent, an IFSP shall be developed for those families of children found to be eligible.

(7) Service coordination shall begin at referral and shall be available to families of all eligible

children, regardless of whether they consent to other early intervention services. The choice of ongoing service coordinator is made at the initial IFSP meeting.

#### **E. Evaluation**

(1) Any child, birth to three years, who resides in the state and who is referred for early intervention services and whose parent(s) has given prior informed consent, shall receive an evaluation to inform eligibility determination. The evaluation shall be timely, non-discriminatory, comprehensive, interdisciplinary, and shall include information provided by the parent(s).

(2) If parental consent is not given, the service coordinator shall make reasonable efforts to ensure that the parent(s) is fully aware of the nature of the evaluation or the services that would be

available; and that the parent(s) understand that the child will not be able to receive the evaluation or services unless consent is given.

(3) A comprehensive evaluation, conducted by an interdisciplinary team consisting of at least two professionals from different disciplines and family member(s), is carried out to inform eligibility determination. The evaluation shall include information provided by the child's parents, a review of the child's records related to current health status and medical history; An assessment of the child's strengths and needs and a determination of the developmental status of the child in the following developmental areas:

(a) physical/motor development (including vision and hearing);

(b) cognitive development;

(c) communication development;

(d) social or emotional development; and

(e) adaptive development;

(4) If the child has a recent and complete evaluation, the results may be used, in lieu of conducting an additional evaluation, to determine eligibility.

(5) Each evaluation shall include the use of multiple and appropriate procedures and activities to determine a child's developmental level and eligibility to receive early intervention services. Any instruments shall be reliable, valid, used only for their intended purposes, and administered in the child's native language or other mode of communication unless it is clearly not feasible to do so. Instruments used in an evaluation shall be administered by qualified personnel trained and/or licensed to do so.

(6) An evaluation report shall be generated that summarizes the findings of the interdisciplinary evaluation team. The report shall summarize the child's level of functioning in each developmental area based on assessments conducted and give a picture of the child's overall functioning and ability to participate in family and community life. The report shall include recommendations regarding the child's eligibility for the Family Infant Toddler Program. The report shall include recommendations regarding approaches and strategies to be considered when developing IFSP outcomes.

(7) Parents shall receive a copy of the evaluation report and shall have the results and recommendations of the evaluation report explained to them by a member of the evaluation team or the service coordinator with prior consultation with the evaluation team.

#### **F. Eligibility Determination**

(1) The parent(s), the service coordinator and at least two professionals representing at least two different disciplines shall comprise the IFSP team for the purposes of eligibility determination. With the exception of the Service Coordinator, professional representation may be in person or through a written report, however someone with technical knowledge regarding the content of the report shall be available to consult with the other team members. Eligibility determination shall be based upon meeting the criteria in any one of the categories of eligibility contained in these regulations.

(2) Eligible children are those children who reside in the state and who are from birth to three years of age and who possess a developmental delay, established condition, or who are at risk for developmental delay. Documentation shall be maintained in the child's file of the child's eligibility under one of the following categories:

(a) **Developmental delay** - is a discrepancy between chronological age and developmental age, after correction for prematurity, in one or more of the following areas of development: Cognitive; Communication

Physical/Motor (including vision and hearing); Social or Emotional; Adaptive. To be eligible for services under the definition of developmental delay, a child must demonstrate 25% or more discrepancy between chronological age, after correction for prematurity and developmental age. The extent of the child's delay must be documented. A determination of developmental delay shall not be based upon behavior related to cultural or language differences. For infants twelve months of age or younger, the professional judgment/clinical opinion of an interdisciplinary team may be used in lieu of the above evaluation process, to interpret and document evidence of delay significant enough for eligibility. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations.

(b) **Established condition** - is a diagnosed physical, mental, or neurobiological condition that has a high probability of resulting in developmental delay. A delay in development may or may not be exhibited at the time of diagnosis. To be eligible for services under the definition of established condition, the determination of the presence of an established condition shall be diagnosed by a physician. The determination of developmental status of the child in each of the developmental areas must be

established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations.

**(c) Biological or medical risk for developmental delay** - means that without the provision of early intervention services, the child would be at risk of experiencing substantial delay because of the presence of early medical conditions as documented by a physician or other primary health care provider which are known to produce developmental delays in some children. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations.

**(d) Environmental risk for developmental delay** - means a child who would be at risk of experiencing substantial delay if early intervention services were not provided due to factors in the child's environment. To be eligible for services under the definition of environmental risk for developmental delay two or more physical, social and/or economic factors in the child's environment must pose a substantial threat to the child's development. For purposes of determining eligibility based on environmental risk, the IFSP team must include representation from two or more agencies with relevant knowledge of the child and family and the environmental risk factors. One of these agencies may be the early intervention provider. Professional judgment/clinical opinion shall be used in informing eligibility based on risk factors in the child's environment. The determination of developmental status of the child in each of the developmental areas must be established through an interdisciplinary evaluation process that meets the criteria contained in Section 10 E in these regulations.

**(3)** The families of children who are not eligible for early intervention services shall receive information on, and if requested referral to, appropriate community resources. Families shall be informed about how to request re-evaluation at a later time should they suspect that delay or risk for delay increases.

#### **G. Assessment**

**(1)** Each eligible child shall receive an initial and ongoing assessment to determine the child's unique strengths and needs and to recommend to the interdisciplinary team services and supports to address IFSP outcomes. The initial assessment is an integral part of the evaluation (see section 10 E (3) and 10 E (6)). Assessments may include a variety methods and procedures including family report and clinical opinion. Any assessment instru-

ments or tools used shall be valid, reliable and used only for their intended purpose. Assessment activities shall be conducted by qualified personnel trained and/or licensed to do so.

**(2)** Assessment of the resources, priorities, and concerns of the family shall be voluntary on the part of the family, performed only with parental permission and be family-directed. The process for gathering this information may use formal instruments (e.g. questionnaires, checklists) or informal methods (e.g. conversations, observations). The IFSP should reflect those resources, priorities and concerns the family has identified.

[7.30.8.10 NMAC - Rp 7 NMAC 30.8.8, 10/01/2001]

#### **7.30.8.11 INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)**

##### **A. IFSP Development**

**(1)** A written Individualized Family Service Plan shall be developed and implemented for each eligible child and family.

**(2)** The IFSP shall be developed at a meeting. The IFSP meeting shall:

**(a)** take place in a setting and at a time that is convenient to the family.

**(b)** be conducted in the native language of the family, or other mode of communication used by the family, unless it is clearly not feasible to do so.

**(3)** The initial IFSP and annual IFSP review shall include:

**(a)** the parent(s).

**(b)** other family members, as requested by the parent(s).

**(c)** an advocate or person outside of the family, as requested by the parent(s)

**(d)** the service coordinator.

**(e)** a person or persons directly involved in conducting evaluations and assessments.

**(f)** personnel who will be providing services to the child and family.

**(4)** If a person is unable to attend a meeting, the service coordinator shall make arrangements for the person's participation through other means, including: participating by telephone; having a knowledgeable authorized representative attend or submitting a report.

**(5)** The initial IFSP shall be developed within forty-five days of the referral.

**(6)** Families shall receive written notice of the meeting prior to the IFSP meeting.

**(7)** The service coordinator shall assist the parent(s) in preparing for the IFSP meeting and shall ensure that the parent(s) have the information that they need in order to fully participate in the meeting.

#### **B. Contents of the IFSP:**

The IFSP shall include:

**(1)** The child's name, address, the name and address of the parent(s) or guardian, the child's birth date and, when applicable, the child's chronological age adjusted for prematurity;

**(2)** The date of the IFSP meeting, as well as the names of all participants in the IFSP meeting;

**(3)** Date of six-month and annual reviews;

**(4)** The child's present levels of development in all domains (Cognitive, Communication, Physical/Motor (including vision and hearing), Social or Emotional and Adaptive)

**(5)** With the concurrence of the family, a statement of the family's concerns, priorities and resources that relate to enhancing the development of the infant or toddler;

**(6)** The desired child and family outcomes identified by the family as well as timelines, procedures and criteria necessary to measure progress toward those outcomes;

**(7)** A statement of specific early intervention services required and the frequency, intensity, location, and the method of delivering services in order to achieve the expected outcomes.

**(8)** A parental signature, which denotes prior consent to services identified by the team as specific to the child and family's need. If the parent(s) does not provide consent for a particular early intervention service, then the service(s) to which the parent(s) did consent shall be provided;

**(9)** Specific information concerning payment sources and arrangements;

**(10)** The name of the ongoing service coordinator and the parameters for the delivery of this service;

**(11)** A statement of all other relevant services being provided to the family, with parental permission;

**(12)** A statement about the natural environments in which early intervention services shall be provided. If services cannot be satisfactorily provided or IFSP outcomes cannot be achieved in natural environments, then documentation for this determination and a statement of where services will be provided and what steps will be taken to enable early intervention services to be delivered in the natural environment must be included.

**(13)** The projected dates for initiation of early intervention services and the anticipated duration of those services; and

**(14)** At the appropriate time, identified steps to ensure a smooth and effective transition from early intervention services to other services.

**C. Interim IFSP**

(1) With parental consent an interim IFSP shall be developed and implemented, when an eligible child and/or family has an immediate need for early intervention services prior to the completion of the evaluation and assessment.

(2) The interim IFSP shall include the name of the service coordinator, the needed early intervention services, the frequency, intensity, location and methods of delivery, and parental signature indicating consent.

(3) The use of an interim IFSP does not waive or constitute an extension of the evaluation requirements and timelines.

**D. Service Coordination**

(1) Service coordination shall be provided at no cost to the family.

(2) The parent may choose the early intervention agency that will provide ongoing service coordination.

(3) The parent may change service coordinators, in accordance with Family Infant Toddler Program Policy, at any time.

(4) The service coordinator shall be responsible for:

(a) explaining to families about the early intervention and their procedural safeguards,

(b) gathering information from the family regarding their concerns, priorities and resources,

(c) coordinating the evaluation and assessment activities,

(d) facilitating the determination of the child's eligibility,

(e) connecting the family to resources and supports,

(f) helping families plan and prepare for their IFSP meeting,

(g) organizing and facilitating IFSP meetings,

(h) arranging for and coordinating all services listed on the IFSP,

(i) monitoring the delivery of the services listed on the IFSP,

(j) facilitating periodic reviews of the IFSP, and

(k) ensuring that a transition plan is developed at the appropriate time.

(5) Service coordination shall be available to families upon their referral to the Family Infant Toddler Program. Service coordination shall be listed on the IFSP for all families of eligible children. Families may direct the level of support and assistance that they need from their service coordinator and may choose to perform some of the service coordination functions themselves.

**E. Periodic Review of the IFSP**

(1) A review of the IFSP shall occur at a minimum every six months and

shall include a determination of progress toward outcomes and the need for modification of outcomes or services.

(2) The parent(s) and the service coordinator and others as appropriate, shall participate in these reviews.

(3) A review can occur at any time at the request of the parent(s) or early intervention provider.

(4) At least annually, the service coordinator shall convene the IFSP team and conduct a meeting to review the IFSP and revise its provisions as appropriate. Results of current evaluations and assessments and other input from professionals and parents shall be used in determining what services shall be provided in order to meet the outcomes decided upon for the child and family.

(5) At any time when monitoring of the IFSP by the service coordinator or any member of the IFSP team, including the family, indicate that services are not leading to intended outcomes, the team shall be reconvened to consider revision of the IFSP.

(6) The annual IFSP review shall include a determination of the child's continuing eligibility. This determination may be based on information available from ongoing assessment of the child.

[7.30.8.11 NMAC – Rp 7 NMAC 30.8.11, 10/01/2001]

**7.30.8.12 SERVICE DELIVERY****A. Early Intervention Services**

(1) Early intervention services shall:

(a) Be directed toward achieving the outcomes that a family chooses for their child and family,

(b) Identified in collaboration with the parents and other team members through the IFSP process,

(c) Delivered in the most appropriate natural environment for the child and family in the context of the family's day to day life activities,

(d) Designed to meet the developmental needs of the eligible child and the family's needs related to enhancing the child's development, and

(e) Delivered in accordance with the specifics contained in the IFSP.

(2) When an early intervention service cannot be achieved satisfactorily for the eligible child in a natural environment, the child's record shall contain justification for services provided in another setting or manner and a description of the process used to determine the most appropriate service delivery setting, methodology for service delivery, and steps to be taken to enable early intervention services to be delivered in the natural environment.

(3) Early intervention services shall be provided, by qualified personnel, in accordance with an IFSP, and meet the standards of the Department of Health. Early intervention services include:

(a) **Assistive Technology services**— means services which directly assist in the selection, acquisition, or use of assistive technology devices for eligible children. This includes the evaluation of the child's needs, including a functional evaluation in the child's natural environment; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for eligible children; selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing developmental therapy, education and rehabilitation plans and programs; training or technical assistance for an eligible child and the child's family; and training or technical assistance for professionals or other individuals who are substantially involved in the child's major life functions. Assistive technology devices are pieces of equipment, or product systems, that are used to increase, maintain, or improve the functional capabilities of eligible children.

(b) **Audiological services**—services that address the following: identification of auditory impairment in a child using at risk criteria and appropriate audiology screening techniques; determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures; referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment; provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training; provision of services for the prevention of hearing loss; and determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(c) **Developmental consultation services** (including special instruction) — services that include consultation with the family, the design of learning environments and implementation of planned activities that promote the child's healthy development and acquisition of skills that lead to achieving outcomes in the child's IFSP. Developmental services provide families with the information, skills, and support to enhance the child's development. Such services address all developmental areas: cognitive, communication, physical/motor

(including vision and hearing), social or emotional and adaptive development. Developmental services are provided in collaboration with the family and other personnel providing early intervention services in accordance with the IFSP.

**(d) Family training, counseling and home visits** – services provided, as appropriate, by qualified social workers, psychologists, and other qualified personnel to assist the family of a child eligible under these regulations in understanding the special needs of the child and enhancing the child's development.

**(e) Health services** – those health related services that enable an eligible child to benefit from the provision of other early intervention service during the time that the child is receiving the other early intervention services. These services include, but are not limited to, clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services. Health services do not include surgery or purely medical services; devices necessary to control or treat a medical condition; or medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

**(f) Medical services** – for diagnostic or evaluation purposes – those services provided by a licensed physician to determine a child's developmental status and other information related to the need for early intervention services.

**(g) Nursing services** – those services that enable an eligible child to benefit from early intervention services during the time that the child is receiving other early intervention services and include the assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems; provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and administration of medication, treatments, and regimens prescribed by a licensed physician.

**(h) Nutrition services** – include conducting individual assessments in nutritional history and dietary intake; anthropometric biochemical and clinical variables; feeding skills and feeding problems; and food habits and food preferences. Nutrition services also include developing and monitoring appropriate plans to address the nutritional needs of eligible children; and mak-

ing referrals to appropriate community resources to carry out nutrition goals.

**(i) Occupational therapy services** – those services that address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in a home, school, and community setting. Occupational therapy includes identification, assessment, and intervention; adaptation of the environment and selection, design and fabrication of assistive and orthotic devices to facilitate the development and promote the acquisition of functional skills, and prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

**(j) Physical therapy services** – those services that promote sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. Included are screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction; obtaining interpreting, and integrating information appropriate to program planning to prevent or alleviate movement dysfunction and related functional problems; and providing individual and group services to prevent or alleviate movement dysfunction and related functional problems.

**(k) Psychological services** – those services delivered as specified in the IFSP which include administering psychological and developmental tests and other assessment procedures; interpreting assessment results; obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and planning and management of a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

**(l) Respite services** – a flexible family support service delivered as specified in the IFSP that provides short term, temporary care to eligible children in order that their families can take a break from the daily routine of care giving. Respite care personnel assist the child in activities of daily living to promote the child's health and safety, as well as maintain a clean and safe environment. The family schedules respite care, in collaboration with the respite care agency.

**(m) Service coordination** – serv-

ices and activities as designated in the IFSP and performed by a designated individual to assist and enable the families of children from birth through age three years of age to access and receive early intervention services. The responsibilities of services coordination include: explaining to families about the early intervention and their procedural safeguards, gathering information from the family regarding their concerns, priorities and resources, coordinating the evaluation and assessment activities, facilitating the determination of the child's eligibility, connecting the family to resources and supports, helping families plan and prepare for their IFSP meeting, organizing and facilitating IFSP meetings, arranging for and coordinating all services listed on the IFSP, monitoring the delivery of the services listed on the IFSP, facilitating periodic reviews of the IFSP, and ensuring that a transition plan is developed at the appropriate time.

**(n) Social work services** – those activities as designated in the IFSP that include identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services; preparing a social or emotional developmental assessment of the child within the family context; making home visits to evaluate patterns of parent-child interaction and the child's living conditions; providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents; and working with those problems in a child's and family's living situation that affect the child's maximum utilization of early intervention services

**(o) Speech and language pathology services** – those services as designated in the IFSP which include identification of children with communicative or oral-motor disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills; referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oral-motor disorder and delays in development of communication skills; and provision of services for the habilitation, rehabilitation, or prevention of communicative or oral-motor disorders and delays in development of communication skills.

**(p) Transportation services** – supports that assist the family with the cost of travel and other related costs as designated in the IFSP that are necessary to enable an eligible child and family to receive early intervention services or providing other means of transporting the child and family.

**(q) Vision services** – services delineated in the IFSP that address visual functioning and ability of the child to most fully participate in family and community activities. These include evaluation and assessment of visual functioning including the diagnosis and appraisal of specific visual disorders, delays and abilities; referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorder; and communication skills training, orientation and mobility training, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

**B.** All services delivered to an eligible child shall be documented in the child's record and reported to the Family Infant Toddler Program in accordance with policy and procedure established by the FIT Program. The service coordinator shall review and monitor delivery of services on a periodic basis to ensure delivery in accordance with the IFSP

**C.** Parents who have concerns regarding the provision of early intervention services to their child and family shall have the option of filing a complaint in accordance with these regulations as described in Section 8.15.

[7.30.8.12 NMAC – N, 10/01/2001]

### 7.30.8.13 TRANSITION

**A.** Transition planning shall begin early enough to allow the parents to exercise all their rights under state and federal statutes and regulations. Transition planning must be undertaken for each child and family at least 6 months before the child is eligible to transition from early intervention services. Transition planning shall be a process involving meeting(s) and progressive steps toward the smooth and effective transitioning of each child and family.

**B.** In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.

**C.** Steps/actions shall be identified and included in the IFSP that support the child and family and ensure a smooth and effective transition. With involvement of the parents, such steps/actions shall include, at a minimum:

(1) Discussions with the parents regarding future program/service options to include preschool special education services and other community services that may be available and appropriate; representatives from these programs and services shall be included in these discussions to ensure

an informed decision;

(2) Preparing the child and family for the changes and adjustments to a new setting;

(3) With parental consent and in accordance with regulation, the transmission of information, including evaluation and assessment information and copies of IFSPs to ensure continuity of services.

(4) Assisting parents/families to develop the skills and acquire the information needed for continued advocacy of their child's needs.

**D.** The parents of an eligible child participating in early intervention services who turns three (3) years of age during the public school year shall have the option of:

(1) Having the child complete the remainder of the school year in early intervention services or the public school's preschool special education services covered under the Individuals with Disabilities Act (IDEA); or

(2) They may elect to enroll the eligible child in the public school's preschool special education services from the beginning of that public school year in accordance with state law.

**E.** Early intervention services shall be provided in accordance with the IFSP to eligible children and families until the first day of school of the LEA where the child is enrolled.

**F.** With approval of the parents, a transition conference shall be convened at least 90 days prior to the anticipated date of transition from early intervention services but no later than 90 days prior to the child's third birthday. If the child may be eligible for preschool services including special education and related services offered through the local education agency, this conference shall include, at a minimum, the parents, the relevant early intervention service providers and the local education agency representative(s). Other relevant service providers should be invited to attend this meeting. The transition process must take into account availability of Head Start and other child care services in the community. The service coordinator shall convene and facilitate this conference to ensure the following actions:

(1) Review the child's service/program options;

(2) Renew, revise or establish a transition plan;

(3) Ensure coordination of transition matters including the provision of uninterrupted services to the child and family; and

(4) With parental consent, the transmission of information, including evaluation and assessment information and

copies of IFSPs to ensure continuity of services.

**G.** Representative(s) from the early intervention provider shall participate in meeting(s) to develop the IFSP, IEP, or IFSP-IEP, as appropriate.

**H.** At the request of the parents, and in accordance with New Mexico Department of Health policy, service coordination shall be provided after exiting from early intervention services for the purpose of facilitating a smooth and effective transition.

[7.30.8.13 NMAC – N, 10/01/2001]

### 7.30.8.14 PROCEDURAL SAFEGUARDS

**A.** Procedural safeguards are the requirements set forth by IDEA, as amended, and established and implemented by the New Mexico Department of Health that specify family's rights and protections relating to the provision of early intervention services and the process for resolving individual complaints related to services for a child and family. The service coordinator at the first visit with the family, shall provide the family with a written overview of these rights and shall also explain all the procedural safeguards.

**B.** The service coordinator shall provide ongoing information and assistance to families regarding their rights throughout the period of the child's eligibility for services. The service coordinator shall explain dispute resolution options available to families and early intervention providers. A service coordinator shall not otherwise assist the parent(s) with the dispute resolution process.

**C. Surrogate Parent(s)** shall be assigned when no person can be identified who is presently acting in the role of parent(s) if after reasonable effort, the early intervention provider can not determine the whereabouts of the eligible child's parent(s) or the child is a ward of the state or tribe and the foster parent is unable or unwilling to act as the parent in the IFSP process. The service coordinator shall be responsible for determining the need for the assignment of a surrogate parent(s) in accordance with procedures established by the New Mexico Department of Health. The continued need for a surrogate parent(s) shall be reviewed regularly throughout the IFSP process. A surrogate parent may represent a child in all matters related to the evaluation and assessment of the child; the development and implementation of the IFSP; the ongoing provision of early intervention services; and any other rights established under Part C of IDEA.

**D. Written prior notice** shall be given to the parents of a child at

least five working days before an early intervention provider proposes or refuses to initiate or change identification, evaluation, or provision of appropriate services. Written prior notice shall include information about the action undertaken by the early intervention provider, the reasons, and the procedural safeguards available to the parent(s).

**E.** The notice must be written in language understandable to the general public and provided in the native language or usual mode of communication of the parent(s), unless it is clearly not feasible to do so. If a parent(s)'s language is not a written language, documentation of the procedures used to provide prior notice shall be included in the child's record.

**F. Consent** shall be obtained by the early intervention provider, which is informed written authorization, from the parent(s) before conducting the initial evaluation and assessment of a child and before initiating the provision of early intervention services. The parent(s) shall be fully informed in their native language or other mode of communication, of all information relevant to the activity for which consent is sought.

(1) The parent(s) shall be informed that the granting of consent is voluntary on the part of the parent(s) and may be revoked at any time.

(2) The parent(s) indicates they understand and agree in writing to the activity for which consent is sought.

(3) The consent document shall describe that activity and list any records that shall be released and to whom.

(4) The parent(s) shall have the right to accept or decline specific early intervention services (with the exception of evaluation and service coordination) without jeopardizing their right to obtain other early intervention services.

(5) Covered services for which the parent(s) gives consent shall be provided.

**G.** If consent is not given, the early intervention provider shall document reasonable efforts to ensure that the parent(s) is fully aware of the nature of the evaluation and assessment or the services that would be available and understands the child will not be able to receive the evaluation and assessment or services unless consent is given.

**H.** No child or family shall be denied access to early intervention services on the basis of race, creed, color, sexual orientation, religion, gender, ancestry, or national origin.

#### **I. Procedural Safeguards Related to Records**

(1) Early intervention providers

shall maintain for each eligible child an early intervention record of the information, both written and electronic, that the provider possesses regarding the eligible child or family.

(2) Early Intervention records are defined as Educational Records in accordance with the Family Educational Rights and Privacy Act (FERPA). Early intervention records include files, documents, and other material that contain information directly related to a child, and are maintained by the early intervention provider. Early intervention records do not include records of instructional, supervisory, and administrative personnel, which are in the sole possession of the maker and which are not accessible or revealed to any other person except to substitute staff.

#### (3) Access to Records

(a) Early intervention providers shall not disclose to any one other than the parent(s) records that did not originate with the provider. However, they may give the parent(s) a complete copy of everything contained in their child's records, regardless of their source.

(b) Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than an official of the lead agency or other participating agency collecting or using information under the Individuals with Disabilities Education Act (IDEA), or as authorized to do so under the Family Educational Rights and Privacy Act (FERPA).

(c) The parent(s) shall be informed of their right to sign or refuse to sign a release of records allowing an early intervention provider to disclose personally identifiable information to others for legitimate purposes. The release of records form shall list the specific agencies, providers or the individuals (by name or position) to whom information may be given and the type of information that might be given. The parent(s) shall be given an opportunity to limit the information and the recipients of the information released; the release of records form shall provide space for such limitations. The release shall be revocable by the parents and parents shall be informed of this fact.

(d) If the parent(s) does not give consent for release of personally identifiable information, the early intervention provider shall document this fact.

(e) Early intervention providers shall, upon request, provide the parent(s) with a list of the types and location of records collected, maintained, or used by the agency as follows, including screening, evaluation, assessment, eligibility determi-

nations, or the development and implementation of IFSPs; individual complaints dealing with children or families; and any other area involving records about children or families.

(f) Each early intervention provider shall permit parents to inspect and review the child's early intervention record. Parents of eligible children shall be provided the opportunity to examine and obtain one copy of such records at no expense without unnecessary delay, in no case more than twenty-one (21) calendar days after the request has been made.

(g) The right to examine such records includes the right to a response from the early intervention provider to reasonable requests for explanations and interpretations of the records; and the right of the parent(s) to have a representative of their choice examine the records.

(h) Early intervention providers shall keep documentation of parties obtaining access to records collected, maintained, or used unless such access is by the parent(s) or authorized employees of the agency. This documentation must include the name of the party accessing the record, the date the record was accessed, and the purpose for which the party is authorized to use the record.

(i) If any record includes information on more than one child, parents of those children have the right to examine only the information relating to their child and to be informed of that specific information.

(j) A parent(s) who believes that information in the records is inaccurate or misleading or violates the privacy or other rights of the child or family, may request that the early intervention provider amend (including delete) the information.

(k) When a parent(s) requests that information in a record be amended, the early intervention provider shall inform the parent(s) of the right to immediately place a statement in the record commenting on the parent(s)'s reason for requesting that the record be amended, and to remove that statement if the record is amended as requested.

(l) When a parent(s) requests that information in a record be amended, the early intervention provider shall decide whether to amend the information in accordance with the request within a reasonable period of time, not to exceed twenty-one (21) days after the request is made.

(m) If the early intervention provider refuses to amend the information as requested, it must inform the parent(s) of the refusal, the reason for the refusal and advise the parent(s) of the right to a hearing.

(n) The early intervention

provider shall, on request, provide an opportunity for a hearing to challenge information in the records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the eligible child and family.

(o) The hearing shall be held within thirty (30) days after the written request is received by the early intervention provider from the parent(s) of the eligible child.

(p) The parent(s) of the eligible child shall be given written notice of the date, place, and time fifteen days in advance of the hearing.

(q) The hearing may be conducted by any individual, including an official of the early intervention provider, who does not have a direct interest in the outcome of the hearing.

(r) The early intervention provider shall give the parent(s) of the eligible child a full and fair opportunity to present evidence relevant to the issues raised. The parent(s) may, at their own expense be assisted or be represented by individuals of their own choice, including an attorney.

(s) The early intervention provider shall issue its decision in writing to the parent(s) within five (5) working days after the conclusion of the hearing.

(t) The decision of the early intervention provider shall be based solely on evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

(u) If the hearing determines that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or family, the early intervention provider shall amend the information in question accordingly and inform the parents in writing.

(v) If the hearing determines that the information in question is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the early intervention provider shall inform the parent(s) of the right to place in the records a corrective statement commenting on the information or setting forth the parent(s)'s disagreement with the decision of the provider.

(w) This corrective statement shall be maintained along with the contested record for as long as the contested portion is maintained in the record by the early intervention provider. If the record or information about which the parent(s) has a complaint is ever disclosed to any party, the parent(s)'s statement must also be disclosed to that party.

#### **J. Administration of Records**

(1) Information and documents in

active individual child and family records shall be organized in a systematic fashion and controlled from a central location. A designated staff member shall be responsible for the control of confidential records and for the implementation of policies and procedures pertaining to confidential information. Access to personally identifiable information is limited to professional staff providing direct service to the child and family, plus such other staff who are administratively authorized. Records must be secured and reasonably protected against fire, water damage, and other hazards, including a procedure for regular and routine backup of data files for electronic systems. A working case file may be maintained to assist with the routine provision of services, and such files should be viewed only by authorized individuals, including the family. Working files should be secured against access by unauthorized persons and should contain only that personally identifiable information needed to provide services.

(2) Early intervention providers shall train all persons collecting or using personally identifiable information regarding state and federal requirements (34 CFR 300.560 through 300.576, with the modifications specified in Section 303.5(b) and 34 CFR Part 99, the Family Educational Rights and Privacy Act) for safeguarding records. All qualified early intervention programs shall take steps to protect the confidentiality of all information at collection, storage, disclosure, and destruction stages.

(3) Early intervention providers shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(4) The early intervention provider shall inform the parent(s) when personally identifiable information collected, maintained, or used in the early intervention program is no longer needed to provide early intervention services to the child and family. The parent(s) shall be offered the options of having the information destroyed or having the information transferred to them.

(5) The early intervention providers shall be allowed to maintain a permanent record of a child's name, address, phone number, attendance record, program(s) attended, services received, and the year the child and family exited the program.

(6) Records shall be maintained a minimum of five years following the child's exit from the early intervention services system.

#### **K. Confidentiality of**

#### **Records and All Other Personally Identifiable Information**

(1) All early intervention agencies shall ensure that steps are taken to protect the confidentiality of all forms of personally identifiable information at collection, storage, disclosure and destruction stages.

(2) All early intervention records and information (in whatever form) shall be treated in accordance with the confidentiality requirements of Part B of IDEA (34 CFR Section 300.560 - 300.576) and with the confidentiality requirements of the Family Educational Rights and Privacy Act (34 CFR Part 99, FERPA), as modified by IDEA.

[7.30.8.14 NMAC – Rp 7 NMAC 30.8.13, 10/01/2001]

#### **7.30.8.15 DISPUTE RESOLUTION PROCESS**

##### **A. Dispute Resolution Options**

(1) Parents and providers shall have access to an array of options for resolving disputes. The parent may choose to utilize an informal option, such as early mediation, to resolve a dispute. However, the use of any informal option shall not delay or interfere with parental rights to file a request for a formal due process hearing, nor shall it interfere with the timelines established under IDEA regarding procedural safeguards.

(2) The service coordinator shall inform the family about all options for resolving disputes. The family shall be made aware of how to contact the Department of Health to either file a formal complaint or to raise a concern regarding the provision of early intervention services to their child and family. The family shall also be informed of the policies and procedures of the early intervention provider for resolving disputes at the local level.

##### **B. Due Process Hearing**

(1) Parents may request an impartial due process hearing if they find they have a dispute regarding the early intervention services received by their child and family.

(2) An impartial hearing officer shall be assigned. The hearing officer shall not be an employee of any agency or entity involved in the provision of early intervention or have a personal or professional interest that would conflict with their objectivity in implementing the process.

(3) The due process hearing shall be carried out at a time and place that is reasonably convenient to the parents.

(4) The due process hearing shall be conducted and completed and a written decision shall be mailed to each party no



later than thirty days after the receipt of a parent(s)'s formal complaint.

(5) The parent(s) shall have the following rights in the due process hearing proceedings:

(a) The right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for eligible children or others at the parent(s)'s discretion.

(b) The right to present evidence and confront, cross examine, and compel the attendance of witnesses.

(c) The right to prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent(s) at least five days before the proceeding.

(d) The right to obtain a written or electronic verbatim transcription of the proceeding.

(e) The right to obtain written findings of fact and decisions.

(f) During the dispute resolution process the child shall continue to receive the early intervention services currently being provided, unless the parent(s) revokes consent or the early intervention provider and the parent(s) agree otherwise. If the complaint involves an application for initial services, the child must receive those services that are not in dispute.

(g) Any party aggrieved by the findings and decision of the hearing officer has the right to bring a civil action in court.

#### C. Mediation

(1) Within five working days of receiving a written formal complaint from the parent(s), the parent(s) shall be offered mediation as a method to resolve the dispute. Mediation shall proceed with agreement of all parties involved.

(2) The parent(s) shall be informed that participation in the mediation process is voluntary and shall not be used to deny or delay a parental right to a timely due process hearing.

(3) Mediation shall also be offered to the parties early in a dispute before the parent(s) has filed a formal complaint.

#### D. Complaints

(1) An individual (including a parent(s)) or an organization (including other states) may submit a complaint to the Department of Health alleging that an early intervention provider or other public agency has violated a federal or state law, regulation or rule that applies to the early intervention system.

(2) The complaint shall be submitted in writing to the coordinator of the

Family Infant Toddler Program and shall include a statement regarding the law or regulation that is alleged to have been violated; the facts on which the complaint is based; and it shall be signed and dated. The alleged violation must have occurred not more than one year before the date that the complaint is received by the Family Infant Toddler Program unless a longer period is reasonable because the alleged violation continues for that child or another child or the complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received by the Family Infant Toddler Program.

(3) Within sixty (60) calendar days after a complaint is received, the Department of Health shall:

(a) Carry out an independent investigation;

(b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(c) Review all relevant information and make an independent determination as to whether any law or regulation has been violated; and

(d) Issue a written decision to the complainant and involved parties that addresses each allegation and details the findings of fact and conclusions and the reason for the complaint investigator's final decision. The complaint investigator's decision may include recommendations that include technical assistance activities, negotiations and corrective actions to achieve compliance as well as timelines for completion.

(4) An extension of the sixty day timeline will be only granted if exceptional circumstances exist with respect to a particular complaint.

(5) If the complaint received is also the subject of a due process hearing or contains multiple issues, of which one or more are part of that hearing, the complaint investigator shall set aside any part of the complaint that is being addressed in a due process hearing until the conclusion of that hearing. Any issue in the complaint that is not part of the due process hearing must be resolved within the sixty calendar day timeline.

#### E. Abuse, Neglect, and Exploitation

(1) Instances of abuse, neglect, and exploitation shall be reported in accordance with law and policies established through the New Mexico Department of Health and the Children, Youth and

Families Department.

(2) A parent's decision to decline early intervention services does not constitute abuse, neglect or exploitation. [7.30.8.15 NMAC - N, 10/01/2001]

#### HISTORY of 7.30.8 NMAC

##### Pre-NMAC History:

None

##### History of the Repealed Material:

7 NMAC 30.8 Requirements For Family Infant Toddler Early Intervention Services, filed 09-16-97 - Repealed, effective 10/01/2001

---

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### INCOME SUPPORT DIVISION

This is an amendment to 8.102.410 NMAC, Section 13.

#### 8.102.410.13 WORK PROGRAMS:

The NMW work program is designed to help families become self-supporting through work. Work and activities related to preparing a person to go to work are the primary focus and goal of the work program. If an individual who is required to meet work program requirements fails to do so, the benefit group may be subject to the payment sanctions described in 8.102.620.10 NMAC. ~~[An individual who fails to meet work program requirements may be individually ineligible for JUL Medicaid as well]~~

[8.102.410.13 NMAC - Rp 8.102.410.13 NMAC, 07/01/2001; A, 10/01/2001]

---

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### INCOME SUPPORT DIVISION

#### COMMUNITY DEVELOPMENT AND COMMODITIES

Human Services Department, Income Support Division has renumbered and reformatted the following rules to comply with the current NMAC requirements:

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

NMAC 1 PART #	NEW PART #	RULE NAME
8 NMAC 22.LHP.000	8.150.100 NMAC	GENERAL PROVISIONS FOR THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
8 NMAC 22.LHP.022	8.150.101 NMAC	BUREAU RESPONSIBILITIES
8 NMAC 22.LHP.023	8.150.102 NMAC	FIELD OFFICE RESPONSIBILITIES
8 NMAC 22.LHP.110	8.150.110 NMAC	APPLICATIONS
8 NMAC 22.LHP.410	8.150.410 NMAC	GENERAL RECIPIENT REQUIREMENTS
8 NMAC 22.LHP.420	8.150.420.NMAC	SPECIAL RECIPIENT REQUIREMENTS
8 NMAC 22.LHP.430	8.150.430 NMAC	RECIPIENT RIGHTS/RESPONSIBILITIES
8 NMAC 22.LHP.500	8.150.500 NMAC	ELIGIBILITY
8 NMAC 22.LHP.510	8.150.510 NMAC	RESOURCES/PROPERTY
8 NMAC 22.LHP.520	8.150.520 NMAC	EARNED INCOME
8 NMAC 22.LHP.522	8.150.522 NMAC	UNEARNED INCOME
8 NMAC 22.LHP.524	8.150.524 NMAC	GROSS INCOME ELIGIBILITY
8 NMAC 22.LHP.526	8.150.526 NMAC	NET INCOME ELIGIBILITY
8 NMAC 22.LHP.600	8.150.600 NMAC	DESCRIPTION OF PROGRAM/BENEFITS
8 NMAC 22.LHP.620	8.150.620 NMAC	BENEFIT DETERMINATION GENERAL
8 NMAC 22.LHP.624	8.150.624 NMAC	RETROACTIVE BENEFIT COVERAGE
8 NMAC 22.LHP.640	8.150.640 NMAC	BENEFIT CORRECTIONS

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### INCOME SUPPORT DIVISION

#### COMMUNITY DEVELOPMENT AND COMMODITIES

This is an amendment to 8.150.110 NMAC sections 8 and 9.

#### 8.150.110.8 RIGHT TO APPLY:

A. Clients/Applicants: Anyone has the right to apply for any benefits provided by ISD whether or not it appears that he/she will be eligible.

#### B. Outreach:

(1) HSD Responsibilities: HSD conducts outreach regarding the LIHEAP program to eligible households, and particularly elderly and disabled households, through the ISD Field Offices and all of the offices and suboffices of the state's Community Action Agencies. Additional outreach efforts to elderly and disabled households are made through workshops and conferences held by the state's Agency on Aging.

(2) Community Action Agency Responsibility: HSD coordinates with the Community Action Agencies to provide information and outreach services regarding LIHEAP and other energy-related assistance programs.

C. Barrier Free Policy: It is HSD's policy to make the application process for these households as barrier-free as possible. This includes:

(1) Paperwork reduction and not requiring reverification by the household of

information already available to HSD, such as SSI status;

(2) Ease of access to physical locations where application may be made; and

(3) Provision of additional assistance for any household or household member who requires it.

D. Annual Benefit: Each eligible household will be issued one benefit each federal fiscal year. The benefit may be issued in one or multiple payments depending on the funding availability and the approval of the HSD Secretary

E. Second Application Period: A second application period may be established under certain conditions at the direction of the HSD Secretary. A second application period will be announced in the media. Situations which may justify a second application period include:

(1) Funding levels are predicted to exceed allowable carryover of federal funds to the next federal fiscal year.

(2) Emergency weather circumstances.

[7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-00; 8.150.110.8 NMAC - Rn, 8 NMAC 22.LHP.111 & A, 10-1-01]

8.150.110.9 SUBMISSION OF FORMS: [~~Regular benefits~~] Paper Applications

A. Applicants: Any household may apply for regular benefits at any one of the Income Support Division county offices and suboffices located throughout the state during the period specified for application for regular benefits.

B. Application Process: In order for a determination of eligibility for

regular benefits to be made for these applicant households, the household's paper application, signed and accompanied by all required supporting documentation, must be received by the Income Support Division county offices or suboffices by the deadline date of the application period for regular benefits.

C. Application Period: The period of application for regular benefits will be year round beginning after the application for the LIHEAP grant has been [~~approved by~~] submitted to the U. S. Department of Health & Human Services, and ending August 31. There will be a one month suspension of LIHEAP during the month of September. The opening and closing dates for this application period are advertised in all promotional material regarding the program.

D. Crisis Processing: Households who apply for LIHEAP benefits and provide documentation that a crisis situation exists will have their application "fast tracked".

[7-1-95, 11-1-95, 11-15-96, 10-01-97, 12-01-97, 10-1-00; 8.150.110.9 NMAC - Rn, 8 NMAC 22.LHP.112 & A, 10-1-01]

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### INCOME SUPPORT DIVISION

#### COMMUNITY DEVELOPMENT AND COMMODITIES

This is an amendment to 8.150.410 NMAC sections 8, 9, and 12.

8.150.410.8 [~~GENERAL RECIPI-~~

~~ENT REQUIREMENTS:] HOUSEHOLD UNIT: [Energy Assistance]~~ For purposes of LIHEAP, a household is an individual who incurs a heating cost or a group of individuals living together who incur a heating cost in common. The heating cost must be to meet residential, not business or industrial, heating needs. [7-1-95, 11-1-95, 11-15-96, 10-15-98; 8.150.410.8 NMAC - Rn, 8 NMAC 22.LHP.410.11 & A, 10-1-01]

**8.150.410.9 ENERGY RESPONSIBILITY: [ENERGY ASSISTANCE]**

A. Energy Cost: To be eligible for LIHEAP benefits, the household must incur an energy cost. The energy cost may be for a primary heat source, i.e., the energy source or fuel with which the household is predominantly heated, or for a secondary heat source. A secondary heat source is an energy source that is essential to the process of providing heat to the home. Or, the energy cost may be for a cooling cost. The cooling cost may be for a primary source, i.e., evaporative cooling or refrigerated air, or secondary cooling. Secondary cooling is the use of energy to operate portable fans, ceiling fans, whole house fans, gable vent fans, or power attic vent fans.

B. Secondary Heat Source: Electricity to ignite a gas or steam furnace is the most common example of an allowable secondary heat source for LIHEAP purposes. Electricity used only for lighting purposes or to operate fans to distribute heat from a wood-burning stove is not considered an allowable secondary heat source for LIHEAP purposes.

C. Wood-Gathering Households: Households who use wood as a fuel to heat their home and gather the wood themselves are considered to have a heating responsibility. Regardless of whether a cost direct or indirect) was incurred to obtain the wood the household meets this requirement.

[7-1-95, 11-1-95, 11-15-96, 10-15-98; 8.150.410.9 NMAC - Rn, 8 NMAC 22.LHP.410, 10-1-01]

**8.150.410.12 INDIAN TRIBAL ELIGIBILITY:** In New Mexico, an Indian tribe may choose to administer its own LIHEAP program for tribal members and request from DHHS an allocation of the state's share of the LIHEAP grant award for this purpose. An Indian tribe is defined as a legal entity of a group of Native Americans living on tribal lands with a distinct and separate government. Residents of tribal land may be eligible for tribal administered LIHEAP or HSD-administered LIHEAP under the following circumstances:

A. Tribes that Administer LIHEAP: Indian tribal members living on their tribe's tribal lands, whose Tribe administers their own LIHEAP program, are not eligible for HSD-administered LIHEAP benefits.

B. Tribes Not Administering LIHEAP: Indian tribal members living on the tribal lands of tribes not administering their own LIHEAP program may be considered for HSD-administered LIHEAP benefits providing they meet categorical or income eligibility and heating/cooling responsibility requirements as specified in this policy.

C. Indians on Other Tribes' Land: Indians who are members of Indian tribes administering their own LIHEAP program but not living on their tribe's tribal lands may be considered for HSD-administered LIHEAP benefits providing they meet categorical or income eligibility and heating responsibility requirements as specified in this policy.

D. Non-Indians and Non-tribal Members on Tribal Land: Non-Indians living on tribal lands and Indians living on tribal lands who are excluded from eligibility for LIHEAP by the Indian tribe administering their own LIHEAP program may be considered for HSD-administered LIHEAP benefits providing they meet categorical or income eligibility and heating/cooling responsibility requirements as specified in this policy.

[7-1-95, 11-1-95, 11-15-96; 8.150.410.12 NMAC - Rn, 8 NMAC 22.LHP.410 & A, 10-01-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.420 NMAC section 8.

**8.150.420.8 [SPECIAL RECIPIENT REQUIREMENTS:] RESIDENCE IN FACILITY OR INSTITUTION:** Persons residing in New Mexico but living in group homes, halfway houses, institutions, homeless shelters, or in places not normally intended for human occupation are not eligible unless they can document heating/cooling expenses. [7-1-95, 11-1-95, 11-15-96, 10-1-97; 8.150.420.8 NMAC - Rn, 8 NMAC 22.LHP.420 & A, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.500 NMAC sections 8 and 10.

**8.150.500.8 NEED DETERMINATION: [Regular Benefits]** To be eligible for LIHEAP [regular] benefits households must do the following:

A. Application: A household member or representative must complete an application for LIHEAP benefits and be interviewed; and

B. Documentation: ~~[The household must provide verification of the circumstances reported on the application. (Household composition, gross income, utility responsibility, utility account number, social security numbers, citizenship, age, disability) and]~~ The household must provide the following:

(1) Proof of identity for applicant or representative - picture ID.

(2) Proof of citizenship or legal resident status if questionable - birth certificate, permanent resident card, naturalization papers, etc..

(3) Social Security numbers for all household members - a social security card is required if the number has not been issued by the Social Security Administration or is being used by another person in the ISD data bases..

(4) Proof of gross income for all household members - check stubs, award letters, statement from employer, etc..

(5) Proof of utility expense in past twelve months and account number at current residence.

(a) Bill for metered service for a one month period, or

(b) Two purchase receipts for propane, or

(c) Receipt for wood purchase, or

(d) Rental agreement or landlord statement that utilities are included in rent, or

(e) Signed statement or billing history from a utility or fuel vendor, and

(6) Proof of crisis when the situation exists - disconnect notice, statement of non-delivery of bulk fuel or statement detailing the cost of initiating service.

(7) Proof of disability for at least one household member if claimed - Dr's statement, SSI award letter, statement of receipt of worker's compensation or DVR services, other disability-based income, etc.

(8) Proof of emergency expenditures that apply to 8.150.526 NMAC.

C. Eligibility Criteria: The household must meet the income, citizenship, utility responsibility, and residency requirements.

[7-1-95, 11-1-95, 11-15-96, 10-1-97, 10-15-98; 8.150.500.8 NMAC - Rn, 8 NMAC 22.LHP.501.11 & A, 10-1-01]

**8.150.500.10 GROSS INCOME DETERMINATION: [Gross Income]**

Gross income is defined as all income received prior to deductions, including taxes, and garnishments, whether voluntary or involuntary.

A. Income Sources: Gross income includes income from both earned and unearned sources.

B. Countable Income: The gross unearned income of all household members is counted in its entirety, and the gross earned income of all household members over the age of 18 is counted in its entirety, unless:

(1) The income is specifically exempted; or

(2) The income is self-employment. (See LIHEAP 8.150.520.9 NMAC); or

(3) The income is that of an ineligible alien, in which case the income is prorated. (See LIHEAP policy 8.150.520.10 NMAC)

C. Gross Income Receipt Period: [Regular LIHEAP] Gross averaged income received or anticipated to be received by the household in the month of application is the amount used to establish income eligibility for regular LIHEAP applications.

[7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-00; 8.150.500.10 NMAC - Rn, 8 NMAC 22.LHP.501.2 & A, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.510 NMAC section 8.

**8.150.510.8 RESOURCE STANDARDS / ELIGIBILITY: [Regular Benefits]**

No assets test is required to be eligible for [regular] LIHEAP benefits.

[7-1-95, 11-1-95, 10-1-00; 8.150.510.8 NMAC - Rn, 8 NMAC 22.LHP.511 & A, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.524 NMAC section 9.

**8.150.524.9 INCOME STANDARD:**

Income guidelines for eligibility will be updated at the beginning of each Federal Fiscal Year as required by federal statute. The guidelines will be effective for the entire Federal Fiscal Year beginning October 1 and ending September 30. The gross monthly income maximum will be 150% of the applicable Federal Poverty Guidelines. LIHEAP income guidelines are available from all Human Services Department Income Support Division Offices, by writing to: Human Services Department LIHEAP P O Box 26507 Albuquerque NM 87125-6507 or by contacting the Income Support Division Customer Service Desk at 1 800 283-4465 or TDDY 1 800 609-9454. If you are disabled and need the guidelines in an alternative format, please make the request when you contact us. The income guidelines are also located on the HSD Income Support Division web site at <http://www.state.nm.us/hsd/isd.html>.

~~A. Income Standard:~~

~~(1) Regular Benefits: The federal 150% of poverty guidelines effective October 1 each year are the standard of need to be used to determine financial eligibility for applicant households for regular benefits. [See APPENDIX A.]~~

~~B. Standard of Need~~

~~Regular Benefits: The standard of need for LIHEAP regular eligibility determination will correspond with the Basis of Issuance promulgated by the Food Stamp Program effective October 1, each year. [See APPENDIX A.]~~

~~[APPENDIX A]~~

~~[LIHEAP 2000-2001]~~

~~Income Eligibility Standards are based on 150 percent of the Federal Poverty Guidelines that are current in October of the current Federal Fiscal Year.~~

~~Income Eligibility Standards based on 150% of Poverty Income Guidelines effective October 1, 2000.]~~

~~Maximum Gross~~

Household Size	Monthly Income
1	\$1044
2	\$1406
3	\$1769
4	\$2131
5	\$2494
6	\$2856
7	\$3219
8	\$3581
Each additional member add	\$363

[11-15-96, 11-01-97, 10-15-98, 10-1-99, 10-1-00; 8.150.524.9 NMAC - Rn, 8 NMAC 22.LHP.524 & A, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.600 NMAC section 8.

**8.150.600.8 [General Program Description] BENEFITS - ISSUANCE AND USE:**

A. Issuance of Benefits: Benefits are issued in one of the three following methods:

(1) Client Warrants: HSD issues benefits directly to clients through client warrants when authorized by the LIHEAP director; or

(2) Vendor Payments:

(a) HSD will provide the name and, when applicable, customer account number for the LIHEAP-eligible household to the vendor specified by the household. The vendor will notify HSD of mismatches within a specified time frame.

(b) Vendors who carry customer accounts will credit eligible households with the amount of the LIHEAP regular benefit no more than 30 days from the time of the payment. Vendors who provide fuel on demand will provide fuel to eligible households equal to the amount of the LIHEAP regular benefit no more than 30 days from the date of the eligible household's contact with the vendor to make arrangements for the provision of such fuel;

(c) Vendors may transfer excess LIHEAP benefits from the account originally credited to another account they have for the household. The vendor must document the transfer in a manner that meets generally accepted audit standards. In order to transfer LIHEAP funds, the following conditions must be met.

(i) The vendor must provide

multiple utility services and/or bulk fuel; and

(ii) A credit remains on the originally credited account after current and delinquent charges are satisfied; and

(iii) The household approves the transfer; and

(iv) The utility or bulk fuel account that is credited is used by the household for their heating or cooling needs; or

(3) Electronic Benefit Transfer Account: LIHEAP benefits are deposited directly into the household's special account that may be:

(a) A cash account available to the household at ATM's and retail stores; or

(b) A special account for LIHEAP payments accessed at authorized utility vendors to pay for heating or cooling costs. The EBT card is used at a point of sale (POS) terminal at the utility company office or other retailers authorized to accept utility company payments.

B. Benefit use: The recipient household is responsible for using the benefit for the purpose intended.

(1) To purchase fuel, such as propane, wood, coal, kerosene, fuel oil or other unregulated fuels; or

(2) To pay the household's utility charges, such as those for electric or natural gas services; or

(3) To purchase gasoline and/or tools needed when a household gathers/cuts it's own firewood; or

(4) To pay a landlord for the utility costs that are included in the rent payment.

[7-1-95, 11-1-95, 11-15-96, 10-01-97; 8.150.600.8 NMAC - Rn, 8 NMAC 22.LHP.601 & A, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.620 NMAC sections 8, 9, 10 and 11

**8.150.620.8 [Regular — Benefit] POINT SYSTEM:** A point allocation system is used to insure that the highest level of assistance is provided to those households with the highest energy needs, lowest income and largest household member size while giving priority to those households with vulnerable members.

[7-1-95, 11-1-95, 11-15-96, 10-1-97, 10-1-00; 8.150.620.8 NMAC - Rn, 8 NMAC

22.LHP.620 & A, 10-1-01]

**8.150.620.9 CALCULATING THE BENEFIT/ASSIGNMENT OF POINTS:** To determine the amount of the regular benefit for households with an energy cost, HSD assigns points for each following factors:

A. Energy Costs Points: Points are assigned based on the cost of heating and cooling for a household at their current residence.

(1) Energy Burden: Energy burden is "the expenditures of the household for home energy divided by the income of the household." Points are assigned to the household by determining the households' percentage of energy burden. The point allocation [table] for energy burden is:

- (a) 0 points for 0 - 5% energy burden
- (b) 1 point for 6 - 10% energy burden
- (c) 2 points for 11 - 15% energy burden
- (d) 3 points for 16% or more energy burden, or

(2) Energy Matrix: When there is insufficient information to calculate energy burden, the energy matrix will be used to determine energy cost points. Households that have never had utility service or bulk fuel usage at their current residence will have their energy cost points determined by using the Energy Matrix. The MATRIX will be used for households who have moved into a new residence or when new heating or cooling appliances have been installed. The Matrix is calculated using prior year recipient data to determine average Energy Cost Points based on housing type, utility type and zip code. When no data is available for the housing type, utility type and zip code, the average for the zip code will be used.

B. ~~[Gross] Income Points: [The households' gross income is used to determine the household's percentage of poverty.]~~ HSD assigns Income Points using the household's monthly total countable gross income. The number of points is determined by identifying what percentage that the household's income is, of the Federal Poverty Guidelines (FPG) for the LIHEAP FFY. For example, if the total monthly income is 60% of the FPG, the household will receive two income points. (See below.)

- (1) 3 points - Income is 0 - 50% of the FPG
- (2) 2 points - Income is 51 - 100% of the FPG
- (3) 1 point - Income is 101 - 150% of the FPG

**[PERCENTAGE OF POVERTY**

**POINT ALLOCATION TABLE**

**PERCENTAGE OF POVERTY**

<b>HH MEMBERS</b>	<del>0% - 50% =</del> <b>-3 POINTS</b>	<del>51% - 100% =</del>	<del>101% - 150% =</del> <b>-1 POINT</b>
<del>1</del>	<del>\$0 - \$348</del>	<del>\$349 - \$696</del>	<del>\$697 - \$1044</del>
<del>2</del>	<del>\$0 - \$469</del>	<del>\$470 - \$938</del>	<del>\$939 - \$1406</del>
<del>3</del>	<del>\$0 - \$590</del>	<del>\$591 - \$1179</del>	<del>\$1180 - \$1769</del>
<del>4</del>	<del>\$0 - \$710</del>	<del>\$711 - \$1421</del>	<del>\$1422 - \$2131</del>
<del>5</del>	<del>\$0 - \$831</del>	<del>\$832 - \$1663</del>	<del>\$1664 - \$2494</del>
<del>6</del>	<del>\$0 - \$952</del>	<del>\$953 - \$1904</del>	<del>\$1905 - \$2856</del>
<del>7</del>	<del>\$0 - \$1073</del>	<del>\$1074 - \$2146</del>	<del>\$2147 - \$3219</del>
<del>8</del>	<del>\$0 - \$1194</del>	<del>\$1195 - \$2388</del>	<del>\$2389 - \$3581</del>
<b>EACH ADDITIONAL MEMBER}</b>	<del>ADD \$121</del>	<del>ADD \$242</del>	<del>ADD \$363</del>

C. Household Size Points: Household Size Points are assigned to the household based on the number of household members. The point allocation by household size is:

- (1) 1 point for 1 - 2 members
- (2) 2 points for 3 - 5 members
- (3) 3 points for 6 or more members

D. Vulnerable Population Points: HSD assigns additional points for any household members in the following vulnerable groups.

(1) Age 60 and Over: One (1) point is assigned to eligible households based on the inclusion of one or more household members age 60 or over as determined by [birthrate]

birthdate data.

(2) Age 6 and Under: One (1) point is assigned to eligible households based on the inclusion of one or more household members age 6 and under as determined by [~~birthdate~~] birthdate data.

(3) Disability: One (1) point is assigned to eligible households having one or more members with a disability. Disability is defined as physical or mental impairment resulting in substantial reduction in the ability of an individual to care for him/herself or carry out normal activities. When one or more members receive disability based income, the household is entitled to the point. A doctor's statement of current disability will be required for assignment of the point for this factor if the disabled member does not receive disability-based income.

[7-1-95, 11-1-95, 11-15-96, 10-1-97, 12-1-97, 10-1-00; 8.150.620.9 NMAC - Rn, 8 NMAC 22.LHP.621.1 & A, 10-1-01]

**8.150.620.10** [~~Regular~~ ~~Benefits~~] **CALCULATION OF BENEFIT AMOUNT:**

A. Prior to the start of the application period projections will be made to determine point value. Anticipated grant of award, potential applicants and the current economy of the State of New Mexico will be used to determine the point value. Households eligible for a LIHEAP benefit will have their point total multiplied times the point value. The product is the amount of payment that is issued to the utility vendor for credit on the household's account.

B. Regular benefits are issued through August 31 or as long as grant of award funds are available, whichever is earlier. The application period ends when funds are exhausted.

[7-1-95, 11-1-95, 11-15-96, 10-1-97, 10-15-98, 10-1-00; 8.150.620.10 NMAC - Rn, 8 NMAC 22.LHP.621.2, 10-1-01]

**8.150.620.11 POINTS INFORMATION SOURCE:** The LIHEAP Points guidelines are available from all Human Services Department Income Support Division Offices, by writing to: Human Services Department LIHEAP P O Box 25607 Albuquerque NM 87125-6507 or by contacting the Income Support Division Customer Service Desk at 1 800 283-4465 or TDDY 1 800 609-9454. If you are disabled and need the guidelines in an alternative format, please make the request when you contact us. The Points guidelines are also located on the HSD Income Support Division web site at <http://www.state.nm.us/hsd/isd.html>.  
[8.150.620.11 - N, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**INCOME SUPPORT DIVISION**

**COMMUNITY DEVELOPMENT AND COMMODITIES**

This is an amendment to 8.150.640 NMAC section 8.

**8.150.640.8 CALCULATING THE AMOUNT OF [ERROR] OVERPAYMENT:**

A. Household Responsibility: If a household receives benefits, directly to the household or sent to a vendor, for which it is not eligible or benefits in excess of the amount for which it is eligible, the household is responsible for repayment of the total benefit received, or overpaid amount.

B. Restitution / Recoupment: If the household does not make arrangements within 45 days of notification by HSD to pay the amount which it owes, HSD will initiate restitution procedures consistent with other HSD programs to recoup that amount from the household.

C. Recovery of Overpayment: A benefit may be withheld during the issuance process and conveyed to Restitution to recover a recipient's LIHEAP overpayment.

[7-1-95, 11-1-95, 11-15-96, 8.150.640.8 NMAC - Rn, 8 NMAC.22 LHP 640 & A, 10-1-01]

**NEW MEXICO HUMAN SERVICES DEPARTMENT**

**MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.202.400 NMAC, Sections 6, 9 through 14 and 16 through 22, which will be effective on October 1, 2001. The Medical Assistance Division made the following amendments: Chapter name was changed; all references to "Category 002" were changed to "JUL Medicaid"; reference to the term "JUL Sections" were changed to the specific citation in the NMAC; also, changes throughout these sections were changed because legislation mandated that JUL Medicaid use income eligibility methodology which parallels New Mexico's Temporary Assistance for Needy Families (TANF) program, known as New Mexico Works. Additionally, individuals sanctioned for noncompliance with New Mexico Works work requirements and/or

failure to cooperate with the Child Support Enforcement Division (CSED) would be eligible for JUL Medicaid, regardless of the sanctions.

**8.202.400.6 OBJECTIVE:** The objective of [~~Category 002~~] JUL Medicaid eligibility is to provide New Mexico Medicaid coverage for individuals who meet the states plan for coverage of individuals under July 16, 1996 AFDC-related policy.  
[4-1-98; 8.202.400.6 NMAC - Rn, 8 NMAC 4.JUL.000.6, 7-1-01; A, 10-1-01]

**8.202.400.9 DEFINING THE ASSISTANCE GROUP - WHO CAN BE A RECIPIENT:** To be a recipient of [~~Category 002~~] JUL Medicaid, a person must be individually eligible according to requirements set forth in [~~JUL~~] manual sections [~~410 and 420~~] 8.202.400.14 NMAC and 8.202.400.15 NMAC The person or persons meeting eligibility requirements for Medicaid coverage related to AFDC policy in effect as of July 16, 1996, constitute the [~~category 002~~] JUL Medicaid assistance group.

[4-1-98; 8.202.400.9 NMAC - Rn, 8 NMAC 4.JUL.401, 7-1-01; A, 10-1-01]

**8.202.400.10 BASIS FOR DEFINING THE GROUP:**

A. The request for assistance is the first step to determining which individuals are included in the assistance group. Individuals who are applicants or recipients of New Mexico Works (NMW) will be considered for Medicaid eligibility under [~~category 002~~] JUL as part of the NMW application or reapplication processing. Application may also be made for [~~category 002~~] JUL Medicaid without application for NMW. The department will consider adding additional members to the assistance group at any time the head of household requests it.

B. **Assistance Groups Containing Dependent Children:** The assistance group for [~~Category 002~~] JUL Medicaid consists of eligible dependent children who are related to the specified relative within the 5th degree of relationship, their parent(s), or the non-parent specified relative. Not all individuals eligible for NMW cash assistance are eligible for coverage under [~~Category 002~~] JUL Medicaid. For example:

(1) A pregnant woman who has no dependent children living with her is not eligible until her third trimester, provided she continues to meet financial eligibility criteria; **Note:** The otherwise eligible father of the unborn child is *not* eligible for inclusion in the Medicaid [~~category 02~~] JUL

assistance group until after the child is born;

(2) ~~[A parent whose dependent child(ren) is/are receiving SSI, or specified relative, if the parent is not in the home.]~~ The non-parent spouse of a parent or specified relative is not eligible for JUL Medicaid.

[4-1-98; 8.202.400.10 NMAC – Rn, 8 NMAC 4.JUL.402, 7-1-01; A, 10-1-01]

### 8.202.400.11 ELIGIBLE MEMBERS:

A. **The Dependent Child Budget Group:** Certain individuals are included in the ~~[category 002] JUL~~ Medicaid assistance group, provided they meet categorical eligibility requirements. Those persons are:

(1) The dependent child and all his/her brothers and sisters (full, half, or adoptive); and

(2) The natural or adoptive parents of any child included in the budget group;

(3) The specified relative who is not a parent, if the parent(s) are not living with the child, as long as the specified relative meets requirements for relationship to the child(ren). Requirements for relationship are set forth in 8.202.400.13.C. of this section.

(4) Step-Children.

#### (5) Constructing the Dependent Child Assistance Group:

(a) Identify the dependent child(ren) for whom assistance is requested based on the application filed by the client.

(b) Consider for inclusion in the assistance group all siblings (full, half or adoptive) of any child listed on the application.

(c) Consider for inclusion in the assistance group the parent(s) of any child included in the budget group.

(d) Changes in family circumstances may affect who is included in the ~~[Category 002] JUL~~ Medicaid assistance group. Such changes include the birth of a child, the return of a dependent child to the home, etc.

B. **Pregnant Woman:** A pregnant woman who has no minor dependent children living with her can be eligible under Category 030 or Category 035 for Medicaid only. A pregnant woman in her last trimester of pregnancy who has no dependent children living with her may be eligible for ~~[category 002] JUL~~ Medicaid.

(1) The needs, income and resources of an unborn child are considered in the determination of eligibility for Medicaid. If the medical report verifies that the woman is pregnant with more than one child, the needs of each child are considered in determining eligibility.

(2) **Father Living With the Pregnant Woman:** The father of an unborn child, even if eligible for inclusion in the NMW grant, may not be eligible for ~~[category 002] JUL~~ Medicaid, if he does not have existing children living in the home.

C. **Specified Relative of SSI Child:** A specified relative whose only minor dependent child is an SSI recipient under age 18 may constitute a single person ~~[category 002] JUL~~ Medicaid assistance case. Both parents may be included. If the parent(s) do not live in the household, then only one nonparent specified relative may be included.

[4-1-98; 8.202.400.11 NMAC – Rn, 8 NMAC 4.JUL.403, 7-1-01; A, 10-1-01]

8.202.400.12 **SANCTIONED MEMBERS:** ~~[Certain individuals who would otherwise be eligible for inclusion in the Category 002 assistance group are excluded if they have failed to meet certain program requirements. Individuals will be excluded for failure to cooperate with child support, and/or failure to participate in the work program. In most cases, sanctioned persons will still be living in the household and in many cases will have financial support responsibilities for the Category 002 Medicaid assistance group. Methods of handling the income of these excluded individuals are addressed in the section on deemed income.]~~ New Mexico Works' CSED and work sanctions do not apply to JUL Medicaid eligibility.

[4-1-98; 8.202.400.12 NMAC – Rn, 8 NMAC 4.JUL.406, 7-1-01; A, 10-1-01]

### 8.202.400.13 LIVING ARRANGEMENTS:

#### A. REQUIREMENTS:

(1) **Living in the Home:** To be included in a ~~[category 002] JUL~~ Medicaid assistance group, a child must be living, or considered to be living, in the home of the relative who is the primary caretaker for the child. The relative specified as the primary caretaker for the child must be within the fifth degree of relationship to the child by blood, marriage or adoption, as determined by New Mexico's Uniform Probate Practice Code. Similarly, to be considered as the specified relative in a ~~[category 002] JUL~~ Medicaid assistance group, the person acting as the specified relative must be living, or considered to be living, in the home with the child. The reasonable temporary absence in emergency situations of the child or the specified relative from the home and the interruption of the relative's role in providing care support and control for the child does not necessarily result in the termination of this condition. Thus, a child who is not actually living in the home may

nonetheless be considered as living in the home under certain limited conditions.

(2) **Minor Unmarried Parents:** There is no requirement that a minor parent be living in an adult-supervised setting for purposes of ~~[category 002] JUL~~ Medicaid eligibility. A minor parent household, even if ineligible for NMW on the basis of living arrangement, may be eligible for ~~[category 002] JUL~~ Medicaid eligibility, if all other criteria are met.

(3) **Unrelated Children:** Children who are not living with a relative within the 5th degree of relationship are not eligible for ~~[category 002] JUL~~ Medicaid. They would be eligible for coverage, if all other criteria are met, under Medicaid Category 032.

#### B. Living in the Home:

(1) **Basic Requirements:** To be eligible for inclusion in the ~~[category 002] JUL~~ Medicaid assistance group, the dependent child must live with a relative who is within a specified degree of relationship. A child lives with a relative when the relative's home is the primary place of residence for the child, as evidenced by the child's customary physical presence in the home, and the relative has assumed responsibility for the day-to-day care and control of the child. The determination of whether a given individual functions as the specified relative for ~~[category 002] JUL~~ Medicaid purposes shall be made by the client unless other information known to the worker clearly indicates otherwise.

(2) **Extended Living in the Home:** Under the circumstances described in this section, a child may be physically absent from the home for longer or shorter periods of time, but, because of the nature of the absence and because the specified relative continues to exercise parental control over and to provide care for the child during the time he/she is physically away from the family's home, the child nonetheless remains a regular on-going member of the household. Similarly, under certain circumstances, the specified relative could be physically absent from the home and still retain his/her membership status as specified relative for purposes of ~~[category 002] JUL~~ Medicaid eligibility. The two recognized circumstances where this occurs are 1) attending boarding schools or colleges and 2) inpatient treatment in Medicaid facilities. In order for either the child or the specified relative to retain the living in the home status, the person acting as the specified relative must retain his or her responsibilities for providing care, support and supervision for the child which are appropriate to the child's specific living arrangements. In considering whether the parent retains his or her care and support responsi-

bilities for a child who is hospitalized or at school, issues which shall be reviewed include the degree to which the parent:

(a) Provides financial support to the child from the TANF payment; and

(b) Continues to maintain living quarters for the child until the child reestablishes full-time physical presence in the home; and

(c) Continues to make decisions regarding the care and control of the child(ren), including decisions about medical care and treatment, class scheduling, and other similar parental decisions; and

(d) Maintains contact with the child through regular visits or telephone calls.

(e) The determination whether living-in-the-home status is retained is fully discussed with the specified relative and carefully documented in the case record.

(3) **Boarding School:** A child or specified relative who is attending school away from home lives in the home if the specified relative retains primary responsibility for the child.

(4) **Title XIX Medicaid Hospitalization:**

(a) **Specified Relative:** A specified relative receiving treatment in a Title XIX facility remains a member of the household of which he/she was a member at the time of hospitalization until he/she leaves the facility and returns to that home or some other living arrangement. If the specified relative does not return to the home following hospitalization, the living-in-the-home requirement is reassessed.

(b) **Dependent Children:** For the purposes of the ~~[category-002]~~ JUL Medicaid program, a child hospitalized for care or treatment in a Title XIX facility retains his or her living-in-the-home status, without regard to the length of hospitalization, provided that the specified relative continues to be the person with primary responsibility for control of the child and for meeting his/her physical and emotional needs. This includes children receiving treatment in acute care hospitals, free-standing psychiatric hospitals and rehabilitation hospitals as well as residential treatment centers and group homes reimbursed by Medicaid for psychosocial rehabilitation services. Medical Assistance Division staff may be contacted to verify New Mexico Medicaid provider status of RTCs and group homes.

(i) For a child to retain living-in-the-home status while receiving rehabilitation services, including psychosocial treatment services, certain conditions must be met. Treatment of the child is the primary objective, but the program should be family-based with one objective being strength-

ening of family ties. Treatment plans must provide for a significant level of continuing authority, responsibility, and participation by the specified relative. In order for children receiving treatment in a Title XIX facility to be "living in the home", the specified relative must retain the authority to decide when the child should leave the facility, grant authority for provision of necessary treatment, and retain responsibility for provision of pocket money, clothing, etc.

(ii) A significant issue in determining whether a child retains his/her living-in-the-home status is the authority of the specified relative to control the child's treatment and duration of stay. Under the state's mental health code, a court order placing the child in a psychiatric facility must be issued. The court findings serve to ensure that the child needs such treatment. Such orders do not prevent the specified relative from removing the child from the facility. These orders must be differentiated from correctional commitments or sentences. A child receiving treatment in a Title XIX facility, or placed in other substitute care living arrangements by juvenile authorities as the result of a sentence or commitment by a judicial authority does not meet the definition of actually living in the home, as the specified relative no longer has significant control over the child.

(iii) When a child leaves the home and is under the care, control, custody, of him/herself or another person, social services correctional agency, or other agency of state, local, or tribal government, ~~[category-002]~~ JUL Medicaid eligibility no longer exists on the basis of "living in the home", unless the child's eligibility is established under provisions dealing with temporary absences, action to remove the child or close the case shall be initiated. **NOTE:** To qualify for extended living-in-the-home provisions, the individual must have been living in the home before hospitalization or starting school.

(5) **Joint Custody:** ~~[A child who is in the joint custody of both parents and who is actually spending equal amounts of time with both parents cannot be considered to be living with the specified relative.]~~ If the divorce decree specifies equal joint custody, but the child is actually spending more time with one parent than the other, the child would be determined to be living with the parent with whom ~~[s/he]~~ he/she spends the most time.

(6) **Temporary Absence:** A child shall be considered as living in the home in certain limited situations even though temporarily out of the home and not under the care and control of the specified relative.

(a) **Foster Care Placements:** A

child removed from the home of a specified relative by a child protective services agency (tribal, Bureau of Indian Affairs, or Children, Youth and Families Department) and placed in a foster care home or Title XIX treatment facility is considered to be living in the home, until an adjudicatory custody hearing takes place. If the adjudicatory hearing results in custody being given to the protective services agency or some other entity, the child(ren) will be removed from the ~~[category-002]~~ JUL Medicaid assistance group. Advance notice of the action is not required. Child protective services workers are expected to call or otherwise notify ISD when a child has been temporarily removed from the home of the specified relative and placed in foster care or a Title XIX treatment facility. A Medicaid card will be produced for the child protective services worker's use, or information will be provided to the child protective services worker necessary to result in the production of a Medicaid card for the child. At the point that the adjudicatory hearing has been held and custody has been granted to the state agency, or tribal or BIA authorities, written notification should be provided by the protective services agency to the ISS for purposes of documentation in the case record.

(b) **Mandatory Treatment:** A child involved in the juvenile justice system may be ordered by the juvenile court to obtain psychosocial treatment, part of which may involve a stay in a Medicaid facility. Such orders usually result from inappropriate behavior at home, at school or in public. The child's treatment plan usually provides for his/her return to the home and the community once treatment has been completed. While court intervention may limit the parent's authority to control treatment or to remove the child from a residential treatment facility without incurring some potential legal consequences, the parent nonetheless remains involved in the treatment process and placement planning. In a manner similar to a child in temporary foster care, the child is considered to be living in the home while temporarily absent to obtain necessary treatment in a Medicaid facility. The length of treatment varies according to the needs of the child.

(c) **Emergency Absences:** A child not actually living with the specified relative may nonetheless be considered to live in the home, for a period of up to two months, following the month in which the child or the specified relative leaves the home, if:

(i) The absence is caused by an emergency and the absent person is expected to return to the home within two months, and



- (ii) There is no other person living with the child who could act as the specified relative.
- (d) A stay in a detention center (on the part of the specified relative, parent, or child) is considered to be temporary until the earlier of the adjudication or the 60th day.

**C. Relationship:**

(1) ~~Category 002~~ **JUL Medicaid Requirement:** The following relatives are within the fifth degree of relationship to the dependent child:

- (a) father (biological or adoptive);
- (b) mother (biological or adoptive);
- (c) grandfather, great grandfather, great great grandfather, great great great grandfather;
- (d) grandmother, great grandmother, great great grandmother, great great great grandmother;
- (e) spouse of child's parent (stepparent);
- (f) spouse of child's grandparent, great grandparent, great great grandparent, great great great grandparent (step grandparent);
- (g) brother, half-brother, brother-in-law, step-brother;
- (h) sister, half-sister, sister-in-law, step-sister;
- (i) uncle of the whole or half-blood, uncle-in-law, great uncle, great great uncle;
- (j) aunt of the whole or half blood, aunt-in-law, great aunt, great great aunt;
- (k) first cousin and spouse of first cousin;
- (l) son or daughter of first cousin (first cousin once removed);
- (m) son or daughter of great aunt or great uncle (first cousin once removed) and spouse;
- (n) nephew/niece and spouses.
- (o) **NOTE:** A 2nd cousin is a child of a 1st cousin once removed or child of a child of a great aunt or uncle and is not within the fifth degree of relationship.

(2) **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.

(3) **Table of Relationships:** Below is the Table of Relationship based on the Uniform Probate Practice Code. The relationships marked through with an "X" are not within the fifth degree of relationship.

					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/Uncle	5 First Cousin Once-Removed		
Dependent Child	2 Siblings	4 First Cousins	X		
X	3 Nephew/Niece	5 First Cousin Once-Removed			
	4 Grand Nephew Grand Niece	X			
	5 Great Grand Nephew or Niece				
	X				

[4-1-98; 8.202.400.13 NMAC - Rn, 8 NMAC 4.JUL.407 & A, 7-1-01; A, 10-1-01]

[Category 002] JUL Medicaid must meet in order to be included in the assistance group. [4-1-98; 8.202.400.14 NMAC - Rn, 8 NMAC 4.JUL.410, 7-1-01; A, 10-1-01]

#### 8.202.400.16 WORK PROGRAMS

**- GENERAL:** ~~[Individuals who are in receipt of NMW must comply with work requirements in order to be eligible for coverage under Category 002 Medicaid. An individual who is failing to meet work program participation requirements in the NMW program is ineligible for Category 002 Medicaid unless and until compliance with work program requirements is reestablished. Other assistance group members can be eligible for Category 002 Medicaid, even at the NMW case closure step in the sanction process, if all other criteria are met.]~~ New Mexico Works' CSED and work sanctions do not apply to JUL Medicaid eligibility.

[4-1-98; 8.202.400.16 NMAC - Rn, 8 NMAC 4.JUL.415, 7-1-01; A, 10-1-01]

#### 8.202.400.17 ~~[STRIKE REQUIREMENTS:~~

**A. Applications:** ~~For the specified relative, the second parent, and any of their children to be eligible for inclusion in the Category 002 Medicaid assistance group, the specified relative and/or parent must not be on strike on the last day of the month for which assistance has been requested. In family groups where there is more than one specified relative, the children who are not the striker's dependents are not made ineligible by this provision.~~

**B. Ongoing Cases:** ~~If a Category 002 Medicaid assistance group member is on strike on the last day of a month, that individual is ineligible for that month. In addition, no work related expenses are allowed in deciding how much of that person's earnings are considered available to the budget group for that month. If an individual in an ongoing case is on strike on the last day of the month, that individual is considered prospectively ineligible in the following month. He/she may be added into the Category 002 Medicaid assistance group for a given month, after filing an add-on application, when it is known or can reasonably be presumed that the individual will not be on strike at the end of that month.]~~ [RESERVED]

[4-1-98; 8.202.400.17 NMAC - Rn, 8 NMAC 4.JUL.416, 7-1-01; Repealed 10-1-01]

#### 8.202.400.18 PROGRAM QUALIFICATIONS:

**A. Dual State Benefits:** Any individual who has been convicted of fraud for receiving TANF, Food Stamps,

Medicaid, or SSI in more than one state at the same time is not eligible for inclusion in the ~~[Category 002] 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. Individuals Convicted of a Drug Related Felony:** Individuals convicted of a drug-related felony on or after August 22, 1996, are not eligible for inclusion in a ~~[Category 002] JUL Medicaid~~ assistance group for a period of five years following the date of release or completion of the terms of probation.

**C. 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 ~~[Category 002] JUL Medicaid~~ assistance group.

[4-1-98; 8.202.400.18 NMAC - Rn, 8 NMAC 4.JUL.417, 7-1-01; A, 10-1-01]

#### 8.202.400.19 TERM LIMITATIONS:

TANF term limits are not applicable to ~~[Category 002] JUL Medicaid~~. Individuals who meet all criteria for ~~[Category 002] JUL Medicaid~~ eligibility, but who are ineligible for NMW solely on the basis of TANF term limits, may continue to receive ~~[Category 002] JUL Medicaid~~. [4-1-98; 8.202.400.19 NMAC - Rn, 8 NMAC 4.JUL.419, 7-1-01; A, 10-1-01]

#### 8.202.400.20 SPECIAL RECIPIENT REQUIREMENTS:

**A. Age:** To be eligible for inclusion in a ~~[Category 002] JUL Medicaid~~ assistance group as a dependent child, an individual must be less than age 19.

**B. Continuing Eligibility on the Factor of Age:** When an individual has been determined eligible on the condition of age, he/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.

[4-1-98; 8.202.400.20 NMAC - Rn, 8 NMAC 4.JUL.421, 7-1-01; A, 10-1-01]

#### 8.202.400.21 SCHOOL ATTENDANCE - REQUIREMENT:

For purposes of eligibility for ~~[Category 002] JUL Medicaid~~, school attendance is required for children who are 16, 17, and 18 years of age. Criteria for attendance is defined in Manual Section ~~[FAP422] 8.102.420.9 NMAC~~. For children under age 16, there is no school attendance requirement. A child who is under 16 and who is ineligible for NMW solely on the basis of school attendance can be eligible for ~~[Category 002]~~

JUL Medicaid, if all other criteria are met. [4-1-98, 3-1-00; 8.202.400.21 NMAC - Rn, 8 NMAC 4.JUL.422, 7-1-01; A, 10-1-01]

#### 8.202.400.22 CHILD SUPPORT:

**[A-] - Assignment:** By state statute [Section 27-2-28-F NMSA, 1978], anyone who signs a Medicaid application automatically assigns his/her child support rights to HSD. The assignment is made with respect to the child(ren) for whom Medicaid is provided and is valid as long as the individual receives Medicaid on the child(ren)'s behalf.

**[B- Requirement:** ~~To be included in the Category 002 Medicaid assistance group, a specified relative must cooperate with child support enforcement activities as they affect any child included in the assistance group. The cooperation requirement may be partially or fully waived upon demonstration of good cause by the specified relative. Determination of good cause is made by CSED. Any individual determined to be ineligible for NMW on the basis of noncooperation with child support enforcement activities will be ineligible for Category 002 Medicaid unless and until compliance with child support enforcement requirements are reestablished. Other assistance group members can be eligible for Category 002 Medicaid, even at the NMW case closure step in the sanction process, if all other criteria are met.]~~

[4-1-98; 8.202.400.22 NMAC - Rn, 8 NMAC 4.JUL.425, 7-1-01; A, 10-1-01]

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.202.500 NMAC, Sections 6, 9 and 11, which will be effective on October 1, 2001. The Medical Assistance Division made the following amendments: Chapter name was changed; all references to "Category 002" were changed to "JUL Medicaid"; reference to the term "JUL Sections" were changed to the specific citation in the NMAC; also, changes throughout these sections were changed because legislation mandated that JUL Medicaid use income eligibility methodology which parallels New Mexico's Temporary Assistance for Needy Families (TANF) program, known as New Mexico Works. Additionally, individuals sanctioned for noncompliance with New Mexico Works work requirements and/or failure to cooperate with the Child Support Enforcement Division (CSED) would be eligible for JUL Medicaid, regardless of the

sanctions. This rule was renumbered and reformatted from 8 NMAC 4.JUL.000 and 500 to comply with NMAC requirements.

**8.202.500.6 OBJECTIVE:** The objective of [~~Category 002~~] JUL Medicaid eligibility is to provide New Mexico Medicaid coverage for individuals who meet the states plan for coverage of individuals under July 16, 1996 AFDC-related policy.

[04/01/98; 8.202.500.6 NMAC - Rn, 8 NMAC 4.JUL.000.6 & A, 10-1-01]

**8.202.500.9 ESTABLISHING NEED - GENERAL REQUIREMENTS:** Methodology for establishing financial eligibility for [~~Category 002~~] JUL Medicaid uses NMW definitions of income, rules for income availability, and exempt income. The methodology for determination of financial assistance is described below.

**A. Definition of the Assistance Group:** Definition of who is included in the [~~Category 002~~] JUL Medicaid assistance group is set forth in 8.202.400 NMAC. Income and resources of household members who are not:

(1) [~~Category 002~~] JUL Medicaid assistance group members as described in Manual Section [~~JUL 400~~] 8.202.400 NMAC,

(2) Alien sponsors as described in Manual Section [~~MAD 412~~] 8.200.410.11 NMAC, or

(3) Step parent or parent deemers as described in Manual Section [~~JUL 520~~] 8.202.500 NMAC, will not be included in financial eligibility determination for [~~Category 002~~] JUL Medicaid. In other words, only household members who meet 1-3 above will be included in the [~~Category 002~~] JUL Medicaid eligibility determination process.

**B. Income [Test] Tests:** In order to be eligible for [~~Category 002~~] JUL Medicaid, Medicaid assistance group members must meet the [~~gross and net~~] New Mexico Works income tests, using New Mexico Works income definitions and methodologies. (See also 8.102.520.8 NMAC through 8.102.520.15 NMAC). [~~The gross income test uses gross countable income of benefit group members, plus income of deemers, compared to 185% of the NMW Standard of Need. If the gross income test is met, the benefit group must meet the net income test to be eligible for Category 002 Medicaid. The net income test uses income minus allowable deductions, plus deemed income, compared to the NMW Standard of Need. Income is deemed to the assistance group for purposes of the income eligibility test from alien sponsors~~

~~as set forth in Manual Section MAD 412, and from stepparent and parent deemers as set forth in Manual Section JUL 520.]~~

**C. Payment Standard Increments:** Payment standard increments for nonsubsidized housing living arrangements and clothing allowance do not affect the Medicaid eligibility process, i.e., the eligibility limits for income are not increased by the amount of the nonsubsidized housing or clothing allowance payment increments.

**[D. Net Earned Income Deductions:** The following deductions from gross earnings are made in determining the net countable earned income of benefit group members.

(1) ~~Work Incentive Deduction:~~ Subtract the first \$120, and 1/3 of the remainder, from earned income of each benefit group member.

(2) ~~From earnings remaining after the Work Incentive Deduction, deduct payments made by benefit group members for child care resulting from employment, in an amount not to exceed \$200 per month for a child under age two and \$175 per month for a child age two or older.~~

**E. Business Expenses and Self Employment Costs:** Refer to FAP520.31

**F. Child Support Deduction:** Up to \$50 per month of child support, collected by the Child Support Enforcement Division, is deducted from the assistance groups income. The amount of the child support deduction may not exceed the amount of the child support collected. No more than one \$50 disregard per month per benefit group is allowed.]

[4/1/98, 6/30/98; 8.205.500.9 NMAC - Rn, 8 NMAC 4. JUL.500-501 & A, 10-1-01]

**8.202.500.11 INCOME - GENERAL - Income Eligibility:** In order to be eligible on the basis of income, countable income as determined in this section must be *less* than the standard of need in effect for the NMW program. When the income of the [~~Category 002~~] JUL Medicaid assistance group is exactly equal to the standard of need, no deficit exists and eligibility does not exist. [~~NMW income definitions and exclusions, method of income projection, and standard of need are applicable for Category 002 Medicaid income eligibility determination purposes except where otherwise noted in policy.]~~ NMW Income Diversion Payments are excluded from the income calculation.

**[B. Gross Income Test (185% Test):** In order to be eligible for Category 002 Medicaid, Medicaid assistance group income must meet a gross income test. The gross income test uses gross countable income of benefit group

members, plus income of deemers, compared to 185% of the NMW Standard of Need. If the gross income test is not met, the benefit group is not eligible for Category 002 Medicaid.

**C. Net Income Test:** The Category 002 Medicaid assistance group's net income must be less than the standard of need appropriate to the Category 002 Medicaid assistance group's standard of need. The following deductions from gross earnings are made in determining the net countable earned income of benefit group members.

(1) ~~Work Incentive Deduction:~~ Subtract the first \$120, and 1/3 of the remainder, from the earned income of each benefit group member.

(2) ~~From earnings remaining after the Work Incentive Deduction, deduct payments made by benefit group members for child care resulting from employment, in an amount not to exceed \$200 per month for a child under age two and \$175 per month for a child age two or older.~~

(3) ~~Business Expenses and Self Employment Costs:~~ Refer to FAP520.31

(4) ~~Child Support Deduction:~~ Up to \$50 per month of child support, collected by the Child Support Enforcement Division, is deducted from the assistance groups income. The amount of the child support deduction may not exceed the amount of the child support collected. No more than one \$50 disregard per month per benefit group is allowed.

**D. Availability of Income:**

(1) ~~Assistance Group Members:~~ The entire income of all members is considered available to the assistance group.

(2) ~~Income of Non Budget Group Members:~~ Income of individuals who have no programmatic support responsibility to assistance group members (i.e., who are not deemers) and who are not included in the assistance group is considered only to the extent that it is actually made available to the assistance group.

(3) ~~Deemed Income:~~ Certain persons have an obligation to support members of the Category 002 Medicaid assistance group. If these individuals are included in the Category 002 Medicaid assistance group, their income is determined in accordance with requirements for Category 002 Medicaid assistance group members. If these individuals are not included in the assistance group and they live with, or are considered to live with the Category 002 Medicaid assistance group, their income is deemed available. These persons are considered income deemers or "deemers". NOTE: Unlike contributed income, it is not necessary to determine what amount may

actually be made available by the deemer to the ~~Category 002 Medicaid assistance group.~~ NOTE: Deeming applies to these individuals only if they are living or considered to be living with the assistance group, except for alien sponsors, as described in Manual Section JUL 523.

**E. DEEMED INCOME:**

The income of certain persons, listed below, is considered available to the Category 002 Medicaid assistance group to the extent that the person has a legal or programmatic support responsibility for at least one person included in the assistance group. Such income is called deemed income and is considered available regardless of whether or not it is actually provided. Amounts which may be deducted or exempted are also described below. Deemed income is considered available to the assistance group for the purpose of determining countable income. NOTE: Income deeming applies only to persons who are not included in the Category 002 Medicaid assistance group, with the exception of alien sponsors. If an individual listed in the following section is a member of the Medicaid Category 002 assistance group, his or her income is calculated on the basis of his/her membership in the assistance group.

**F. Stepparent Deemer:**

The gross income of the stepparent who is not included in the Medicaid Category 002 assistance group, less the following disregards, is considered as income available to the Category 002 Medicaid assistance group.

(1) \$90 of the stepparent's gross earnings are disregarded as work related expenses (WRE);

(2) An amount equaling the NMW standard of need as computed for purposes of the NMW manual section on Standard of Need, for a budget group of the composition and living arrangements as the stepparent and those other individuals living in the same household as the stepparent provided that these individuals

(a) Whose needs are not included in the Category 002 Medicaid assistance group; and

(b) Who are not being sanctioned for refusing to cooperate with the NMW work program or child support programs; and

(c) Who are claimed by the stepparent as dependents for the purpose of determining his/her federal income tax liability, (or who could be claimed as a dependent if the stepparent does not file income tax returns);

(3) An amount equaling actual payments made by the stepparent to persons not living in the household but who are claimed by the stepparent as dependents for

the purpose of determining his/her personal federal income tax liability, (or who could be claimed as a dependent as a dependent if the stepparent does not file an income tax return);

(4) An amount equaling actual payments made by the stepparent for child support or alimony for individuals not living in the home.

**G. Parents Not Included in the Category 002 Medicaid Assistance Group:**

(1) Sanctioned Parents If there are earnings, and the parent has been sanctioned due to noncooperation with the NMW work program or CSED, the parent's income minus applicable earned income disregards, is considered available to the Category 002 Medicaid assistance group. \$90 is allowed for work related expenses. The Work Incentive disregard (\$30 & 1/3) is allowed if the sanctioned individual received TANF in one out of the preceding 4 months.

(2) Ineligible Parents: The gross income of parent(s), less the following disregards, is deemed available when a dependent child included in the Category 002 Medicaid assistance group is living with his/her parent(s) but the parent(s) is/are ineligible to be included in the assistance group for reasons other than sanctions.

(a) \$90 of the parent's gross earnings for work related expenses;

(b) An amount equaling the standard of need for a budget group of the same composition and living arrangement as the parent and those other individuals living in the same household as the parent: 1) Whose needs are not included in the assistance group; and 2) Who are claimed by the parent as dependents for the purpose of determining his/her federal income tax liability (or who could be claimed if an income tax return were filed, for those who do not file a return); and 3) Who are living in the same household as the parent.

(c) An amount equaling actual payments made by the parent for dependent care costs not to exceed limits in effect in the NMW cash assistance program.

(d) An amount equaling payments made by the parent to individuals not living in the household but who are claimed as dependents by the parent for the purpose of determining his/her personal federal income tax liability (or, if the parent does not file a return, who the parent would be eligible to claim as a dependent).

(e) An amount equaling payments made by the parent for child support or alimony for individuals not living in the home; When application of the disregards reduces the income to be deemed to the Category 002 Medicaid assistance group to

\$0 (or to a negative number), no income is deemed available to the assistance group.

**H. Parents of a Minor**

**Parent:** The gross income of the parent(s) of the minor parent, less the disregards set forth at Manual Section JUL 523.22 is deemed available to the minor parent's Category 002 Medicaid assistance group.]

[4/1/98, 6/30/98, 2/1/00; 8.205.500.11 NMAC - Rn, 8 NMAC 4. JUL.520-523 & A, 10-1-01]

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.202.600 NMAC, Sections 6 and 11, which will be effective on October 1, 2001. The Medical Assistance Division made the following amendments: Chapter name was changed; all references to "Category 002" were changed to "JUL Medicaid"; reference to the term "JUL Sections" were changed to the specific citation in the NMAC; also, changes throughout these sections were changed because legislation mandated that JUL Medicaid use income eligibility methodology which parallels New Mexico's Temporary Assistance for Needy Families (TANF) program, known as New Mexico Works. Additionally, individuals sanctioned for noncompliance with New Mexico Works work requirements and/or failure to cooperate with the Child Support Enforcement Division (CSED) would be eligible for JUL Medicaid, regardless of the sanctions. This rule was renumbered and reformatted from 8 NMAC 4.JUL.000 and 600 to comply with NMAC requirements.

**8.202.600.6 OBJECTIVE:** The objective of [Category 002] JUL Medicaid eligibility is to provide New Mexico Medicaid coverage for individuals who meet the states plan for coverage of individuals under July 16, 1996 AFDC-related policy.

[04/01/98; 8.202.600.6 NMAC - Rn, 8 NMAC 4.JUL.000.6 & A, 10-1-01]

**8.202.600.11 CONTINUOUS ELIGIBILITY:** Eligibility will continue for the twelve-month certification period, regardless of changes in income, as long as the family retains New Mexico residency and continues to have a dependent child residing in the household. Twelve-month continuous eligibility shall not be affected by the disposition of any other benefit(s) such as TANF, Food Stamps, etc. [8.202.600.11 NMAC - N, 10-1-01]

## NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.7.4.7, 20.7.4.23 and 20.7.4.25 of the NMAC.

**20.7.4.7 DEFINITIONS:** All terms defined in the Utility Operators Certification Act and in 20.7.4 NMAC shall have the meanings provided therein except as modified herein. As used in this part:

A. "board" means the utility operators certification advisory board;

B. "certification act" means the Utility Operators Certification Act, NMSA 1978, Sections 61-33-1 to 10;

C. "certified operator" means a person who is certified by the commission as being qualified to operate one of the classifications of public water supply systems or public wastewater facilities;

D. "certified supervisor" means a person who is certified as an operator by the commission as qualified to operate one of the classifications of water supply systems or wastewater facilities and who performs on-site coordination, direction and inspection of the operation of a public wastewater facility or a public water supply facility;

E. "collection system" means pipelines or conduits, pumping stations, force mains, and all other devices, appurtenances and facilities used for collecting and conducting waste to a point of treatment and disposal;

F. "commission" means:

(1) the water quality control commission, or

(2) the department, when used in connection with any administrative and enforcement activity or function which the commission has delegated to the department under the Utility Operators Certification Act;

G. "department" means the New Mexico environment department;

H. "distribution system" means pipelines, appurtenances, devices and facilities which carry potable water under pressure to each consumer;

I. "domestic liquid waste" means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;

J. "domestic liquid waste treatment unit" means a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to retain solids contained in such domestic liquid

waste, including but not limited to aerobic treatment units and septic tanks;

K. "education" means academic credit received attending any public or private primary, secondary or high school, approved vocational training courses in the water supply and wastewater field, college or university;

L. "experience" means actual work experience, full or part-time, as an operator in the fields of public water supply or public wastewater treatment. Work experience in a related field may be accepted at the discretion of the Commission;

M. "operator" means any person employed by the owner as the person responsible for the operation of all or any portion of a public water supply system or public wastewater facility. Not included in this definition are such persons as directors of public works, city engineers, city managers, or other officials or persons whose duties do not include actual operation or direct supervision of public water supply systems or public wastewater facilities;

N. "owner" means the person or persons having the responsibility of managing or maintaining a public water supply system or a public wastewater facility;

O. "population served" means actual or estimated maximum number of persons served by the public water supply system or public wastewater facility;

P. "public wastewater facility" means a system of structures, equipment and processes designed to collect and treat domestic and industrial waste and dispose of the effluent, but does not include:

(1) any domestic liquid waste treatment unit;

(2) any industrial facility subject to an industrial pretreatment program regulated by the United States environmental protection agency under the requirement of the federal Clean Water Act of 1977; or

(3) any waste treatment system which is strictly limited to treating non-human, agricultural waste;

Q. "public water supply system" means:

(1) a system for the provision to the public of ~~pipel~~ water for human consumption or domestic purposes through pipes or other constructed conveyances if the system:

(a) has at least fifteen service connections; or

(b) regularly serves an average of at least twenty-five individuals at least sixty days of the year; and

(2) includes any water supply source and any treatment, storage and distribution facilities under control of the oper-

ator of the system;

R. "training" means approved education or non-academic training in the fields of public water supply system or public wastewater treatment facility operations;

S. "training credit" means the amount of credit earned by a participant in a training program;

T. "treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;

[20.7.4.7 NMAC – Rp 20 NMAC 7.4.108, 1-26-01; A, 10-17-01]

### 20.7.4.23 TEMPORARY CERTIFICATION:

If, after reasonable time and effort by an owner, a qualified operator cannot be employed, ~~temporary certification may be issued for the operator of a system or facility.~~ the system or facility may apply for temporary certification for the operator of a system or facility. In support of the application, the system or facility shall submit documentation demonstrating that it cannot employ a qualified operator and a schedule of compliance that includes the actions the system or facility will take to employ a certified operator, the date by which the system or facility will employ a certified operator, and a contingency plan that outlines the actions to be taken if the system's or facility's schedule fails to result in the employment of a certified operator. [Such a certificate is] A temporary certificate may be issued to an individual for a period not to exceed six months. A temporary certificate may be extended to a maximum of 18 months if the operator is involved in a training program that will qualify ~~him~~ the operator for the required level in that period. An extension to the six month temporary certification will require prior approval of a training program to ensure coverage of areas that are specific to the system, facility or individual's knowledge and skills.

[20.7.4.23 NMAC – Rp 20 NMAC 7.4.203, 1-26-01; A, 10-17-01]

### 20.7.4.25 RENEWAL OF CERTIFICATES:

A. All initial certifications shall expire on the last day of the certificate holder's birthmonth following the third anniversary of certification. All renewals shall be for three years. A fee of \$15.00 will be payable to the department for each renewal.

B. The department shall mail each holder of a certificate a renewal notice at least thirty days prior to the expiration date, mailed to his last address of record. Failure to receive such notice shall not relieve the holder of his responsibility to

apply for renewal prior to the expiration date.

C. Each certificate issued under Section 20.7.4.24 must be renewed at three year intervals.

D. Renewal will require that each certificate holder be credited with having obtained thirty training credits in the three-year period preceding the date on which renewal application is due. The thirty credits must include at least ten training credits for approved training in the operation and maintenance of the same ~~class~~ type of public water supply system or public wastewater facility as each certificate being renewed. This requirement will apply after the third year of New Mexico certification for each operator.

[20.7.4.25 NMAC – Rp 20 NMAC 7.4.205, 1-26-01; A, 10-17-01]

---

---

## **End of Adopted Rules and Regulations Section**

---

**2001**  
**SUBMITTAL DEADLINES AND PUBLICATION DATES**

Vol. XI	Submittal Deadline	Publication Date
No. 1	January 4	January 15
No. 2	January 16	January 31
No. 3	February 1	February 14
No. 4	February 15	February 28
No. 5	March 1	March 14
No. 6	March 15	March 30
No. 7	April 2	April 13
No. 8	April 16	April 30
No. 9	May 1	May 15
No. 10	May 16	May 31
No. 11	June 1	June 14
No. 12	June 15	June 29
No. 13	July 2	July 16
No. 14	July 17	July 31
No. 15	August 1	August 15
No. 16	August 16	August 30
No. 17	September 4	September 13
No. 18	September 17	September 28
No. 19	October 1	October 15
No. 20	October 16	October 31
No. 21	November 1	November 15
No. 22	November 16	November 30
No. 23	December 3	December 14
No. 24	December 17	December 28

The New Mexico Register is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Register is published twice a month by the Commission of Public Records, Administrative Law Division pursuant to 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.