

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXXII - Issue 2 - January 26, 2021

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The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7941; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

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New Mexico Register

Volume XXXII, Issue 2

January 26, 2021

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ENVIRONMENT DEPARTMENT

NOTICE OF PUBLIC HEARING FOR AMENDMENTS TO 20.6.4

NMAC TRIENNIAL REVIEW OF STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS

The Water Quality Control Commission ("WQCC") will hold a public hearing beginning **on July 13, 2021**, following the regularly scheduled WQCC public meeting and continuing thereafter as necessary via the WebEx online meeting platform. The videoconference's Meeting ID and Password, videoconference link, and telephone numbers are as follows:

Beginning Tuesday, July 13, 2021:

To connect via video conference, go to:

Meeting link: <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m173d2e7c86c3828b4dbdcb4d1fe06be6>

Meeting number: 177 706 1008

Password: phQAE7Kmr47

Host key: 171483

Join by video system

Dial 1777061008@nmed-oit.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-415-655-0001 US Toll

Access code: 177 706 1008

Global call-in numbers

Please visit the WQCC website prior to the hearing for any updates: <https://www.env.nm.gov/water-quality-control-commission/wqcc/>. The purpose of the hearing is to consider proposed amendments to 20.6.4 NMAC, Standards for Interstate and Intrastate Surface Waters. These amendments have been proposed as a result of a review of state water quality standards and reflect updates to those standards as required by the federal Clean Water Act and the state Water Quality Act.

The proposed amendments to 20.6.4 NMAC may be reviewed online at <https://www.env.nm.gov/water-quality-control-commission/wqcc-20-51-r/>. Due to restrictions currently in place by the Governor's Executive Orders and various emergency public health orders designed to protect the public and prevent the spread of the Novel Coronavirus Disease – 2019 (COVID-19), the WQCC Administrator's office is closed to the public. Therefore in-person review of the proposed amendments is not possible at this time. Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses.

Pursuant to 20.1.6.202 NMAC and the Procedural Order issued by the hearing officer on November 9, 2020, those wishing to present technical testimony must file a written notice of intent to present technical testimony with the WQCC Administrator **on or before 5:00 p.m. Mountain Daylight Time on April 12, 2021**, 92 days prior to the hearing. Notices of intent to present technical testimony should reference the name of the regulation, the date of the hearing, and the docket number, **WQCC 20-51(R)**.

The form and content of the notice of intent to present technical testimony shall:

- * Identify the person for whom the witness(es) will testify;
- * Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;
- * Include a copy of the full written direct testimony of each technical witness in narrative form;
- * Include the text of any recommended modifications to the

proposed regulatory change; and

* List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony shall be filed with: Pamela Jones, WQCC Administrator New Mexico Environment Department

Harold Runnels Building

P.O. Box 5469

Santa Fe, NM 87502

telephone: (505) 660-4305

email: pamela.jones@state.nm.us

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed amended rule may be addressed to Pamela Jones, WQCC Administrator, at the above address, and should reference docket number **WQCC 20-51(R)**. Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above address, no later than June 23, 2021, 20 days before the date of the hearing.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); the Water Quality Act, Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, Section 14-4-5.3 NMSA 1978; and other applicable procedures.

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, by June 1, 2021. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

STATEMENT OF NON-DISCRIMINATION

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kathryn Becker, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.

AVISO DE AUDIENCIA PÚBLICA PARA ENMIENDAS A 20.6.4 NMAC

REVISIÓN TRIENAL DE LOS ESTÁNDARES DE LAS AGUAS SUPERFICIALES INTERESTATALES Y ESTATALES

La Comisión de Control de la Calidad del Agua ("WQCC" por sus siglas en inglés) celebrará una audiencia pública a partir del **13 de julio de 2021**, después de la reunión pública programada regularmente por la WQCC y continuará a partir de entonces, según sea necesario, a través de la plataforma de reuniones en línea de WebEx. El ID y la contraseña de la reunión de la videoconferencia, el enlace de la

videoconferencia y los números de teléfono son los siguientes:

A partir del martes 13 de julio de 2021:

Para conectarse por videoconferencia, vaya a:

Enlace de la reunión: <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m173d2e7c86c3828b4dbdcb4d1fe06be6>

Número de reunión: 177 706 1008

Contraseña: phQAE7KmR47

Clave del anfitrión: 171483

Para unirse por el sistema de video

Marque 1777061008@nmed-oit.webex.com

También puede marcar el

173.243.2.68 e introducir el número de la reunión.

Para unirse por teléfono...

+1-415-655-0001 Peaje de EE. UU.

Código de acceso: 177 706 1008

Números de llamadas entrantes globales (*Global call-in numbers*)

Visite el sitio web de WQCC antes de la audiencia para ver actualizaciones:

<https://www.env.nm.gov/water-quality-control-commission/wqcc/>.

El propósito de la audiencia es considerar las enmiendas propuestas a 20.6.4 NMAC, Estándares para Aguas Superficiales Interestatales y Estatales. Estas enmiendas se han propuesto como resultado de una revisión de las normas estatales de calidad del agua y reflejan las actualizaciones de esas normas según lo dispuesto en la Ley federal de Agua Limpia y la Ley estatal de Calidad del Agua.

Las enmiendas propuestas a 20.6.4 NMAC pueden ser revisadas en línea en <https://www.env.nm.gov/water-quality-control-commission/wqcc-20-51-r/>. Debido a las restricciones actuales vigentes por las órdenes ejecutivas de la gobernadora y varias órdenes de emergencia de salud pública diseñadas para proteger al público y prevenir la propagación de la Enfermedad del Nuevo Coronavirus – 2019 (COVID-19), la oficina del administrador de la WQCC está cerrada al público. Por

lo tanto, la revisión en persona de las enmiendas propuestas no es posible en este momento. Las personas que deseen revisar una copia física de las enmiendas propuestas deben ponerse en contacto con la administradora de la WQCC en la dirección que se indica más abajo.

Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, opiniones y argumentos pertinentes, oralmente o por escrito; presentar pruebas instrumentales e interrogar a los testigos.

De conformidad con 20.1.6.202 NMAC y la orden de procedimiento emitida por el funcionario de audiencias el 9 de noviembre de 2020, quienes deseen presentar un testimonio técnico deberán presentar un aviso por escrito de su intención de presentar un testimonio técnico ante la administradora de la WQCC **a más tardar hasta las 5:00 p.m., hora de verano de la montaña, el 12 de abril de 2021**, 92 días antes de la audiencia. Los avisos de intención de presentar un testimonio técnico deben hacer referencia al nombre del reglamento, la fecha de la audiencia y el número de expediente, **WQCC 20-51(R)**.

La forma y el contenido del aviso de intención de presentar un testimonio técnico deberá:

- * Identificar a la persona por la que testificarán el testigo o testigos;
- * Identificar cada testigo técnico que la persona tiene la intención de presentar y declarar las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral;
- * Incluir una copia del testimonio directo completo por escrito de cada testigo técnico en forma narrativa;
- * Incluir el texto de cualquier modificación recomendada al cambio normativo propuesto; y
- * Enumerar y adjuntar todas las pruebas instrumentales que esa persona presentará en la audiencia, incluida cualquier

* declaración propuesta de las razones para la adopción de las normas.

Los avisos de intención de presentar un testimonio técnico se presentarán ante:

Pamela Jones, administradora de la WQCC
New Mexico Environment
Department
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502
Teléfono: (505) 660-4305
Correo electrónico: pamela.jones@state.nm.us

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia o presentar una declaración escrita no técnica en lugar de un testimonio oral en la audiencia o antes de ella. Los comentarios por escrito sobre la norma enmendada propuesta pueden dirigirse a Pamela Jones, administradora de la WQCC, a la dirección anterior, y deben hacer referencia al número de expediente **WQCC 20-51(R)**. De conformidad con 20.1.6.203 NMAC, cualquier persona puede presentar un registro de comparecencia como parte interesada. El registro de comparecencia se presentará a la administradora de la WQCC, en la dirección arriba indicada, a más tardar hasta el 23 de junio de 2021, 20 días antes de la fecha de la audiencia.

La audiencia se llevará a cabo de acuerdo con los Procedimientos de Reglamentación de la WQCC (20.1.6 NMAC); la Ley de Calidad del Agua, NMSA 1978, Secciones 74-6-1 a -17 (1967, según enmendada hasta 2019); la Ley de Reglas del Estado, NMSA 1978, Sección 14-4-5.3; y otros procedimientos aplicables.

Si alguna persona requiere asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso, póngase en contacto con Pamela Jones, administradora de la WQCC, en la dirección arriba indicada, a más tardar hasta el 1 de junio de 2021.

(Los usuarios de TDD o TTY pueden acceder al número a través de New Mexico Relay Network, llamen al 1-800-659-1779 (voz); los usuarios de TTY: llamen al 1-800-659-8331).

DECLARACIÓN DE NO DISCRIMINACIÓN

NMED no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972, y la Sección 13 de las Enmiendas de la Ley Federal de Control de Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Kathryn Becker, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación.

FINANCE AND ADMINISTRATION, DEPARTMENT OF

NOTICE OF RESCHEDULED PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that pursuant to Subsection A of 1.24.25.9

and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter "DFA") will hold a rescheduled rulemaking hearing on Friday, February 26, 2021 at 10:00 AM. This meeting was originally scheduled for Friday, January 15, 2021. The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference's Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled:
Department of Finance and Administration Rulemaking Hearing - Virtual
<https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3>

Meeting number (access code): 146 809 4756

Meeting password: 3y7CVxs5rxD

Friday, February 26, 2021
10:00 am | (UTC-07:00) Mountain Time (US & Canada) | 5 hrs

Start meeting

Tap to join from a mobile device (attendees only)
+1-415-655-0001,,1468094756## US Toll
Join by phone
+1-415-655-0001 US Toll
Global call-in numbers
Join from a video system or application
Dial 1468094756@nmdfa.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business
Dial 1468094756.nmdfa@lync.webex.com

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com>

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language

interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Andrew Baranowski at (505) 670-2285 by February 10, 2021, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. A copy of the agenda is also available on the DFA website and at the office of the DFA located at 180 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. The agenda is subject to change up to 72 hours prior to the meeting.

Synopsis:

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested individuals are encouraged to submit comments during the Public Comment Period, which

runs through February 26, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us. All written comments will be posted on DFA's website within three days of receipt. Interested persons may also provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, February 26, 2021 at 10:00 AM, or in writing as provided above.

Copies of the proposed rule may be accessed on the Department's website at <http://www.nmdfa.state.nm.us/>, or obtained from Mr. Baranowski by emailing Andrew.Baranowski@state.nm.us or calling (505) 670-2285. Additionally, the text of the proposed rule is available in the original Notice of Proposed Rulemaking published in Volume XXXI, Issue 23 of the New Mexico Register on December 15, 2020: http://164.64.110.134/nmac/nmregister/xxxi/DFAnotice_xxxi23.html.

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING / NEWSPAPER NOTICE

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule *8.292.400 Medicaid Eligibility-Parent Caretaker Recipient Requirements*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: January 26, 2021
Hearing Date: February 26, 2021
Adoption Date: Proposed as June 1, 2021
Technical Citations: 42 CFR 435.110

and 435.4, 1902(a)(10)(A)(i)(I), 1931(b) and (d)

Background

42 Code of Federal Regulations (CFR) 435.4 defines a dependent child as, "a child who meets both of the following criteria: (1) Is under the age of 18, or, at State option, is age 18 and a full-time student in secondary school (or equivalent vocational or technical training), if before attaining age 19 the child may reasonably be expected to complete such school or training."

The Department in its State Plan for the Parents and Other Caretaker Relatives Medicaid category did elect the state option to include individuals who are parents or other caretakers of children who are 18 years old, provided the children are full-time students in a secondary school or the equivalent level of vocational or technical training.

The 18-year-old dependent full-time student requirement is not currently cited in the Department's Parent Caretaker NMAC. The Department is updating Parent Caretaker NMAC with the 18-year-old dependent full-time student requirement to comport with the State Plan and CFR language.

42 CFR 435.4 defines a parent or caretaker relative as "a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for Federal income tax purposes), and who is one of the following:

- (1) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.
- (2) The spouse of such parent or relative, even after the marriage is terminated by death or divorce.
- (3) At State option, another relative of the child based on blood (including those of half-blood), adoption, or

marriage; the domestic partner of the parent or other caretaker relative; or an adult with whom the child is living and who assumes primary responsibility for the dependent child's care."

The Department in its State Plan for the Parents and Other Caretaker Relatives Medicaid category did elect the state option to include as caretaker relative individuals within the fifth degree of relationship to the dependent child. The Department is updating Parent Caretaker NMAC with the 42 CFR 435.4 definition of a caretaker relative to comport with the State Plan and CFR language.

The Department is proposing to amend the rule as follows:

Section 8

Section 8 is being amended to include the Department's current mission statement.

Section 9

Section 9 is being updated to include the dependent child and caretaker relative definitions found at 42 CFR 435.4 and the State Plan.

The register for these proposed amendments to this rule will be available January 26, 2021 on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective June 1, 2021. A public hearing to receive testimony on this rule will be held via conference call at 10 a.m., Mountain Time (MT) on Friday, February 26, 2021. **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the

Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on February 26, 2021. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

**STATE AUDITOR,
OFFICE OF THE**

**NOTICE OF PROPOSED
RULEMAKING AND PUBLIC
HEARING**

The Office of the State Auditor is in the process of amending 2.2.2 NMAC, Requirements for Contracting and Conducting Audits of Agencies ("Audit Rule"). The Audit Rule establishes policies, procedures, rules,

and requirements for contracting and conducting financial audits, special audits, attestation engagements, performance audits, and forensic engagements of governmental agencies and local public bodies of the state of New Mexico and is governed by Sections 12-6-1 to 12-6-14 NMSA 1978 ("Audit Act"). The amendments to the Audit Rule are proposed pursuant to the Audit Act, at Section 12-6-12 NMSA 1978 and Subsection A of Section 12-6-3 NMSA 1978.

A copy of the full text of the proposed amendments to the Audit Rule is available on the Office of the State Auditor's website, at <https://www.saonm.org/auditing/financial-audits/state-auditor-rule>. The Office of the State Auditor will consider adopting the proposed new Audit Rule at a public hearing on March 1, 2021, at 1:30 p.m. The hearing will be a virtual meeting and members of the public may attend, listen, and participate via live streaming or telephone. Please see the prior link for additional information on attending the virtual public hearing. Public comment is allowed prior to and at the public hearing on March 1, 2021. Please e-mail written comments on the proposed new Audit Rule to Liza Kerr, Director of Compliance and Quality Control, at Liza.Kerr@osa.state.nm.us between January 26, 2021 and March 1, 2021. If you are unable to e-mail comments, you may deliver written comments to the Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507, as soon as possible and no later than February 26, 2021. All written comments shall be posted to the Office of the State Auditor's website within three days of receipt and can also be accessed from the link above.

Proposed amendments to the Audit Rule include the following: (i) distinguishing between attest and other types of engagements; (ii) removing requirement to list professional service contracts in the firm profile; (iii) clarifying certain

definitions; (iv) providing more flexibility with respect to the rotation requirement; (v) requiring reports be e-mailed to the Office of the State Auditor; (vi) adding language regarding ownership of confidential audit documentation; (vii) removing requirement to obtain confirmation of cash from STO; (viii) clarifying confidentiality provisions; (ix) expanded options for exit conferences to include virtual or telephonic meetings; (x) removing requirement to submit electronic version of findings summary form. To the extent applicable, the full text for relevant technical information that served as a basis for proposed changes is available at gasb.org and at gao.gov.

If you are an individual with a disability who is in need of auxiliary aid or service to attend or participate in the public hearing, please contact the Office of the State Auditor at least one week prior to the public hearing. Please contact Frank Valdez at 505-476-3841 or Frank.Valdez@osa.state.nm.us if any such assistance is needed.

At the start of the meeting, the Office of the State Auditor shall announce the names of those members of the public body participating remotely. All members of the Office of the State Auditor participating remotely shall identify themselves whenever they speak and be clearly audible to the other members of the public body and to the public. The Office of the State Auditor shall suspend discussion if the audio or video is interrupted until restored.

TAXATION AND REVENUE DEPARTMENT

NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to amend, repeal and replace, and adopt the

following rules as authorized by Section 9-11-6.2 NMSA 1978:

Purpose: The proposed rules are to reflect the 2019 legislative session changes in House Bill 6 to the Corporate Income Tax Act and the Uniform Division of Income for Tax Purposes Act and provide clarity to the public on both prior law and changes that are effective for the 2020 tax year.

Summary of Proposed Changes: The New Mexico Taxation and Revenue Department proposes to amend/repeal/replace the following rules:

Corporate Income and Franchise Tax Act

3.4.1.9 NMAC
Section 7-2A-2 NMSA 1978
(Net Operating Losses)

3.4.1.10 NMAC
Section 7-2A-2 NMSA 1978
(Income from Obligations of Governments)

3.4.1.11 NMAC
Section 7-2A-2 NMSA 1978
(Base Income for Filing as a Separate Corporate Entity)

3.4.1.12 NMAC
Section 7-2A-2 NMSA 1978
(Foreign Source Dividends)

[NEW] 3.4.1.13
Section 7-2A-2 NMA 1978
(Foreign Source Dividends After January 1, 2020)

[NEW] 3.4.1.14 NMAC
Section 7-2A-2 NMSA 1978
(Unitary Business)

3.4.10.7 NMAC
Section 7-2A-8 NMSA 1978
(Definitions)

3.4.10.8 NMAC
Section 7-2A-8.3 NMSA 1978
(Reporting Methods)

3.4.10.9 NMAC
Section 7-2A-8 NMSA 1978
(Separate Accounting; Computation of Net Operating Losses)

3.4.10.11 NMAC
Section 7-2A-8.3 NMSA 1978
(Combined Returns)

[New] 3.4.10.12 NMAC

Section 7-2A-8.3 NMSA 1978
(Consolidated Filing Election)

[NEW] 3.4.10.14 NMAC
Section 7-2A-2 NMSA 1978
(Computation of Base and Net Income - Applicable to Periods Beginning on or After January 1, 2020)

[NEW] 3.4.10.15 NMAC
Section 7-2A-2 NMSA 1978
(Net Operating Losses of Filing Groups - Applicable to Tax Years Beginning on or After January 1, 2020)

[NEW] 3.4.10.16 NMAC
Section 7-2A-3 NMSA 1978
(Obligations of Excluding Corporations to File a Return)

[NEW] 3.4.14.11 NMAC
Section 7-2A-9.2 NMSA 1978
(Tax Credits; Applicability to Unitary Groups)

Uniform Division of Income for Tax Purposes Act

3.5.4.9 NMAC
Section 7-4-4 NMSA 1978
(Taxable in Another State - When a Taxpayer is "Subject To" a Tax:)

3.5.4.10 NMAC
Section 7-4-4 NMSA 1978
(Taxable in Another State - When a State has Jurisdiction to Subject a Taxpayer to a Net Income Tax)

[New] 3.5.4.11 NMAC
Section 7-4-4 NMSA 1978
(Taxable in Another State - When a Taxpayer is "Subject to" a Tax - for Tax Periods Beginning on or After January 1, 2020)

3.5.10.8 NMAC
Section 7-4-10 NMSA 1978
(Apportionment Formula:)

[New] 3.5.16.11 NMAC
Section 7-4-16 NMSA 1978
(Effect of Combined Filing on the Sales Factor)

3.5.18.8 NMAC
Section 7-4-18 NMSA 1978
(Sales Factor - Sales Other Than Sales of Tangible Personal Property in This State:)

[New] 3.5.18.9 NMAC

Section 7-4-18 NMSA 1978
*(Sales Factor - Sales Other Than
 Sales of Tangible Personal Property
 in This State - Applicable to Tax
 Years Beginning on or After January
 1, 2020)*

Hearing Date: Notice of public rule hearing: A public hearing will be held on the proposed rule changes on Thursday, February 25, 2021, at 1:00 p.m. through the internet, email, and telephonic means in response to concerns surrounding COVID-19 and in accordance with Executive Order 2020-004, Declaration of a Public Health Emergency, and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19.

Technical Information: No technical or scientific information was consulted in drafting these proposed rule changes.

Public Hearing Location: The Public Hearing will be accessible via WebEx by going <https://nm-tax.webex.com/nm-tax/j.php?MTID=m54ada1b7d3b9821f418e965b12c66135> or by telephone by dialing 1-415-655-0001 and using the meeting number (access code) 132 999 0384 Password 02252021. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us.

How to participate: Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Bobbie Marquez at BobbieJ.Marquez@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Complete Copies of the proposed rule changes can be found at www.tax.newmexico.gov/proposed-regulations-hearing-notices.aspx

or are available upon request by contacting the Tax Policy Office at policy.office@state.nm.us.

The copies of the proposed amended and repealed rules were placed on file in the Office of the Secretary on January 11, 2021. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final rules, if filed, will be filed as required by law on or about March 12, 2021.

When are comments due: Written comments on the proposals can be submitted by email to policy.office@state.nm.us or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before February 25, 2021. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

TRANSPORTATION, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING REPEAL AND REPLACEMENT OF 17.4.2 NMAC

The New Mexico Department of Transportation (NMDOT or the Department) gives notice of its proposed adoption of rulemaking to repeal and replace 17.4.2 NMAC, requirements for occupancy of state highway system right-of-way by utility facilities. The rules that may be adopted as the final rules in this proceeding may include all, part, or none of the language in the proposed rules issued by the Department.

Concise statement of proposed rules: The proposed repeal and replacement of 17.4.2 NMAC will apply to all publicly, privately, cooperatively, municipally, tribally, or governmentally-owned facilities that are to be accommodated, adjusted

or relocated within the right-of-way of highways, roads or streets, or other property under the jurisdiction of the New Mexico Department of Transportation. This facilities accommodation policy is provided for the regulation of the location, design and methods for installing, adjusting or relocating, accommodating and maintaining physical facilities on highway rights-of-way or Department-owned property.

Constitutional and statutory authority: Section 62-1-3, NMSA 1978, which authorizes the use of highways and streets by public utilities and public telecommunications service under the Public Utility Act, Section 62-3-1 et seq., NMSA 1978 and the New Mexico Telecommunications Act, Section 63-9A-1 et seq., NMSA 1978; the New Mexico Highway Department Organization Act, Sections 67-3-7, 67-3-12, 67-8-15, 67-8-1, 67-8-17, 67-8-18, 67-8-19, 67-8-20, 67-8-21, 67-8-22, NMSA 1978.

A copy of the full text of the proposed rules may be obtained from the Department's website at <http://www.dot.state.nm.us>, or by contacting the Utility Bureau at (505) 795-1608.

Written initial comments and written response comments shall be filed by the deadlines below. Written comments shall be filed with the Department by mailing to P.O. Box 1149, Santa Fe, New Mexico 87504-1149, electronically by email to utility.rule@state.nm.us, or recorded comments may be left at (505) 216-8117. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

For more information as to how to submit comments please contact Dean Serna, the Utility Section Manager at Dean.Serna@state.nm.us or (505) 795-1608. Written initial comments shall be filed no later than March 26, 2021 and response comments shall be filed no later than April 9, 2021. Comments shall refer to 17.4.2

NMAC. All written comments will be posted on the Department's website within three (3) days of their receipt.

A public hearing will be held on April 23, 2021 at 1:00 p.m., which shall be accomplished through Zoom. Instructions on how to connect will be posted on the Department's home webpage at <http://www.dot.state.nm.us> prior to the hearing. The purpose of the hearing is to receive oral comments. Because commenters are afforded the opportunity to submit written comments to the Department, any individual who wants to provide oral comments shall be limited to five minutes to express those comments, subject to the Department's discretion. The Department may also determine that a spokesperson be designated to speak on behalf of an organization, group, or a group of individuals that share the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding.

The record of this case will close on **April 30, 2021**.

Interested persons should contact the Department to confirm the date, time, and place of this public hearing because any hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Dean Serna at (505) 795-1608 at least three (3) business days prior to the commencement of the hearing.

**End of Notices of
Rulemaking and
Proposed Rules**

Adopted Rules

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 in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

ENVIRONMENT DEPARTMENT

This is an amendment to 11.5.1 NMAC, Section 16 effective 1/26/2021.

11.5.1.16 RECORDKEEPING AND REPORTING OCCUPATIONAL INJURIES, ILLNESSES AND FATALITIES:

A. General: Except as otherwise provided in Subsection B of this section, the provisions of 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illnesses (internet: www.osha.gov), are hereby incorporated into this section.

B. Exception: Work-related injuries, illnesses and fatalities which are required to be reported by 29 CFR Part 1904.39 shall be reported, by email, telephone or facsimile machine, to the bureau in lieu of the location specified in 29 CFR Part 1904.39. The bureau's address, email and telephone/facsimile numbers are: occupational health and safety bureau, New Mexico environment department, P.O. Box 5469, Santa Fe, NM 87502, email: nmenv-osh@state.nm.us, Tel: (505) 476-8700, Fax: (505) 476-8734.

C. Reporting noval coronavirus: Within four hours of notice that an employee tested positive for the novel coronavirus, each employer shall report the positive test to the bureau as specified in Subsection B of this section or as otherwise directed by the bureau. [10/9/1975, 9/3/1978, 3/21/1979, 5/10/1981, 11/17/1983, 7/19/1994, 1/1/1996, 8/15/1998; 11.5.1.16 NMAC - Rn & A, 11 NMAC 5.1.16, 10/30/2008; A, 7/16/2015; A/E, 8/5/2020; A/E 12/3/2020; A, 1/26/2021] [11.5.1.16 NMAC - N, 12/03/2020] [The department has provided the

Rapid Response Submission portal that may be used to satisfy the reporting requirements of Subsection (C). The Rapid Response Submission portal is available on the bureau's website at <https://nmgov.force.com/rapidresponse/s/>.]

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.280.400 NMAC, Sections 8, 10, 11 and 12 effective 2/1/2021.

8.280.400.8 [RESERVED]
MISSION STATEMENT: To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities. [8.280.400.8 NMAC - N, 2/1/2021]

8.280.400.10 BASIS FOR DEFINING THE GROUP: [Applicants/recipients] Recipients and eligible applicants must live in certain designated zip codes within New Mexico. A PACE recipient cannot concurrently receive other medicaid home and community-based services. A PACE recipient may be placed in a qualifying nursing facility upon a medical doctor's orders and continue to participate in PACE. Upon disenrollment from PACE, a former PACE recipient may receive institutional care (IC) medicaid services as long as the individual meets all IC medicaid eligibility requirements. PACE recipients can concurrently receive the qualified medicare beneficiaries program (QMB), the specified low income

medicare beneficiaries program (SLIMB), or supplemental security income (SSI). For PACE applicants/recipients who receive SSI benefits no further verification of income, resources, citizenship, age, disability, or blindness is required. [8.280.400.10 NMAC - Rp, 8.280.400.10 NMAC, 1/1/2019; A, 2/1/2021]

8.280.400.11 [SPECIAL] APPLICANT AND RECIPIENT REQUIREMENTS: ~~[Applicants/recipients must be 55 years of age or older. Applicants/recipients must be determined blind or disabled if under the age of 65 years.] Applicants must live within the designated PACE service area and meet all of the criteria listed below at the time of application and enrollment.~~

A. ~~[To be considered blind, an applicant/recipient must have central visual acuity of 20/200 or less with corrective lenses or must be considered blind for practical purposes. To be considered disabled, an applicant/recipient must be unable to engage in any substantial gainful activity, because of any medically determinable physical, developmental, or mental impairment which has lasted, or is expected to last, for a continuous period of at least 12 months. If a determination of blindness or disability has not been made, the income support division worker will submit medical reports to the disability determination unit.] Applicants must be 55 years of age or older. Applicants/recipients must be determined blind or disabled if under the age of 65 years.~~

(1) To be considered blind, an applicant/recipient must have central visual acuity of 20/200 or less with corrective lenses or must

be considered blind for practical purposes.

(2) To be considered disabled, an applicant/recipient must be unable to engage in any substantial gainful activity, because of any medically determinable physical, developmental, or mental impairment which has lasted, or is expected to last, for a continuous period of at least 12 months.

(3) If a determination of blindness or disability has not been made, the income support division worker will submit medical reports to the disability determination unit.

B. Level of care requirements must be met in addition to all other requirements. An [applicant/recipient] applicant or recipient must be eligible for institutional [(nursing home)] nursing facility level of care as determined by the medical assistance division (MAD) utilization review contractor. An institutional level of care must be recommended for the [applicant/recipient] applicant or recipient by a PACE physician licensed to practice medicine or osteopathy in the state of New Mexico. Institutions are defined as acute care hospitals, nursing facilities (either high NF or low NF as defined by medicaid regulations) and intermediate care facilities for individuals with intellectual disabilities (ICF/IID). Level of care determinations are performed by the MAD utilization review contractor. Level of care for approved recipients will be determined on an annual basis.

C. An interview is required at initial application in accordance with 8.281.400.11 NMAC.

D. Upon enrollment, applicants must be able to live in a community setting without jeopardizing their individual health and safety. The ability to live safely in the home and community is determined by the PACE organization's interdisciplinary team. [8.280.400.11 NMAC - Rp, 8.280.400.11 NMAC, 1/1/2019; A, 2/1/2021]

8.280.400.12 RECIPIENT RIGHTS AND RESPONSIBILITIES:

[An applicant/recipient is] Applicants and recipients are responsible for establishing [his] eligibility for medicaid. As part of this responsibility, the [applicant/recipient] applicant or recipient must provide required information and documents or take the actions necessary to establish eligibility. Failure to do so must result in a decision that eligibility does not exist. [8.280.400.12 NMAC - Rp, 8.280.400.12 NMAC, 1/1/2019; A, 2/1/2021]

PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.20.2 NMAC, Section 25, effective 1/26/2021.

6.20.2.25 SAVE

HARMLESS CALCULATION: Beginning January 26, 2021 and thereafter, the department shall calculate funding of program units under the save harmless provision for a school district or charter school with fewer than 200 students. Save harmless calculations shall include:

A. the number of program units to which a school district or charter school is entitled using the MEM of the first reporting period of the current year;

B. size adjustment program units; and

C. enrollment growth program units.

[6.20.2.25 NMAC - N, 1/26/2021]

SUPERINTENDENT OF INSURANCE, OFFICE OF

TITLE 13 INSURANCE CHAPTER 10 HEALTH INSURANCE PART 30 PHARMACY BENEFITS MANAGERS

13.10.30.1 ISSUING AGENCY: Office of Superintendent

of Insurance ("OSI"). [13.10.30.1 NMAC - N, 3/1/2021]

13.10.30.2 SCOPE: This rule applies to every pharmacy benefits manager ("PBM") and health insurance carrier subject to the jurisdiction of the office of superintendent of insurance. [13.10.30.2 NMAC - N, 3/1/2021]

13.10.30.3 STATUTORY AUTHORITY: Section 59A-2-9 NMSA 1978 and Subsection C of Section 59A-61-3 NMSA 1978. [13.10.30.3 NMAC - N, 3/1/2021]

13.10.30.4 DURATION: Permanent. [13.10.30.4 NMAC - N, 3/1/2021]

13.10.30.5 EFFECTIVE DATE: March 1, 2021, unless a later date is cited at the end of a section. [13.10.30.5 NMAC - N, 3/1/2021]

13.10.30.6 OBJECTIVE: The purpose of this rule is to carry out the requirements of Chapter 59A, Article 61 NMSA 1978 relating to the regulation of PBMs. [13.10.30.6 NMAC - N, 3/1/2021]

13.10.30.7 DEFINITIONS: For purposes of this rule and the Pharmacy Benefits Manager Regulation Act:

A. "Clean claim" has the definition found in Paragraph (1) of Subsection A of Section 59A-16-21.1 NMSA 1978.

B. "Formulary" is a list of prescription drugs that has been developed by a health insurance carrier or its designee that the carrier or its designee references in determining applicable coverage and benefit levels.

C. "Health insurance carrier" or "carrier" has the definition found in Paragraph (2) of Subsection C of Section 59A-16-21.1 NMSA 1978.

D. "Health benefits plan" or "health plan" has the definition found in Paragraph (1) of Subsection C of Section 59A-16-21.1 NMSA 1978.

E. “NCPDP” means the national council for prescription drug program.

F. “NDC” means national drug code.

G. “Participating provider” is a pharmacy that, under an express contract with a health insurance carrier, or with its contractor or subcontractor, has agreed to provide pharmacy services to covered persons with an expectation of receiving payment directly or indirectly from the carrier, subject to any cost-sharing required by a plan.

H. “Prescription drug claim administration” is administrative services performed in connection with the processing, adjudicating and auditing of claims relating to pharmacy services.

I. “Similarly situated” refers to a participating provider whose PBM contract is subject to the same reimbursement for a claim as a pharmacy whose appeal was granted.

[13.10.30.7 NMAC – N, 3/1/2021]

13.10.30.8 REQUIREMENTS FOR LICENSURE:

A. On or before March 1, 2021, a PBM operating in New Mexico shall apply for a license on a form prescribed by the superintendent. Each application for a license shall be verified by an officer or authorized representative of the applicant. The application shall describe or provide:

(1) The non-refundable filing fee prescribed by Paragraph (1) of Subsection AA of Section 59A-6-1 NMSA 1978 for filing an application for a license.

(2) The name of the legal entity, federal employer identification number (“FEIN”), business address, phone number and state of residency.

(3) The name, business address, phone number and e-mail address of a contact person designated by the PBM to respond to complaints.

(4) The name, business address, phone number and

e-mail address of a contact person designated by the PBM to respond to inquiries by the superintendent.

(5) Proof of corporate status.

(6) For each partner or corporate officer, and each member of the board of directors, if applicable, the applicant shall provide a background investigation report through a vendor approved by OSI.

(7) A statement of whether the applicant has:

(a) been refused a registration, license or certification to act as or provide the services of a PBM or third-party administrator; or

(b) had any registration, license or certification denied, suspended, revoked or non-renewed for any reason by any state or federal entity; and

(c) if either (a) or (b) apply, the PBM shall separately attach the details of each such action, including the date, nature and disposition of the action.

(8) A statement of whether the applicant ever had a business relationship terminated for any alleged fraudulent or illegal activities in connection with the administration of a pharmacy benefits plan and a description of each termination.

(9) The application shall be signed on behalf of the PBM by an officer or partner duly authorized by the PBM.

(10) Any other information that is deemed necessary by the superintendent in evaluating the application to evidence compliance with Chapter 59A, Article 61 NMSA 1978 or the requirements of rules promulgated by the superintendent.

(11) An applicant who believes its submission contains confidential information shall so inform OSI staff and request express confidential treatment of the filing before submission. The superintendent shall determine whether proffered information

shall be deemed confidential. Any submission made without an express determination of confidentiality, or after the superintendent rejects a request for confidential treatment, shall be deemed a public record.

B. Review and approval process for initial licensure.

Within thirty days of receipt of an application pursuant to Subsection A of this section, the superintendent will review the application and:

(1) if the application is incomplete, notify the applicant in writing that additional information is needed, and allow the applicant thirty days to cure any deficiency in the application.

(2) approve the application and issue a PBM license to the applicant if the superintendent determines that the applicant meets the requirements for licensure; or

(3) deny the application if the superintendent determines that the applicant does not meet the requirements for licensure

C. Content and scope of license.

(1) **Content.** A license issued by the superintendent under this rule will state the name and business address of the PBM; the capacity of the licensee to act as a PBM in New Mexico; the effective and expiration dates of the license and such other information as the superintendent deems pertinent.

(2) **Scope.** A license issued under this regulation entitles the PBM to act for one or more authorized insurance carriers, plans or persons that self-insure without being required to obtain a separate license with respect to each insurance carrier, plan or person that self-insures.

D. License renewal.

An application for renewal shall be submitted by March 1 of each year. A renewal application shall include the non-refundable fee for annual continuation of a license required by Paragraph (2) of Subsection AA of Section 59A-6-1 NMSA 1978, as well as updates to any items

required by the initial application for licensure. For disapprovals or denials of a renewal licensure by the superintendent, the superintendent will provide written notice to the applicant that the licensure renewal was denied and state the reason or basis for the denial.

E. Corrective action plan. In lieu of a denial for initial licensure or renewal application, the superintendent may require the PBM to submit a corrective action plan to cure or correct deficiencies in its application.
[13.10.30.8 NMAC – N, 3/1/2021]

13.10.30.9 PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION (“PSAO”) REGISTRATION:

A. Registration required. A PSAO currently operating in this state shall register with the superintendent on or before March 1, 2021. A PSAO that intends to operate in this state shall register with the superintendent at least 30 days prior to initiating operations.

B. A PSAO’s registration application shall include:

- (1) Full business name of PSAO;
 - (2) Name, business address, phone number and e-mail address for primary contact;
 - (3) Name, business address, phone number and e-mail address for contact designated to handle complaints; and
 - (4) Federal Employer Identification Number (FEIN).
- [13.10.30.9 NMAC – N, 3/1/2021]

13.10.30.10 OSI COMPLAINT PROCESS:

A. Complaints by a pharmacy against a PBM.

- (1) A pharmacy may file a complaint with the superintendent for an alleged violation of the pharmacy benefits regulation act.
- (2) A complaint by a pharmacy against a PBM shall be in writing on a form provided by the superintendent.

(3) A pharmacy shall submit a complaint within six months from the date the pharmacy knew or should have known of the alleged violation.

(4) A complaint may allege multiple violations against a single PBM.

(5) A pharmacy may provide supporting documentation.

(6) The superintendent will transmit any complaints to the e-mail contact designated by the PBM to receive complaints.

(7) The superintendent will specify the documentation necessary to address the complaint.

B. Response by a PBM to a complaint.

(1) A PBM shall have seven business days from receipt of the complaint to respond in writing.

(2) The superintendent may request additional documentation. The PBM shall provide any additional documentation in writing within seven business days from the date of the superintendent’s request.

(3) The superintendent may grant a PBM’s request for an extension of time.

(4) The superintendent will send a copy of all submissions received in connection to a complaint to the opposing party.

(5) All documentation received in connection to a complaint is confidential.

C. Enforcement Proceedings:

(1) If the superintendent makes a finding of probable cause that a violation occurred, the superintendent may issue a notice of contemplated action.

(2) A notice of contemplated action may set a hearing pursuant to Chapter 59A, Article 4 NMSA 1978.

(3) At the superintendent’s discretion, the superintendent may approve a stipulated agreement to resolve any violation.

(4) For good cause shown, the superintendent may grant a variance from these procedures, if doing so would be in the public interest.

D. Prohibited practices. Repeated violations established through substantiated complaints may be considered willful and intentional individually or in the aggregate, or both, and may be penalized pursuant to Subsection B of Section 59A-1-18 NMSA 1978.
[13.10.30.10 NMAC – N, 3/1/2021]

13.10.30.11 PAYMENT OF CLAIMS: Claims for reimbursement by a pharmacy are subject to Section 59A-16-21.1 NMSA 1978.
[13.10.30.11 NMAC – N, 3/1/2021]

13.10.30.12 MAXIMUM ALLOWABLE COST (“MAC”) APPEALS:

A. Submission of appeal. A pharmacy may submit a MAC appeal, within 21 business days after a pharmacy receives notice of the reimbursement amount, through a PSAO or directly to the PBM.

B. Appeals mechanism. A PBM shall provide a mechanism for submitting MAC appeals, including the dedicated phone number pursuant to Paragraph (5) of Subsection D of Section 59A-61-4 NMSA 1978. The phone number shall be manned at a minimum during the hours of 8:00 a.m. to 5:00 p.m., mountain time. Information about MAC appeals mechanisms shall be prominently displayed in any contract or manual provided by a PBM to a pharmacy.

C. Appeal instructions on website. The PBM’s website shall prominently display instructions for submitting a MAC appeal and instructions for seeking assistance in navigating the website.

D. Response to appeal. The PBM’s response to a MAC appeal shall include:

- (1) the source or sources used, including NDC and name of supplier, to determine pricing for the maximum allowable cost list specific to that provider and

how it was applied to the maximum allowable cost (MAC) price at issue; (2) the date of the last MAC list update for the drug which is the subject of the MAC appeal;

(3) documentation evidencing that the drug was available for purchase by a pharmacy in New Mexico at the MAC price from a national or regional wholesaler at the time of claim submission; and

(4) any other information the PBM deems relevant to the MAC appeal.

E. Nonresponse to appeal. The MAC appeal shall be deemed granted if the PBM does not respond within 14 business days pursuant to Paragraph (6) of Subsection D of Section 59A-61-4 NMSA 1978.

F. Notice of granting appeal. If a MAC appeal is granted or deemed granted, a PBM shall:

(1) within one day, notify by email the challenging pharmacy and any similarly situated network pharmacy and their PSAO(s) that a MAC appeal was granted, the NDC of the drug, the MAC price challenged and the updated MAC price; and

(2) permit the appealing pharmacy and any similarly situated pharmacy to resubmit the claim at the updated price.

G. Request for MAC list. A PBM shall provide a MAC list to a pharmacy or the superintendent within seven business days upon request.

[13.10.30.12 NMAC – N, 3/1/2021]

13.10.30.13 SUBMISSION OF A MAC APPEAL:

A. Information demonstrating completion. A MAC appeal submission by a pharmacy or a PSAO to a PBM for an appeal shall consist of:

(1) fill date;
(2) BIN number (six digits);
(3) NCPDP (seven digits);
(4) Rx number (seven digits);

(5) NDC 11 (11 digits);
(6) drug name;
(7) drug strength;
(8) purchase price of drug (whole dollar with two decimal places);
(9) total reimbursement (whole dollar with two decimal places);
(10) reason for review;
(11) any information required by contract; and
(12) notes (optional).

B. No additional information required. A MAC appeal shall be deemed a complete, clean claim if it contains the information contained in Subsection A of this section. A PBM shall not require or request additional information in order to process the appeal.

[13.10.30.13 NMAC – N, 3/1/2021]

13.10.30.14 SEARCHABLE ONLINE DATABASE OF DRUG PRICES:

A. Update timeframe. A PBM shall update its MAC list at least once every seven days pursuant to Paragraph (2) of Subsection D of Section 59A-61-4 NMSA 1978.

B. Searchable online database required. A PBM shall establish a searchable online database that will allow a network pharmacy to search MAC list prices for a particular drug. The PBM's provider manual shall include instructions for accessing the price list on their website. The provider manual shall be transmitted to a newly joined pharmacy within 10 business days from the date of execution of a contract with the PBM. A PBM shall provide an updated version of its provider manual within 30 days of any revisions to all network pharmacies.

C. Search requirements. The database shall be searchable by NDC or drug name, and date of fill for a specific network plan.

D. Drug information.

The information provided for the drug shall contain:

(1) NDC;
(2) NDC description;
(3) MAC list price; and
(4) effective date.

E. Instructions required. The provider manual shall contain instructions for searching the MAC list and contain instructions for requesting the sources used to establish the MAC price. A network pharmacy may request the sources through a PBM's website, e-mail, facsimile or letter. The PBM shall respond with each derivative source within ten business days from the date of the request.

F. Website requirements. The PBM's website shall contain a prominent link to request the sources used to establish the MAC price.

G. Accessibility. All network pharmacies and, upon request, the superintendent shall have access to the database to determine compliance with these rules or to resolve a dispute.

[13.10.30.14 NMAC – N, 3/1/2021]

13.10.30.15 HISTORICAL MAC LIST DATABASE:

A. Searchable list of drugs. Beginning March 1, 2021, a PBM shall maintain an online, searchable database containing all MAC list pricing. The database shall be searchable by these criteria:

(1) NDC number;
(2) drug name;
(3) date of fill;
(4) specific health plan; and
(5) removal data.

B. Reason for removal. When a drug is removed from the MAC database, the database shall indicate the reason for its removal.

C. Obsolete drugs. The database shall include obsolete drugs. If a drug is removed because it

is obsolete, the database shall indicate the date it became obsolete.

D. List dated. The database shall specifically indicate the date a drug price was updated and posted to the website.

E. Provider manual requirement. A PBM's provider manual shall contain instructions for accessing the list of drugs removed from its MAC list.

F. Accessibility. All network pharmacies and, upon request, the superintendent shall have access to the database to determine compliance with these rules or to resolve a dispute.

G. Legacy data. Data shall remain in the database and be searchable for at least five years. [13.10.30.15 NMAC – N, 3/1/2021]

13.10.30.16 ANNUAL REPORT BY PBM:

A. Annual report required. A pharmacy benefits manager applying for license renewal shall submit the required annual report and fees, including the annual continuation fee, as set forth in Section 59A-6-1 NMSA 1978. Failure to comply with these requirements shall result in cancellation of the license. Instructions for completing the annual report, which is due on or before March 1, are available on the OSI website.

B. Confidentiality. The annual report shall be deemed confidential pursuant to Subsection B of Section 59A-2-12 NMSA 1978. Notwithstanding this confidential treatment, the superintendent may publish aggregate data culled from confidential reports. [13.10.30.16 NMAC – N, 3/1/2021]

13.10.30.17 RETALIATION: A PBM shall not retaliate against a pharmacy for invoking its rights under these rules or the Pharmacy Benefits Manager Regulation Act. Selecting a pharmacy that has filed a complaint with the superintendent for audit at a rate disproportionately higher than for other network pharmacies may be considered retaliation. [13.10.30.17 NMAC – N, 3/1/2021]

13.10.30.18 AUDIT:

A. Examination. The superintendent may examine a PBM for compliance with the requirements of the Pharmacy Benefits Manager Regulation Act pursuant to Chapter 59A, Article 4, NMSA 1978.

B. Audit compliance. The superintendent may also examine the audits of pharmacies conducted by PBMs to determine whether they are in compliance with Section 61-11-18.2 NMSA 1978. [13.10.30.18 NMAC – N, 3/1/2021]

13.10.30.19 COMPENSATION:

A. Use of an unlicensed PBM prohibited. A health insurance carrier doing business in this state shall not pay, directly or indirectly, any compensation or fee or any further consideration of value to any PBM for PBM services within this state, unless the PBM is duly licensed to transact such business in New Mexico.

B. Claims payment by unlicensed PBM. The prohibition contained in the preceding paragraph does not prevent the payment of claims to pharmacies solely because a PBM does not hold a valid license. [13.10.30.19 NMAC – N, 3/1/2021]

13.10.30.20 RESPONSIBILITIES OF THE HEALTH INSURANCE CARRIER:

A. Oversight required. If a health insurance carrier utilizes the services of a PBM, the carrier shall ensure an adequate pharmaceutical network, timely and fair claims payment to pharmacies, appropriate appeals procedures, lack of retaliation against pharmacies and appropriate formulary development and tier structures. Assignment of the responsibilities of the carrier to a PBM as to any of these matters shall be set forth in the written agreement between the PBM and the carrier.

B. Program administration. The ultimate responsibility for competent administration of a health insurance carrier's programs lies with the carrier.

C. Records

maintenance. A health insurance carrier shall maintain for a minimum of five years reviews conducted of the operations of its PBM(s). A carrier shall produce such records at the superintendent's request. [13.10.30.21 NMAC – N, 3/1/2021]

13.10.30.21 MAINTENANCE OF INFORMATION:

Every PBM shall maintain at its principal administrative office for the duration of the written agreement referred to in Section 59A-12A-4 NMSA 1978 and five years thereafter adequate books and records of all transactions between it, health insurance carriers and pharmacies. Such books and records shall be maintained in accordance with prudent standards of insurance record keeping. The superintendent shall have access to such books and records for the purpose of examination, audit and inspection. Any trade secrets contained therein shall be deemed confidential, except that the superintendent may use such information in any proceedings instituted against the PBM. The health insurance carrier shall retain the right to continuing access to such books and records to permit the carrier to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurance carrier and the PBM regarding the proprietary rights of the parties in such books and records.

[13.10.30.21 NMAC – N, 3/1/2021]

13.10.30.22 DISCRIMINATION PROHIBITED:

A health insurance carrier and its representatives shall ensure that a health benefits plan issued in this state does not contain provisions that are discriminatory against individuals on the basis of health status; medical condition, including both physical and mental illnesses; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including acts arising out of domestic violence; disability; gender; national origin; sexual

orientation or any other health-status-related factor that the superintendent specifies. Gender neutral language shall be used in a policy, plan or written communication.

[13.10.30.22 NMAC – N, 3/1/2021]

13.10.30.23 HEARING

RIGHTS: Any person aggrieved by any action, threatened action, or failure to act by the superintendent shall have the same right to a hearing before the superintendent with respect thereto as provided for in general under Chapter 59A, Article 4 NMSA 1978 and the implementing rules.

[13.10.30.23 NMAC – N, 3/1/2021]

13.10.30.24 RULE

NONCOMPLIANCE: Failure to comply with any provision of these rules is a violation of the Insurance Code and punishable pursuant to Subsection B of Section 59A-1-18 NMSA 1978.

[13.10.30.24 NMAC – N, 3/1/2021]

History of 13.10.30 NMAC:
[RESERVED]

SUPERINTENDENT OF INSURANCE, OFFICE OF

TITLE 13 INSURANCE CHAPTER 10 HEALTH INSURANCE PART 33 SURPRISE BILLING

13.10.33.1 ISSUING

AGENCY: New Mexico Office of Superintendent of Insurance (“OSI”).

[13.10.33.1 NMAC - N, 3/01/2021]

13.10.33.2 SCOPE: These rules apply to every health insurance carrier (“carrier”) that provides health coverage under a policy, arrangement, contract or plan described in Section 59A-57A-12 NMSA 1978.

[13.10.33.2 NMAC - N, 3/01/2021]

13.10.33.3 STATUTORY

AUTHORITY: Section 59A-2-9 NMSA 1978, Sections 59A-57A-1 through 59A-57A-13 NMSA 1978 and Section 59A-16-21.3 NMSA 1978.

[13.10.33.3 NMAC - N, 3/01/2021]

13.10.33.4 DURATION:

Permanent.

[13.10.33.4 NMAC - N, 3/01/2021]

13.10.33.5 EFFECTIVE

DATE: March 1, 2021, unless a later date is cited at the end of a section.

[13.10.33.5 NMAC - N, 3/01/2021]

13.10.33.6 OBJECTIVE:

To implement consumer protection, reimbursement, refund, reporting and appeal requirements for the surprise billing protection act.

[13.10.33.6 NMAC - N, 3/01/2021]

13.10.33.7 DEFINITIONS:

For definitions of terms contained in this rule, refer to Section 59A-57A-2 NMSA 1978 and 13.10.29 NMAC.

[13.10.33.7 NMAC - N, 3/01/2021]

13.10.33.8 REFUNDS FOR OVERPAYMENT:

A. Notice of payment and right to a refund. A carrier who reimburses a provider for a surprise bill shall provide the covered person an explanation of benefits (“EOB”) showing, at a minimum, the name of the provider, the date of service, the amount billed and the amount paid. As of June 1, 2021, the first page of the EOB shall provide a surprise billing explanation of benefits and rights and contain the following statement in bold and of at least 12 point type:

SURPRISE BILLING – YOU RECENTLY VISITED A PROVIDER WHO IS NOT IN YOUR PLAN’S NETWORK. IF YOU HAVE ALREADY PAID THE PROVIDER MORE THAN YOU OWE, THE PROVIDER OWES YOU A REFUND WITHIN 45 DAYS OF THE DATE THE PROVIDER RECEIVED OUR PAYMENT. IF YOU DO NOT RECEIVE A REFUND WITHIN THAT 45-DAY PERIOD, YOU MAY FILE AN APPEAL WITHIN 180 DAYS AFTER EXPIRATION OF THE 45-DAY PERIOD AT WWW.OSI.STATE.NM.US OR 1-855-427-5674.

B. Issuance of the

EOB. A carrier shall issue the EOB within 15 days of the payment.

C. Payment notice to

provider. A carrier who reimburses a surprise bill shall inform the out-of-network provider of the in-network cost-sharing amount owed by the covered person. Any notice of the covered person’s cost-sharing responsibility shall refer to New Mexico’s surprise billing protections act and the provider rights granted therein.

D. Appeal process.

A covered person may appeal a provider’s failure to make a timely or complete refund of an excess payment using the surprise billing appeal form on OSI’s website.

(1) The appeal must be filed within 180 days after the expiration of the 45-day period in which the provider was required to refund the covered person’s excess payment.

(2) The provider shall have 30 days to respond to the appeal in writing.

(a) A provider’s failure to timely respond shall result in an order from the superintendent directing the provider to pay the full amount of the claimed refund.

(b) If a provider timely responds to a refund appeal, the superintendent shall resolve the appeal following the rules that govern informal hearings. If the superintendent determines that a provider owed a refund, the superintendent shall order the provider to pay the refund amount with interest pursuant to Section 59A-16-21.1 NMSA 1978.

E. EOB Alternative.

A carrier may file with the superintendent, and request approval to use, an alternate form or style of surprise billing EOB. The superintendent shall approve the alternate EOB if it is at least as likely to convey a member’s rights under the Surprise Billing Act as the EOB required by Subsection A of this rule.

[13.10.33.8 NMAC - N, 3/01/2021]

13.10.33.9 COVERED

PERSON RIGHTS: A carrier shall afford a covered person these rights:

A. Out of state care.

A carrier shall reimburse a surprise medical bill as required by law regardless of the situs of delivery of the medical care, including medical care rendered out-of-state.

B. Specific consent.

For purposes of Subparagraph (b) of Paragraph (1) of Subsection Y of Section 59A-57A-2 NMSA 1978, "specific consent" shall only be valid if the covered person has a meaningful choice between a participating provider and a nonparticipating provider; the covered person was not encouraged or coerced by a network provider or the carrier into selecting the out-of-network provider; and the covered person signs a notice and disclosure statement, at least five days before the service or supply is received, acknowledging that the covered person may be liable for a balance bill and chooses to receive the service or supply.

C. Notice of Rights.

A carrier shall provide each covered person with notice of surprise billing protection act rights in the plan's evidence of coverage and as directed by the superintendent in a bulletin.

[13.10.33.9 NMAC - N, 3/01/2021]

13.10.33.10 PROVIDER

CLAIM SUBMISSION: An out-of-network provider shall not bill a covered person for a potential surprise bill without first submitting the bill to the covered person's designated carrier and obtaining a payment or denial.

[13.10.33.10 NMAC - N, 3/01/2021]

13.10.33.11 REPORTS

REQUIRED: A carrier shall annually submit a surprise billing data report using a template provided by the superintendent. The template shall require a carrier to report changes to the percent of claims paid for emergency services. The report shall be filed annually by May 1st of each year and shall contain data from the

full prior calendar year.

[13.10.33.11 NMAC - N, 3/01/2021]

13.10.33.12 PROVIDER

COMPLAINTS: A provider may dispute the denial, or reimbursement amount, of a surprise bill pursuant to the applicable procedures in 13.10.16 NMAC.

[13.10.33.12 NMAC - N, 3/01/2021]

13.10.33.13 SEVERABILITY:

If any section of this rule, or the applicability of any section to any person or circumstance, is for any reason held invalid by a court of competent jurisdiction, the remainder of the rule, or the applicability of such provisions to other persons or circumstances, shall not be affected.

[13.10.33.13 NMAC - N, 3/01/2021]

History of 13.10.33 NMAC:

[RESERVED]

End of Adopted Rules

Other Material Related to Administrative Law

**GOVERNOR,
OFFICE OF THE
EXECUTIVE ORDER 2021-001

RENEWING THE STATE
OF PUBLIC HEALTH
EMERGENCY INITIALLY
DECLARED IN EXECUTIVE
ORDER 2020-004, OTHER
POWERS INVOKED IN
THAT ORDER, AND ALL
OTHER ORDERS AND
DIRECTIVES CONTAINED IN
EXECUTIVE ORDERS TIED
TO THE ONGOING PUBLIC
HEALTH EMERGENCY**

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization (“WHO”). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to as “COVID-19.”

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states. The President of the United States declared a national state of emergency for COVID-19 on March 13, 2020. As of January 6, 2021 the Centers for Disease Control and Prevention (“CDC”) reported over 21 million people have been infected in the United States, with over 350,000 related deaths, and the New Mexico Department of Health has report over 149,984 positive COVID-19 cases and 2,641 related deaths in New Mexico.

Public health organizations have implemented emergency measures intended to slow the

spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO declared a Public Health Emergency of International Concern shortly thereafter. All of our sister states have declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its impacts. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19. Various state agencies have been at the forefront of our State’s response to COVID-19, particularly the New Mexico Department of Health. The hard work of a variety of state employees has made a difference in our fight against COVID-19. Due to the continued spread of COVID-19, it is necessary for all branches of State government to continue taking actions to minimize transmission of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, hereby ORDER and DIRECT:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Orders 2020-022, 2020-026, 2020-030, 2020-036, 2020-053, 2020-055, 2020-059, 2020-064, 2020-073, 2020-080, and 2020-085 shall be renewed and extended through February 5, 2021.

2. All other powers, directives, and orders invoked in

Executive Order 2020-004 remain in effect.

3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency or that was not explicitly stated shall continue with the same effect, including any orders appropriating emergency funding as well as Executive Orders 2020-016, 2020-020, 2020-021, 2020-025, 2020-037, 2020-039, 2020-056, 2020-063, 2020-072, and 2020-075.

This Order supersedes any previous orders, proclamations, or directives in conflict. This Executive Order shall take effect on January 8, 2021 and shall remain in effect until February 5, 2021 unless renewed or until the Governor rescinds it.

**DONE AT THE EXECUTIVE
OFFICE THIS 8TH DAY OF
JANUARY 2021**

**ATTEST:
/S/ MAGGIE TOULOUSE
OLIVER
SECRETARY OF STATE**

**WITNESS MY HAND AND THE
GREAT SEAL OF THE STATE OF
NEW MEXICO**

**/S/ MICHELLE LUJAN
GRISHAM GOVERNOR**

**HEALTH,
DEPARTMENT OF

PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT
OF HEALTH
SECRETARY-DESIGNATE
TRACIE C. COLLINS, M.D.**

JANUARY 8, 2021

**Amended Public Health
Emergency Order Implementing
Additional Contact Tracing
Information Requirements for
all Laboratories and Submitters
Submitting Notifiable**

Condition COVID-19 Test Results to the New Mexico Epidemiology and Response Division

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 (“COVID-19”) that had not previously circulated in humans, but has been found to have adopted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, COVID-19 has been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of Health confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

WHEREAS, on March 11, 2020, because of the spread of COVID-19, Michelle Lujan Grisham, the Governor of the State of New Mexico, issued Executive Order 2020-004 declaring that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through February 5, 2021;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State, potential displacement of persons, and closures of schools or other places of public gathering;

WHEREAS, in an effort

to halt the spread of COVID-19, the state, through the New Mexico Department of Health, has begun to distribute COVID-19 Vaccine (the “Vaccine”) to medical providers for administration to specific populations by phase;

WHEREAS, it is essential that medical providers, including physicians, nurses, pharmacists, nurse practitioners, physician’s assistants and other health care providers authorized by the New Mexico Department of Health to receive doses of the Vaccine and oversee administration of the Vaccine (collectively referred to as “Vaccine Providers”), submit required data elements to the Department through the New Mexico Statewide Immunizations Information System (“NMSIIS”), pursuant to NMSA 1978, Sections 24-5-1 to -15, and other state and federal reporting modalities, to properly track statewide administration of the Vaccine; and

WHEREAS, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Section 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government to preserve and promote public health and safety.

NOW, THEREFORE, I, Tracie C. Collins, M.D., Secretary-Designate of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of emergency powers under the All Hazard Emergency Management Act, do hereby declare that it is necessary that Vaccine Providers report all information required by this order to respond to the instant public health emergency, to ensure the quality and accessibility of health care services and the

provision of health care when healthcare is unavailable or in limited supply; and to ensure a competent public health workforce pursuant to NMSA 1978, Section 24-1-3.

I ORDER AND DIRECT as follows:

(1) All providers administering the Vaccine in the state must report all required data elements to NMSIIS within 24 hours after administering the Vaccine. The required Vaccine information to be reported to the NMSIIS include the following data elements: (1) name of vaccine; (2) manufacturer of vaccine; (3) lot/serial number of vaccine; (4) expiration date of vaccine; (5) NDC number of vaccine, if applicable; (6) date of administration of vaccine; (7) dosage administered to patient; and (8) body site and route of administration.

(2) In addition to the data elements to be provided to NMSIIS as specified above, all Vaccine providers will submit the following patient demographic information associated with each patient who is administered the Vaccine: (1) last name; (2) first name; (3) middle name, if applicable; (4) sex; (5) date of birth; (6) mailing address; (7) physical address; (8) valid phone number, (9) race, and (10) ethnicity.

(3) All Vaccine Providers must submit the aggregate inventory total remaining for all COVID-19 vaccines to VaccineFinder on a daily basis. VaccineFinder enrollment emails will be sent to the designated point of contact per the CDC COVID-19 Vaccine Provider Agreements. For additional information on VaccineFinder reporting requirements, please visit <https://www.cdc.gov/vaccines/covid-19/reporting/vaccinefinder.html>.

(4) Any person who willfully violates this Order may be subject to civil administrative penalties available at law.

I FURTHER AND DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order shall take effect on January 8, 2021 and remain in effect for the duration of the public health emergency first declared in Executive Order 2020-004 and any subsequent renewals of that public health emergency declaration unless otherwise rescinded. This Order may be renewed consistent with any direction from the Governor.

**DONE AT THE EXECUTIVE
OFFICE THIS 8TH DAY OF
JANUARY 2021**

**ATTEST:
/S/ MAGGIE TOULOUSE
OLIVER
SECRETARY OF STATE**

**WITNESS MY HAND AND THE
GREAT SEAL OF THE STATE OF
NEW MEXICO**

**/S/ TRACIE C. COLLINS, M.D.
SECRETARY DESIGNATE OF
THE STATE OF NEW MEXICO
DEPARTMENT OF HEALTH**

**End of Other Material
Related to Administrative
Law**

2021 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 12
Issue 2	January 14	January 26
Issue 3	January 28	February 9
Issue 4	February 11	February 23
Issue 5	February 25	March 9
Issue 6	March 11	March 23
Issue 7	March 25	April 6
Issue 8	April 8	April 20
Issue 9	April 22	May 4
Issue 10	May 6	May 25
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Issue 20	October 14	October 26
Issue 21	October 28	November 9
Issue 22	November 15	November 30
Issue 23	December 2	December 14
Issue 24	December 16	December 28

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