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New Mexico Register

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

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The New Mexico Register

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New Mexico Register

Volume XXXIII, Issue 8

April 19, 2022

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Notices of Rulemaking and Proposed Rules

AGRICULTURE, DEPARTMENT OF

NOTICE OF TERMINATION FOR PROPOSED RULEMAKING

The New Mexico Department of Agriculture hereby provides notice terminating the public rule hearings previously scheduled for Monday, May 23 and Tuesday May 24, 2022, regarding the proposed repeal and replace of 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE and amendments to 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE. Notice of Rulemaking was provided in Volume XXXIII, Issue 7 of the New Mexico Register. The New Mexico Department of Agriculture issues this termination notice in accordance with Subsection C of Section 14-4-5 NMSA 1978.

LIVESTOCK, BOARD OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Livestock Board (NMLB) will hold an in-person and video/telephonic rulemaking hearing on June 13, 2022 at 1:00 p.m. at the Ruidoso Convention Center 111 Sierra Blanca Drive, Ruidoso, NM 88345 Meeting Room 4A. The hearing will be held via an in-person and virtual format. Instructions on how to join the virtual rulemaking hearing will be posted on the NMLB's website, www.nmlbonline.com.

The NMLB will consider proposed new Rules. The purpose of the proposed rules adoption is to provide NMLB regulatory authority over the In-State Meat and Poultry Inspection Program. See generally 21.33.2.1 through 21.33.2.8 NMAC to TITLE 21, AGRICULTURE AND RANCHING; CHAPTER 33, ABATTOIRS, MEAT DEALERS

AND STORAGE PLANTS; PART 2 FOOD SAFETY, MEAT AND POULTRY INSPECTION.

Full copies of text of the proposed new rules can be obtained from the agency's website at www.nmlbonline.com. To request a copy of the proposed rule by mail, contact the NMLB at (505)841-6161. Visit www.nmlbonline.com for instructions on how to attend the virtual public hearing.

Interested persons may submit written comments on the proposed Rules 21.32.2.1 through 21.33.2.8 NMAC at www.nmlbonline.com or individuals may mail written comments to: NMLB/Rule Comments, 2105 Osuna Rd NE Building South, Albuquerque, NM 87113. Comments are due by 4:30 p.m. on Friday, June 10, 2022. The final proposed rules will be voted on by the Board during the public hearing on Monday, June 13, 2022. Interested persons may also provide data, views or arguments, orally or in writing, at the in-person and virtual public rule hearing to be held on June 13, 2022 at 1:00 p.m. at the Ruidoso Convention Center 111 Sierra Blanca Drive, Ruidoso, NM 88345 Meeting Room 4A. All written comments will be posted on the agency's website within three (3) days of receipt.

Legal authority for this rulemaking can be found in the Livestock Code 77-2-7, et seq. NMSA 1978; Livestock Board's power to establish rules and regulations 77-2-7, et seq. NMSA 1978.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the agency at (505) 841-6161 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please

contact the NMLB at (505) 841-6161 if a summary or other type of accessible format is needed.

MEDICAL BOARD

NOTICE OF PUBLIC HEARING

Public Notice. The New Mexico Medical Board (NMMB) gives notice that it will conduct a public rule hearing on June 3, 2022 at 10:00 a.m. (MDT). This rule hearing is tentatively in person and can be accessed virtually. The purpose of the public hearing is to receive public input on the proposed amendments to 16.10.2 NMAC - Physicians: Physicians Licensure Requirements. Physical Hearing Location is 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505.

Join Zoom Meeting
<https://us02web.zoom.us/j/83140102469?pwd=M1diTzRtZmNiNUkxR1ltNzBkNG1SQT09>

Meeting ID: 831 4010 2469
Passcode: 947330
One tap mobile
+13462487799,,83140102469#,,,,*947330# US (Houston)
+16699006833,,83140102469#,,,,*947330# US (San Jose)

Dial by your location
+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 301 715 8592 US

(Washington DC) Meeting ID: 831 4010 2469
Passcode: 947330
Find your local number: <https://us02web.zoom.us/j/83140102469>

Purpose. During the 2019 Legislative Session SB349 passed and was signed by Governor Lujan Grisham on April 3, 2019. SB349 enacted new sections of the Medical Practice Act to provide temporary

exemption to licensure requirements to visiting physicians who provide care to out-of-state sports team members and staff during sporting events. The addition to the Medical Practice Act requires promulgation of rules to implement the provisions set forth in SB349.

Additionally, the New Mexico Medical Board has relied on the California Medical Board's list of approved and disapproved foreign medical schools for licensure qualification. The California Medical Board will be inactivating the list in 2027. In preparation for this, the New Mexico Medical Board is proposing that a foreign medical graduate who has been vetted and approved for a board approved post graduate training program and holds an Educational Commission for Foreign Medical Graduates (ECFMG) certification will be considered to have graduated from an acceptable medical education program, as if they have graduated from a Board approved school.

The statutory authorization.

Sections 61-6-1 through 61-6-35 NMSA 1978.

No technical information serves as a basis for this proposed rule change.

Public comment. Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Sondra Frank, Esq., New Mexico Medical Board, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, or by electronic mail to AmandaL.Quintana@state.nm.us. All written comments must be received no later than 5:00 p.m. (MDT) on June 1, 2022. All written comments will be posted to the agency website within (3) three business days.

Copies of proposed rule. Copies of the proposed rules may be accessed through the New Mexico Medical Board's website at www.nmmb.state.nm.us or may be obtained from

the Board office by calling (505) 476-7220 or via email at AmandaL.Quintana@state.nm.us.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Amanda Quintana at (505) 476-7230 or via email at AmandaL.Quintana@state.nm.us. The New Mexico Medical Board requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

Summary of proposed changes.

The Board summarizes its proposed changes to its administrative rules as follows:

16.10.2 NMAC - Physicians: Licensure Requirements

As a general summary, the proposed changes to 16.10.2 NMAC are to add an exemption to licensure requirements for visiting sports team physicians.

An additional proposed change to 16.10.2 NMAC is to change the foreign medical graduate educational requirements from the school being on the approved list of the California State Medical Board to a foreign medical graduate who has been vetted and approved for a board approved post graduate training program and holds an Educational Commission for Foreign Medical Graduates (ECFMG) certification will be considered to have graduated from an acceptable medical education program.

**SUPERINTENDENT OF
INSURANCE,
OFFICE OF THE
NOTICE OF PROPOSED
RULEMAKING**

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance ("OSI" or "Superintendent") will hold a public video/telephone

hearing regarding proposed new rules 13.2.8 NMAC CREDIT FOR REINSURANCE. This hearing will commence on **May 20, 2022 at 9:00 a.m.**

PURPOSE OF THE PROPOSED

RULES: These proposed new rules are intended to implement the Credit for Reinsurance Act ("CFR Act"), enacted as New Mexico Senate Bill 150 and signed into law by the Governor on March 2, 2022. Effective March 2, 2022, Laws 2022, Ch. 35, § 19 repealed former section 59A-7-11 NMSA 1978, as enacted by Laws 1984, Ch. 127, § 117, relating to reinsurance. The CFR Act, codified at Sections 59A-12E-1 through 59A-12E-18 NMSA 1978, eliminates reinsurance collateral and local presence requirements for reinsurers located in jurisdictions outside the United States.

Covered Agreements entered into by the United States with the European Union (EU) and the United Kingdom (UK) require states to eliminate collateral requirements for reinsurers in reciprocal jurisdictions. New Mexico's CFR Act accomplishes that objective. Now, new rules are necessary in order to implement the CFR Act.

The new rules will include requirements for reciprocal jurisdictions, and they will clarify requirements for reinsurance in general. This rulemaking is intended to result in a repeal of the existing rules, with replacement by new rules that will conform to the new CFR Act. It is necessary that the new rules be in effect as soon as possible in order to avoid federal preemption.

STATUTORY AUTHORITY:

Section 59A-2-9 NMSA 1978 and the Credit for Reinsurance Act ("CFR Act"), 59A-12E-1 to 59A-12E-18 NMSA 1978.

TO ATTEND THE HEARING:

Join via Video: <https://us02web.zoom.us/j/2916274744>

Join via telephone: 1-312-626-6799
Meeting ID: 291 627 4744

The Superintendent designates R. Alfred Walker to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties. Any updates concerning the hearing date, time, or location will be available by subscribing to the "Rulemaking and Ratemaking" newsletter at: <https://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5754> or by requesting a copy by calling (505) 476-0333. Note: Due to the COVID-19 pandemic, the physical offices of the OSI remain closed to the public until further notice.

Written comments will be accepted through 4:00 p.m. May 20, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on May 31, 2022. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5754> or mailed to:

**OSI Records and Docketing,
NM Office of Superintendent of
Insurance
P.O. Box 1689, Santa Fe, NM
87504-1689**

For help submitting a filing, please contact OSI-docketfiling@state.nm.us.

The below docket number must be indicated on filed comments.

Docket No. 2022-0033

IN THE MATTER OF ADOPTION
OF NEW RULES 13.2.8 NMAC
CREDIT FOR REINSURANCE

All filings must be received between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent

will consider all oral comments and will review all timely submitted written comments and responses.

TRANSPORTATION, DEPARTMENT OF

NOTICE OF TERMINATION OF RULEMAKING

The New Mexico Department of Transportation is providing notice of cancellation of the rulemaking public hearing originally scheduled on Thursday May 5th, 2022 at 10:00 a.m., at New Mexico Department of Transportation, district three auditorium, 7500 Pan American Fwy. NE, Albuquerque, New Mexico.

The rulemaking which commenced for rule 18.11.3 NMAC, entitled AIR SERVICE ASSISTANCE PROGRAM, on April 5th, 2022 when the commission published a NOPR in Volume XXXIII, Issue 7 of the New Mexico Register and the associated rulemaking schedule under case no. 21-00266-UT has been terminated by the New Mexico Department of Transportation. The rulemaking proceeding will continue under a revised Notice of Proposed Rulemaking.

TRANSPORTATION, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (Aviation Division) is proposing to repeal and replace rule, 18.11.3. NMAC, Air Service Assistance Program.

Approval of the initial rulemaking action for the proposed repeal and replace rule was granted to the Aviation Division by the New Mexico State Transportation Commission on January 6th, 2022, pursuant to Sections 9-5-1, 67-3-8, 67-3-11, 67-1-13, 67-3-28 and 67-1-13 NMSA 1978.

The legal authority authorizing this rulemaking is Section 64-1-13 NMSA 1978.

Purpose: The purpose of this rule is to repeal and replace the Air Service Assistance Program with the Air Service Marketing Assistance Program.

Summary of Full Text: The current rule needs to be repealed and replaced to clarify the intent of the statute and to encourage more participation by municipalities, counties, tribal entities or other public entities located within the state of New Mexico.

Full Text of the Proposed Rule:

Copy of the full text of the proposed repeal and replace rule may be found on the NMDOT website at the following internet link, under the *Public Notices* tab: <https://www.dot.nm.gov/public-legal-notice/>. A copy of the proposed rule may also be requested by contracting Daniel R. Moran at: Telephone (505) 699-5462 or Email: dan.moran@state.nm.us. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold a public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed repeal and replace rule, 18.11.3 NMAC. The hearing is scheduled on May 23, 2022, from 10:00 a.m. to 11:30 a.m. at New Mexico Department of Transportation, district three auditorium, 7500 Pan American Fwy. NE, Albuquerque, New Mexico.

Written Comments: To submit written comments on or before May 23, 2022, please send to: Daniel R Moran, Aviation Division, New Mexico Department of Transportation, 3501 Access Rd C., Albuquerque, New Mexico 87106, Telephone (505) 699-5462; Email: dan.moran@state.nm.us. Written comments will be accepted from the date this notice is published in the New Mexico Register, April 19, 2022, and until the close of the hearing scheduled in

this rulemaking, May 23, 2022. If you plan to submit written comments, argument or data at the hearing, please make sure any documentation contains your name, phone number and email address, and please bring (3) copies of any documents to the hearing. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the hearing scheduled in this rulemaking, the rulemaking record will be closed, and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

Accommodations: Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact: Daniel R. Moran at (505) 699-5462 or dan.moran@state.nm.us at least ten days before the hearing.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department" or "NMDWS") hereby gives notice that the Department will conduct a public hearing in the conference room of the Human Rights Bureau located at 1596 Pacheco Street Suite 103 in Santa Fe, New Mexico, 87505 on May 25, 2022 from 10:00 am to 12:00 pm. The public comment hearing will also be conducted virtually. The link to participate in the virtual meeting is:

<https://us06web.zoom.us/j/84742085534?pwd=ODlhVHpJd2ozOVQ5Y2trcWNDOW9EQT09>
Passcode: 654694

Or One tap mobile :
US: +13462487799,,84742085534#,,,

*654694# or +16699006833,,84742085534#,,,*654694#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782 or +1 312 626 6799 or +1 929 436 2866 or +1 301 715 8592

Webinar ID: 847 4208 5534

Passcode: 654694

The purpose of the public hearing will be to obtain input and public comment on proposed amendments to the regulation governing the public works policy manual, NMAC 11.1.2.

Summary: The proposed amendment will ensure the Public Works Manual regulations in NMAC 11.1.2 comport with the statutory requirements of NMSA §13-4-11. Specifically, the proposed amendments will change the timelines for predetermination of wage rates from July 31 to May 31 to allow the director to determine the rates no later than October 1. The amendments will remove the provision of NMAC 11.1.2.17 that stays decisions of the director pending appeals to district court. The amendments will align the regulations with the governing statutes in regards to timelines for investigations and the implementation of penalties assessed if a violation is determined.

Under Section 9-26-4, NMSA 1978, the Workforce Solutions Department is responsible for the administration of the labor relations division which oversees setting the prevailing wage and fringe benefit rates. Pursuant to Section 13-4-11, NMSA 1978, the director shall issue rules necessary to administer and accomplish the purposes of the Public Works Minimum Wage Act.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing for consideration. Written comments must be received no later than 5 p.m.

on May 24, 2022. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed online at <https://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@state.nm.us. The proposed rule will be made available at least thirty days prior to the hearing.

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 are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department" or "NMDWS") hereby gives notice that the Department will conduct a public hearing in the conference room of the Human Rights Bureau located at 1596 Pacheco Street Suite 103 in Santa Fe, New Mexico, 87505 on May 24, 2022 from 1:00 pm to 3:00 pm. The public comment hearing will also be conducted virtually.

<https://us06web.zoom.us/j/88600493602?pwd=WWhOdGVKYzZlZktOTzMrTTBaMkUyUT09>

Passcode: 461472

Or One tap mobile :

US: +16699006833,,88600493602#,,,*461472# or +12532158782,,88600493602#,,,*461472#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 886 0049 3602
Passcode: 461472

This hearing is a continuation of the public comments hearing that was held on April 5, 2022 which was ended prematurely due to technical difficulties. The purpose of this public hearing will be to obtain input and public comment on proposed regulations for implementing and enforcing the Healthy Workplaces Act enacted under 50-17-1 NMSA 1978 et seq. All comments received previously for the April 5, 2022 hearing will be accepted as part of this continued hearing and will be considered.

Summary: The proposed regulation sets forth the process for implementation of the Healthy Workplaces Act to include definitions of key terms pertaining to the Act, establishing employer policies for accrual and usage of earned sick leave by employees, compliance requirements and measures, notice requirements, the complaint process, enforcement procedures, and confidentiality requirements.

Under Section 50-17-9, NMSA 1978, the Labor Relations Division of the Department of Workforce Solutions is authorized to coordinate the implementation and coordination of the Healthy Workplaces Act and to promulgate appropriate rules to implement the Act.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing for consideration. Written comments must be received no later than 5 p.m. on May 23, 2022. However, the submission of written comments as soon as possible is encouraged. All comments previously submitted either in writing or orally at the April 5, 2022 hearing will be considered.

Copies of the proposed rule may be accessed online at <https://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@state.nm.us. The proposed rule will be made available at least thirty days prior to the hearing.

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 are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions (“Department” or “NMDWS”) hereby gives notice that the Department will conduct a public hearing in the conference room of the Human Rights Bureau located at 1596 Pacheco Street Suite 103 in Santa Fe, New Mexico, 87505 on May 25, 2022 from 1:00 pm to 3:00 pm. The public comment hearing will also be conducted virtually.

<https://us06web.zoom.us/j/81954361699?pwd=bUNjc2hEcFFIc3I3ZGY0NkZjOHc1UT09>

Passcode: 372109

Or One tap mobile :

US: +16699006833,,81954361699#,,,,*372109# or +12532158782,,81954361699#,,,,*372109#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 819 5436 1699

Passcode: 372109

The purpose of this public hearing will be to obtain input and public comment on proposed amendments

to the regulations concerning Unemployment Compensation, Claims Administration. The proposed amendment will change the language in NMAC 11.3.300.314 concerning enforcement of compensable weeks penalties in cases of fraud to comply with the statutory language in Section 51-1-38, NMSA 1978.

Summary: Section 51-1-38, NMSA 1978 states that any person who is found by the secretary to have so obtained or increased the amount of any benefit for the person, the person shall, in addition to other penalties provided herein, forfeit all benefit rights under the Unemployment Compensation Law for a period of not more than one year from and after such determination. The proposed amendment changes provisions in the current NMAC 11.3.300.314 to remove the language which states that the claimant shall forfeit all benefit rights for 52 weeks from the date the claimant is next determined eligible so that the regulation conforms with the statute, as written.

Under NMSA 1978, §9-26-4, the Workforce Solutions Department is responsible for the administration of the workforce technology division and the workforce transition services division. The Department is therefore responsible for the administration of the Unemployment Compensation Law pursuant to NMSA 1978 §51-1-1 et seq.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing for consideration. Written comments must be received no later than 5 p.m. on May 24, 2022. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed online at <https://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@state.nm.us.

Andrea.Christman@state.nm.us. The proposed rule will be made available at least thirty days prior to the hearing.

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 are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**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 20.3.20 NMAC, Sections 7, 101, 300, 301, 320, 322, and 330, effective 04/19/2022.

20.3.20.7 DEFINITIONS:

As used in this part (20.3.20 NMAC).

A. "Act" means the Medical Imaging and Radiation Therapy Health and Safety Act, Sections 61-14E-1 to 61-14E-12 NMSA 1978.

B. "Advisory council" means the medical imaging and radiation therapy advisory council (MIRTAC).

C. "Applying ionizing radiation" means to use ionizing radiation for diagnostic or therapeutic purposes, including tasks having direct impact on the radiation burden of the patient, such as, but not limited to:

(1) positioning the patient, image receptor, and beam;

(2) selection of exposure factors or treatment parameters;

(3) preparation, calibration, and injection of pharmaceuticals and radiopharmaceuticals in accordance with a licensee's scope of practice; and

(4) actuating the production of radiation.

D. "Approved program" means a medical imaging or radiation therapy educational program that meets the requirements of 20.3.20.200 NMAC.

E. "Biennial licensure fee" means the licensure fee for an initial, renewal, and limited radiography license, excluding the temporary license, for a period up to 24 months, and is only applied once

per continuing medical education biennium period regardless of the number of licenses granted to that registrant. This fee will be assessed each time a registrant submits an application packet to the department.

Upon written request to the department, the registrant may reduce their NM biennium period to match their national continuing medical education biennium period.

F. "Board" means the environmental improvement board.

G. "Cardiac sonography" or "echocardiography" means an examination using ultrasound to generate an image of the heart or major blood vessels.

H. "Category A" means a continuing education activity approved for category A credit by an organization recognized by the American registry of radiologic technologists as a recognized continuing education evaluation mechanism.

I. "Certificate of licensure" means a document issued by the department that lists the type or types of license granted to an individual.

J. "Certificate of limited practice" or "limited practice of radiography license" means a limited license granted by the department to an individual other than a licensed practitioner or radiographer who performs restricted diagnostic radiography procedures under the direct supervision of a licensed practitioner or radiographer on designated anatomical sites or limited anatomical areas.

K. "Certified nurse practitioner" means a person licensed pursuant to Section 61-3-23.2 NMSA 1978.

L. "Chest and thorax" or "viscera of the thorax"

means radiographic examinations of the ribs and lungs, including anteroposterior, posterior-anterior, lateral, and apical lordotic views, but does not include mammography.

M. "Clinical instruction" means hands-on educational experience in a health care setting such as a hospital, clinic, or physician's office, under the supervision requirements consistent with the standards of the program's accrediting agencies.

N. "Continuing education" (CE) or "continuing medical education" (CME) means a learning activity that is planned, organized, and administered to enhance the professional knowledge and skill of the licensee.

O. "Credential" or "certification" means the recognition awarded to an individual who meets the initial and ongoing requirements of a credentialing or certification organization.

P. "Credentialing organization" or "certification organization" means an organization accredited by the national commission for certifying agencies or the American national standards institute and recognized by the board that issues credentials through testing or evaluation and determines that an individual has met defined standards for training and competence in a medical imaging or radiation therapy modality and subspecialty.

Q. "Department" means the New Mexico environment department.

R. "Diagnostic medical sonographer" means a person, including a vascular technologist or echocardiographer, other than a licensed practitioner, who provides patient care services using ultrasound;

S. “Diagnostic medical sonography” or **“sonogram”** means the use of ultrasound and sonographic equipment to create medical images for interpretation by a licensed practitioner or other qualified health care practitioner that provide diagnostic information about a patient’s medical condition and includes obstetrical ultrasound. Obstetrical ultrasound means an ultrasound exam performed for the purpose of fetal biometry beyond the first trimester, fetal number, anatomic survey, or follow-up examination for a known or suspected anomaly or growth disturbance. It does not mean a procedure using ultrasound on a focused imaging target to assess specific and limited information about a patient’s immediate medical condition or to provide real-time visual guidance for another procedure.

T. “Didactic instruction” means academic instruction.

U. “Duplicate certificate of licensure” means an additional original certificate of licensure issued by the department.

V. “Extremities” means the fingers, hand, wrist, radius/ulna, elbow, humerus, pectoral girdle (shoulder joint and clavicle), toes, foot, ankle, calcaneus, tibia/fibula, patella, knee, or distal femur, but does not include the skull, spine, hip, or pelvis.

W. “Facility” means a hospital, clinic, medical office, mobile lab, or other location where medical imaging or radiation therapy is provided.

X. “Focused imaging target” means a discrete anatomical target, to which ultrasound is applied to create an image for assessment of specific and limited information about a patient’s immediate medical condition, or to provide visual guidance for another procedure. An ultrasound procedure on a focused imaging target does not supplant a diagnostic ultrasound examination.

Y. “General sonography” means an examination using ultrasound to create an image of

the abdomen, chest, pelvis, pregnant uterus, small parts, or superficial structures.

Z. “Interventional” means to diagnose or treat patients using medical imaging devices. Interventional procedures may include, but are not limited to: radiation therapy, organ biopsy, angiography, angioplasty, and catheter delivered stents. Interventional does not mean needle or catheter placement for vascular access or delivery of medicine or anesthesia, or the use of non-ionizing energy for non-imaging therapeutic or treatment purposes.

AA. “Ionizing radiation” means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles; but not ultrasound, sound, or radio waves, nor visible, infrared or ultraviolet light.

AB. “License” means a grant of authority issued by the department for an individual to perform medical imaging or radiation therapy procedures.

AC. “License term” means a length of licensure as indicated on the certificate of licensure issued by the department.

AD. “Licensed practitioner” means an individual licensed to practice medicine, dentistry, podiatry, chiropractic or osteopathy in this state.

AE. “Licensee” means an individual who has met and continues to meet all requirements of the act and this part.

AF. “Licensure” means the grant of authority by the department for an individual to perform medical imaging or radiation therapy procedures.

AG. “Limited practice radiography technologist” means an individual who has been granted a limited practice in radiography license by the department to perform restricted diagnostic radiography procedures under the direct supervision of a licensed practitioner or radiographer.

AH. “Lower leg” means the knee and ankle and portions of the leg between the knee and ankle.

AI. “Magnetic resonance imaging” means an examination using magnetic fields and radio frequency signals to generate an image.

AJ. “Magnetic resonance technologist” means an individual other than a licensed practitioner who performs magnetic resonance imaging procedures under the supervision of a licensed practitioner using magnetic fields and radio frequency signals.

AK. “Medical imaging” means the use of substances or equipment emitting ionizing or non-ionizing radiation on humans for diagnostic or interventional purposes.

AL. “Medical imaging professional” means an individual who has been granted a license by the department pursuant to the act in at least one medical imaging modality.

AM. “Modality” means the following medical imaging procedures or technologies:

(1)
computed tomography and all of its subspecialties;

~~(1)~~ **(2)** diagnostic medical sonography and all of its subspecialties;

~~(2)~~ **(3)** magnetic resonance imaging and all of its subspecialties;

~~(3)~~ **(4)** nuclear medicine technology and all of its subspecialties;

~~(4)~~ **(5)** radiation therapy and all of its subspecialties; and

~~(5)~~ **(6)** radiography and all of its subspecialties.

AN. “Musculoskeletal sonography” or **“musculoskeletal ultrasound”** means an examination using ultrasound to generate an image of a superficial muscle, tendon, ligament, or joint.

AO. “Non-ionizing radiation” means the static and time-varying electric and magnetic fields and radio frequency, including microwave radiation and ultrasound.

AP. “Nuclear medicine technologist” means an individual, other than a licensed practitioner,

who performs nuclear medicine procedures, venipuncture, and compounds, calibrates, dispenses, and administers pharmaceuticals, radiopharmaceuticals, and radionuclides under the supervision of a licensed practitioner.

AQ. "Personal identification" means an applicant's or licensee's full legal name, permanent and mailing address, social security number, date of birth, home phone number, cellular telephone number, work telephone number, electronic mail address, department registration number, and other related information.

AR. "Phlebology" means ultrasound examination of superficial veins in the lower extremities for the identification and treatment of venous disease.

AS. "Physician assistant" means a person licensed and operating within their scope of practice pursuant to Section 61-6-7 or 61-10A-4 NMSA 1978.

AT. "Place of employment" means a location with its own physical address or separated by building structure regardless of ownership, company, nonprofit organization, or business name.

AU. "Podiatric" means radiographic examination of the toes, foot, ankle, calcaneus, distal tibia/fibula, but does not include the knee joint.

AV. "Programmatic accreditation" means a specialized accreditation process that examines the medical imaging or radiation therapy program within an educational institution.

AW. "Radiation therapy" means the use of high-energy particles or waves to destroy or damage cells.

AX. "Radiation therapy technologist" or "radiation therapist" means an individual, other than a licensed practitioner, who utilizes ionizing radiation for the planning and delivery of therapeutic procedures to humans under the supervision of a licensed practitioner.

AY. "Radiographer" means an individual, other than a

licensed practitioner, who applies radiation to humans for diagnostic purposes under the supervision of a licensed practitioner.

AZ. "Radiography" means the application of radiation to humans for diagnostic purposes, including adjustment or manipulation of x-ray systems and accessories, including image receptors, positioning of patients, processing of films and any other action that materially affects the radiation dose to patients.

BA. "Radiologic technologist" or "radiation therapy technologist" means a medical imaging or radiation therapy professional licensed by the department in one or more of the imaging modalities.

BB. "Radiologist" means a licensed practitioner certified by the American board of radiology, the British royal college of radiology, the American osteopathic board of radiology or the American chiropractic board of radiology.

BC. "Radiologist assistant" means an individual licensed as a radiographer who holds additional certification as a registered radiologist assistant by the American registry of radiologic technologists and who works under the supervision of a radiologist; provided that a radiologist assistant shall not interpret images, render diagnoses or prescribe medications or therapies.

BD. "Recognized continuing education evaluation mechanism (RCEEM)" means a recognition mechanism of the ARRT for evaluating the content, quality, and integrity of a continuing education activity.

BE. "Registration number" means a number that is generated by the department to be used as a unique identification number in place of that individual's social security number. This number will remain the same number throughout the individual's lifetime.

BF. "Remedial education" or "remedial training" means additional education or training required for an individual to re-qualify to take a state-administered

examination for the limited practice of radiography.

BG. "Scope of practice" means nationally recognized practice standards as applicable to each medical imaging modality and subspecialty, unless this part is superseded by the act.

BH. "Small parts" means superficial structures or anatomy including, but not limited to: axilla, chest or abdominal wall, penis, scrotum or testicles, thyroid, parathyroid, and other non-vascular structures of the neck or extremities.

BI. "Sonographer" or "echocardiographer" or "vascular technologist" means an individual other than a licensed practitioner who applies ultrasound to humans for diagnostic and interventional purposes under the supervision of a licensed practitioner.

BJ. "Sonography" or "ultrasound" means the use of high frequency sound waves (above 20,000 cycles per second) with specialized equipment to direct the sound waves into an area of the human body to generate an image.

BK. "Sonography subspecialty" means an area of specialization recognized by the board, including:

- (1) abdominal sonography;
- (2) breast sonography;
- (3) cardiac sonography;
- (4) musculoskeletal sonography;
- (5) obstetric/gynecology sonography;
- (6) phlebology sonography; and
- (7) vascular sonography.

BL. "Student" means an individual enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, an approved program in medical imaging or radiation therapy, or an approved limited radiography program.

BM. "Subspecialty" means an area of specialization

approved by the board within a medical imaging or radiation therapy modality.

BN. “Supervision”

means responsibility for and control of quality, radiation safety, and protection and technical aspects of the application of ionizing and non-ionizing radiation to human beings for diagnostic or therapeutic purposes.

(1) “direct

supervision” means the medical imaging or radiation therapy procedure is provided under the direction and control of a person authorized to provide supervision and the person’s physical presence must be present in the office suite or building and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the supervisor must be present in the room when the procedure is performed.

(2)

“indirect supervision” or “general

supervision” means the medical imaging or radiation therapy procedure is provided under the direction and control of a person authorized to provide supervision, but the person’s presence is not required during the performance of the procedure. The training of the non-physician personnel and the maintenance of the necessary equipment and supplies are the continuing responsibility of the person authorized to provide supervision.

(3) student

supervision requirements must be consistent with the medical imaging and radiation therapy standards of the programmatic accreditation agencies.

BO. “Temporary

license” means a grant of authority by the department for an individual to perform medical imaging or radiation therapy procedures pursuant to the term and requirements of section 20.3.20.321 NMAC.

BP. “Vascular

sonography” means an examination using ultrasound to generate an image of the peripheral or neck blood vessels.

BQ. “Viscera of the thorax” means radiographic examination of the lungs and mediastinum.

[20.3.20.7 NMAC - Rp, 20.3.20.7 NMAC, 9/25/2018; A, 04/19/2022]

20.3.20.101 SCOPE OF PRACTICE:

A. General provisions.

(1)

A licensee’s scope of practice is determined based upon the licensee’s education, certification, and state and federal law.

(2) The

following are the different scopes of practice for a licensee that will be recognized by the department:

(a)

Radiography - the current version of the American society of radiologic technologists radiography practice standards;

(b)

Radiation therapy - the current version of the American society of radiologic technologists radiation therapy practice standards;

(c)

Nuclear medicine technology - the current version of the American society of radiologic technologists nuclear medicine practice standards or society of nuclear medicine and molecular imaging scope of practice for nuclear medicine technologist;

(d)

Magnetic resonance technology - the current version of the American society of radiologic technologists magnetic resonance practice standards;

(e)

Radiologist assistant - the current version of the American society of radiologic technologists radiologist assistant practice standards;

(f)

Sonography - the current version of the American society of radiologic technologists sonography practice standards or the society of diagnostic medical sonography scope of practice and clinical standards for the diagnostic medical sonographer; [or]

(g)

Limited practice of radiography

license or certificate of limited practice - the current version of the American society of radiologic technologists limited x-ray machine operator practice standards; or

(h)

Computed tomography-the current version of the American society of radiologic technologists computer tomography practice standards and the society of nuclear medicine and molecular imaging.

B. Radiologist

assistant. A radiologist assistant shall practice under the indirect supervision of a radiologist and shall not interpret images, render diagnoses, or prescribe medications or therapies.

[20.3.20.101 NMAC - N, 9/25/2018; A, 04/19/2022]

20.3.20.300 RECOGNIZED CREDENTIALING

ORGANIZATIONS: The board recognizes the following medical imaging and radiation therapy credentialing organizations in each modality defined by the act including:

A. computed

tomography: ARRT.

[A:] B. diagnostic medical

sonography:

(1) ARDMS;

(2) ARRT; or

(3) CCI.

[B:] C. magnetic resonance

imaging:

(1) ARMRT;

or

(2) ARRT.

[C:] D. nuclear medicine:

(1) ARRT; or

(2) NMTCB.

[D:] E. radiation therapy:

ARRT.

[E:] F. radiography:

ARRT.

[20.3.20.300 NMAC - N, 9/25/2018; A, 04/19/2022]

20.3.20.301 RECOGNIZED CREDENTIALS AND

CERTIFICATIONS: The board recognizes the following medical imaging and radiation therapy credentials and certifications for each type of license issued by the department:

A. fusion imaging-restricted to PET/CT medical imaging procedures only:

- (1) (CNMT) (NMTCB) and (CT)(NMTCB);
- (2) R.T. (ARRT)(N) and (ARRT)(CT);
- (3) R.T. (ARRT)(N) and (NMTCB)(CT); or
- (4) R.T. (ARRT)(R) and (NMTCB)(PET).

B. cardiac sonography: (RCS); (RCCS); or (RDCS).

C. computed tomography: R.T. (ARRT)(CT)

~~(C.)~~ D. general sonography: (1) RDMS (ARDMS)(AB); (2) RDMS (ARDMS)(BR); (3) RDMS (ARDMS)(OB); (4) R.T. (ARRT)(S); or (5) R.T. (ARRT)(BS).

~~(D.)~~ E. limited radiography: none.

~~(E.)~~ E. magnetic resonance imaging: (1) (ARMRIT) (RMRIT); or (2) R.T. (ARRT)(MR).

~~(F.)~~ G. musculoskeletal sonography: (ARDMS)(RMSK).

~~(G.)~~ H. nuclear medicine: (1) certified nuclear medicine technologist (NMTCB); or (2) nuclear medicine technology R.T. (ARRT) (N).

~~(H.)~~ I. phlebology sonography: RPhS (CCI).

~~(I.)~~ J. radiation therapy: R.T. (ARRT)(T).

~~(J.)~~ K. radiography: R.T. (ARRT)(R).

~~(K.)~~ L. radiology assistant: (ARRT)(RRA).

~~(L.)~~ M. vascular sonography:

(1) R.T. (ARRT)(VS); (2) RVS (CCI); or (3) RVT(ARDMS). [20.3.20.301 NMAC - N, 9/25/2018; A, 04/19/2022]

20.3.20.320 LICENSES:

A. **Licensure Requirements.** An applicant for a medical imaging or radiation therapy license shall submit the required application to the department; the applicable application fee located in 20.3.20.501 NMAC, and shall be currently certified and registered by a medical imaging or radiation therapy credentialing organization recognized by the board. ~~[An applicant for the medical imaging and radiation therapy licenses specified in the following shall have until June 30, 2019 to meet the requirements of this section:~~

- ~~(1)~~ 20.3.20.320 NMAC;
- ~~(2)~~ Paragraph A of 20.3.20.100 NMAC; and
- ~~(3)~~ Subparagraphs (1), (2), (8), (10), (11), (16) and (17) of Paragraph F of 20.3.20.320 NMAC.]

B. **Registration number.** The department shall assign a department registration number to each licensee regardless of the number of modalities and subspecialties licensed. The department registration number shall be listed on each certificate of licensure issued by the department.

C. **Term for licenses issued prior to the 15th of the month.** The license term for [a#] licenses issued prior to the 15th of the month [~~except a temporary license;~~] will:

- (1) be for 24 months;
- (2) begin on the date the license is issued; and
- (3) end on the last day of the month the license was issued.

D. **Term for licenses issued after the 15th of the month.** The license term for [a#] licenses

issued after the 15th of the month [~~except a temporary license;~~] will: (1) be for 24 months; (2) begin on the date the license is issued; and (3) end on the last day of the month following the month the license was issued.

E. **Request for coordination of license and credential expiration dates.** At the written request of the licensee, the expiration date of their license or licenses may be reduced to match their current credentialing organization's expiration date. Such reduction in term shall not reduce the applicant or licensee's license fee.

F. **Types of license.** Upon demonstration of compliance with all applicable requirements of the act and this part, the department may grant one or more of the following types of licenses to be recognized by the department:

(1) (DMS) which includes sonography subspecialties of RDMS (ARDMS) (AB)(BR)(OB) and R.T. (ARRT)(S) (BS);

- (2) (MSK);
- (3) (FUS);
- (4) (LXV);
- (5) (LXE);
- (6) (LXP);
- (7) (LXT);
- (8) (MRT);
- (9) (NMT);
- (10) (PBS);
- (11) (PVL);
- (12) (RTT);
- (13) (RRT);
- (14) (RRA);
- (15) (TMP);
- (16)

(VS), which includes sonography subspecialties of (ARDMS)(RVT) and R.T. ARRT (VS); [~~and~~]

(17) (CS) which includes RDCS (ARDMS), RCS (CCI), and RCCS (CCI); ~~and~~ (18) (CT).

G. **Certificate of licensure.** Each certificate of licensure issued by the department shall identify all current licenses granted to the licensee.

[20.3.20.320 NMAC - N, 9/25/2018; A, 04/19/2022]

20.3.20.322 PROVISIONAL LICENSES:

A. Provisional license. The department may grant a provisional license to practice medical imaging to an individual who:

~~[(1)]~~ is currently licensed by the department;

~~[(2)]~~ (1) submits an application to the department; and

~~[(3)]~~ (2) follows training pathways established by one of the following recognized national certification organizations:

(a) ARRT;

(b) ARDMS;

(c) ARMRT;

(d) CCI; or

(e) NMTCB.

B. License Term. A provisional license:

(1) expires two years from the date of issuance; ~~[and]~~

(2) may be renewed one time; and

(3) the one-time renewal must occur before the license term expires in order to ensure the individual's provisional license remains active for that provisional license's second and last license term.

C. Term for licenses issued prior to the 15th of the month. The license term for ~~[aH]~~ licenses issued prior to the 15th of the month ~~[-except a temporary license,]~~ will:

(1) be for 24 months;

(2) begin on the date the license is issued; and

(3) end on the last day of the month the license was issued.

D. Term for licenses issued after the 15th of the month. The license term for ~~[aH]~~ licenses issued after the 15th of the month ~~[except a temporary license,]~~ will:

(1) be for 24 months;

(2) begin on the date the license is issued; and

(3) end on the last day of the month following the month the license was issued.

E. Applicability to licensee enrolled in an approved program. This section does not apply to a licensee who is currently enrolled in an approved program leading to qualification for another modality and subspecialty license.

F. A provisional license to practice medical imaging or radiation therapy utilizing ionizing radiation will not be issued to individuals who are not already licensed by the department in one of the modalities that utilizes ionizing radiation.

[20.3.20.322 NMAC - N, 09/25/2018; A, 04/19/2022]

20.3.20.330 CONTINUING EDUCATION:

A. Continuing education.

(1) During the license term, a limited practice of radiography licensee must complete 24 hours or credits of category A or A+ continuing education approved by a RCEEM recognized by the ARRT. Documentation of completion of the required continuing education must be submitted to the department with each renewal application.

(2) During the license term, a medical imaging, a radiation therapy, or a radiologist assistant licensee, other than a limited practice of radiography licensee, must comply with all continuing education, continuing competency, and registration requirements of the credentialing organization for which they hold a credential or certification. The department may require a licensee to certify meeting the credentialing organization's requirements. Failure to meet the credentialing organization's requirements may be grounds for suspension or revocation of a license. This does not apply to individuals with an active temporary license or

with an active provisional license that has been issued by the department.

(3) The department may require a licensee to submit documentation from the credentialing organization if online verification is not available at the time the licensee's renewal request is being reviewed.

B. Audit. The department may audit a licensee's continuing education and continuing compliance with requirements of the act and this part. A licensee must submit the audit information requested by the department within 30 days of receipt of the notification of audit. No application or fees are required when submitting information requested by the department for an audit.

[20.3.20.330 NMAC - Rp, 20.3.20.500 NMAC, 9/25/2018; A, 04/19/2022]

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an emergency amendment to 8.200.510 NMAC, Sections 11, 12, 13 and 15, effective 4/1/2022.

8.200.510.11 COMMUNITY SPOUSE RESOURCE

ALLOWANCE (CSRA): The CSRA standard varies based on when the applicant or recipient become institutionalized for a continuous period. The CSRA remains constant even if it was calculated prior to submission of a formal MAP application. If institutionalization began:

A. Between September 30, 1989 and December 31, 1989, the state maximum CSRA is \$30,000 and the federal maximum CSRA is \$60,000.

B. On or after January 1, 1990, the state minimum is \$31,290 and the federal maximum CSRA is \$62,580.

C. On or after January 1, 1991, the state minimum is \$31,290 and the federal maximum CSRA is \$66,480.

D. On or before January 1, 1992, the state minimum is \$31,290 and the federal maximum CSRA is \$68,700.

E. On or after January 1, 1993, the state minimum is \$31,290 and the federal maximum CSRA is \$70,740.

F. On or after January 1, 1994, the state minimum is \$31,290 and the federal maximum CSRA is \$72,660.

G. On or after January 1, 1995, the state minimum is \$31,290 and the federal maximum CSRA is \$74,820.

H. On or after January 1, 1996, the state minimum is \$31,290 and the federal maximum CSRA is \$76,740.

I. On or after January 1, 1997, the state minimum is \$31,290 and the federal maximum CSRA is \$79,020.

J. On or after January 1, 1998, the state minimum is \$31,290 and the federal maximum CSRA is \$80,760.

K. On or after January 1, 1999, the state minimum is \$31,290 and the federal maximum CSRA is \$81,960.

L. On or after January 1, 2000, the state minimum is \$31,290 and the federal maximum CSRA is \$84,120.

M. On or after January 1, 2001, the state minimum is \$31,290 and the federal maximum CSRA is \$87,000.

N. On or after January 1, 2002, the state minimum is \$31,290 and the federal maximum CSRA is \$89,280.

O. On or after January 1, 2003, the state minimum is \$31,290 and the federal maximum CSRA is \$90,660.

P. On or after January 1, 2004, the state minimum is \$31,290 and the federal maximum CSRA is \$92,760.

Q. On or after January 1, 2005, the state minimum is \$31,290 and the federal maximum CSRA is \$95,100.

R. On or after January 1, 2006, the state minimum is \$31,290

and the federal maximum CSRA is \$99,540.

S. On or after January 1, 2007, the state minimum is \$31,290 and the federal maximum CSRA is \$101,640.

T. On or after January 1, 2008, the state minimum is \$31,290 and the federal maximum CSRA is \$104,400.

U. On or after January 1, 2009, the state minimum is \$31,290 and the federal maximum CSRA is \$109,560.

V. On or after January 1, 2010, the state minimum is \$31,290 and the federal maximum CSRA remains \$109,560.

W. On or after January 1, 2011, the state minimum is \$31,290 and the federal maximum CSRA remains \$109,560.

X. On or after January 1, 2012, the state minimum is \$31,290 and the federal maximum CSRA is \$113,640.

Y. On or after January 1, 2013, the state minimum is \$31,290 and the federal maximum CSRA is \$115,920.

Z. On or after January 1, 2014, the state minimum is \$31,290 and the federal maximum CSRA is \$117,240.

AA. On or after January 1, 2015, the state minimum is \$31,290 and the federal maximum CSRA is \$119,220.

BB. On or after January 1, 2016, the state minimum is \$31,290 and the federal maximum CSRA is \$119,220.

CC. On or after January 1, 2017, the state minimum is \$31,290 and the federal maximum CSRA is \$120,900.

DD. On or after January 1, 2018, the state minimum is \$31,290 and the federal maximum CSRA is \$123,600.

EE. On or after January 1, 2019, the state minimum is \$31,290 and the federal maximum CSRA is \$126,420.

FF. On or after January 1, 2020, the state minimum is \$31,290 and the federal maximum CSRA is \$128,640.

GG. On or after January 1, 2021, the state minimum is \$31,290 and the federal maximum CSRA is \$130,380.

HH. On or after January 1, 2022, the state minimum is \$31,290 and the federal maximum CSRA is \$137,400.
 [8.200.510.11 NMAC - Rp, 8.200.510.11 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]

8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT): Apply applicable deductions in the order listed below when determining the medical care credit for an institutionalized spouse.

DEDUCTION	AMOUNT
A. Personal needs allowance for institutionalized spouse:	[July 1, 2020] <u>July 1, 2021</u> [\$76] <u>\$78</u>
B. Minimum monthly maintenance needs allowance (MMMNA):	[July 1, 2020] <u>July 1, 2021</u> [\$2,155] <u>\$2,178</u>
C. The community spouse monthly income allowance (CSMIA) is calculated by subtracting the community spouse's gross income from the MMMNA:	(1) If allowable shelter expenses of the community spouse exceeds the minimum allowance then deduct an excess shelter allowance from community spouse's income that includes: expenses for rent; mortgage (including interest and principal); taxes and insurance; any maintenance charge for a condominium or cooperative; and an amount for utilities (if not part of maintenance charge above); use the standard utility allowance (SUA) deduction used in the food stamp program for the utility allowance.
	[July 1, 2020] <u>July 1, 2021</u> [\$646] <u>\$653</u>

(2) Excess shelter allowance may not exceed the maximum:	C. Jan. 1, 1992 - Dec. 31, 1992 \$2,217 per month	V. Jan. 1, 2011 - Dec. 31, 2011 \$5,774 per month
<u>Jan. 1, 2022</u> \$1,257	D. Effective July 1, 1993, for application \$2,377 per month	W. Jan. 1, 2012 - Dec. 31, 2012 \$6,015 per month
Jan. 1, 2021 \$1,105	register on or after Jan. 1, 1993	X. Jan. 1, 2013 - Dec. 31, 2013 \$6,291 per month
July 1, 2020 \$1,062	E. Jan. 1, 1994 - Dec. 31, 1994 \$2,513 per month	Y. Jan. 1, 2014 - Dec. 31, 2014 \$6,229 per month
Jan. 1, 2020 \$1,103	F. Jan. 1, 1995 - Dec. 31, 1995 \$2,592 per month	Z. Jan. 1, 2015 - Dec. 31, 2015 \$6,659 per month
July 1, 2019 \$1,047	G. Jan. 1, 1996 - Dec. 31, 1996 \$2,738 per month	AA. Jan. 1, 2016 - Dec. 31, 2016 \$7,786 per month
D. Any extra maintenance allowance ordered by a court of jurisdiction or a state administrative hearing officer.	H. Jan. 1, 1997 - Dec. 31, 1997 \$2,889 per month	BB. Jan. 1, 2017 - Dec. 31, 2017 \$7,485 per month
E. Dependent family member income allowance (if applicable) calculated as follows: 1/3 X MMMNA - dependent member's income).	I. Jan. 1, 1998 - Dec. 31, 1998 \$3,119 per month	CC. Jan. 1, 2018 - Dec. 31, 2018 \$7,025 per month
F. Non-covered medical expenses.	J. Jan. 1, 1999 - Dec. 31, 1999 \$3,429 per month	DD. Jan. 1, 2019 - Dec. 31, 2019 \$7,285 per month
G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed [\$3,260] <u>\$3,435</u> .	K. Jan. 1, 2000 - Dec. 31, 2000 \$3,494 per month	EE. Jan. 1, 2020 - Dec. 31, 2020 \$7,480 per month
[8.200.510.12 NMAC - Rp, 8.200.510.12 NMAC, 7/1/2015; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 1/16/2020; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]	L. Jan. 1, 2001 - Dec. 31, 2001 \$3,550 per month	FF. Jan. 1, 2021 - Dec. 31, 2021 <u>Jan. 1, 2022</u> - \$7,811 per month
8.200.510.13 AVERAGE MONTHLY COST OF NURSING FACILITIES FOR PRIVATE PATIENTS USED IN TRANSFER OF ASSET PROVISIONS: Costs of care are based on the date of application registration.	M. Jan. 1, 2002 - Dec. 31, 2002 \$3,643 per month	[8.200.510.13 NMAC - Rp, 8.200.510.13 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]
DATE AVERAGE COST PER MONTH	N. Jan. 1, 2003 - Dec. 31, 2003 \$4,188 per month	8.200.510.15 EXCESS HOME EQUITY AMOUNT FOR LONG-TERM CARE SERVICES:
A. July 1, 1988 - Dec. 31, 1989 \$1,726 per month	O. Jan. 1, 2004 - Dec. 31, 2004 \$3,899 per month	A. <u>Jan. 2022</u> <u>\$636,000</u>
B. Jan. 1, 1990 - Dec. 31, 1991 \$2,004 per month	P. Jan. 1, 2005 - Dec. 31, 2005 \$4,277 per month	[A:] B. Jan. 2021 \$603,000
	Q. Jan. 1, 2006 - Dec. 31, 2006 \$4,541 per month	[B:] C. Jan. 2020 \$595,000
	R. Jan. 1, 2007 - Dec. 31, 2007 \$4,551 per month	[C:] D. Jan. 2019 \$585,000
	S. Jan. 1, 2008 - Dec. 31, 2008 \$4,821 per month	[D:] E. Jan. 2018 \$572,000
	T. Jan. 1, 2009 - Dec. 31, 2009 \$5,037 per month	[E:] F. Oct. 2017 \$560,000
	U. Jan. 1, 2010 - Dec. 31, 2010 \$5,269 per month	

~~[F:]~~ **G.** Jan. 2017
\$840,000
~~[G:]~~ **H.** Jan. 2016
\$828,000
~~[H:]~~ **L.** Jan. 2015
\$828,000
~~[I:]~~ **J.** Jan. 2014
\$814,000
~~[J:]~~ **K.** Jan. 2013
\$802,000
~~[K:]~~ **L.** Jan. 2012
\$786,000
~~[L:]~~ **M.** Jan. 2011
\$758,000
~~[M:]~~ **N.** Jan. 2010
\$750,000
[8.200.510.15 NMAC - Rp,
8.200.510.15 NMAC, 7/1/2015; A/E,
1/1/2016; A/E, 3/1/2017; A, 3/1/18;
A/E, 8/30/2018; A/E, 4/11/2019;
A, 7/30/2019; A/E, 8/11/2020;
A, 12/15/2020; A/E, 4/1/2021; A,
9/1/2021; A/E, 4/1/2022]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

**This is an emergency amendment to
8.200.520 NMAC, Sections 11, 12,
13, 15 and 20, effective 4/1/2022.**

**8.200.520.11 FEDERAL
POVERTY INCOME
GUIDELINES:**

A. One hundred percent federal poverty limits (FPL):
Size of budget group month FPL per

	1	[\$1,074*]
\$1,133*	2	[\$1,452*]
\$1,526*	3	[\$1,830]
\$1,920	4	[\$2,209]
\$2,313	5	[\$2,587]
\$2,706		

6
[\$2,965]
\$3,100
7
[\$3,344]
\$3,493
8
[\$3,722]
\$3,886
Add [\$378]
\$393 for each additional person in the budget group.
*FPL must be below 100% for an individual or couple for qualified medicare beneficiary (QMB) program.
B. One hundred twenty percent FPL: This income level is used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants or eligible recipients.

Applicant or eligible recipient	Amount	
1	Individual At least [\$1,074] \$1,133 per month but no more than [\$1,288] \$1,359 per month.	
2	Couple At least [\$1,452] \$1,526 per month but no more than [\$1,742] \$1,831 per month.	
For	purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed.	
C.	One hundred thirty-three percent FPL:	
Size of budget group month	FPL per	
	1	[\$1,428]
\$1,507	2	[\$1,931]
\$2,030	3	[\$2,434]
\$2,553	4	[\$2,938]
\$3,076	5	[\$3,441]
\$3,599		

6
[\$3,944]
\$4,122
7
[\$4,447]
\$4,646
\$5,169
Add [\$503] \$523
for each additional person in the budget group.
D. One hundred thirty-five percent FPL: This income level is used only in the determination of the maximum income limit for a qualified individual 1 (QI1) applicant or eligible recipient. For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed. The following income levels apply:
Applicant or eligible recipient Amount
1
Individual At least [\$1,288] \$1,359 per month but no more than [\$1,449] \$1,529 per month.
2
Couple At least [\$1,742] \$1,831 per month but no more than [\$1,960] \$2,060 per month.
E. One hundred eighty-five percent FPL:
Size of budget group month FPL per
1
[\$1,986]
\$2,096
2
[\$2,686]
\$2,823
3
[\$3,386]
\$3,551
4
[\$4,086]
\$4,279
5
[\$4,786]
\$5,006
6
[\$5,486]
\$5,734
7
[\$6,186]
\$6,462

	8	
	[<u>\$6,886</u>]	
<u>\$7,189</u>		
	Add [<u>\$700</u>] <u>\$727</u>	
for each additional person in the budget group.		
F.	Two hundred	
percent FPL:		
	Size of budget	
group	FPL per	
month		
	1	
	[<u>\$2,147</u>]	
<u>\$2,265</u>		
	2	
	[<u>\$2,904</u>]	
<u>\$3,052</u>		
	3	
	[<u>\$3,660</u>]	
<u>\$3,839</u>		
	4	
	[<u>\$4,417</u>]	
<u>\$4,625</u>		
	5	
	[<u>\$5,174</u>]	
<u>\$5,412</u>		
	6	
	[<u>\$5,930</u>]	
<u>\$6,199</u>		
	7	
	[<u>\$6,687</u>]	
<u>\$6,985</u>		
	8	
	[<u>\$7,444</u>]	
<u>\$7,772</u>		
	Add [<u>\$757</u>] <u>\$787</u>	
for each additional person in the budget group.		
G.	Two hundred thirty-	
five percent FPL:		
	Size of budget	
group	FPL per	
month		
	1	
	[<u>\$2,523</u>]	
<u>\$2,662</u>		
	2	
	[<u>\$3,412</u>]	
<u>\$3,586</u>		
	3	
	[<u>\$4,301</u>]	
<u>\$4,511</u>		
	4	
	[<u>\$5,190</u>]	
<u>\$5,435</u>		
	5	
	[<u>\$6,079</u>]	
<u>\$6,359</u>		

	6	
	[<u>\$6,968</u>]	
<u>\$7,284</u>		
	7	
	[<u>\$7,857</u>]	
<u>\$8,208</u>		
	8	
	[<u>\$8,746</u>]	
<u>\$9,132</u>		
	Add [<u>\$889</u>] <u>\$924</u>	
for each additional person in the budget group.		
H.	Two hundred fifty	
percent FPL:		
	Size of budget	
group	FPL per	
month		
	1	
	[<u>\$2,684</u>]	
<u>\$2,832</u>		
	2	
	[<u>\$3,630</u>]	
<u>\$3,815</u>		
	3	
	[<u>\$4,575</u>]	
<u>\$4,798</u>		
	4	
	[<u>\$5,521</u>]	
<u>\$5,782</u>		
	5	
	[<u>\$6,467</u>]	
<u>\$6,765</u>		
	6	
	[<u>\$7,413</u>]	
<u>\$7,748</u>		
	7	
	[<u>\$8,359</u>]	
<u>\$8,732</u>		
	8	
	[<u>\$9,305</u>]	
<u>\$9,715</u>		
	Add [<u>\$946</u>] <u>\$983</u>	
for each additional person in the budget group.		
[8.200.520.11 NMAC - Rp,		
8.200.520.11 NMAC, 8/28/2015;		
A/E, 4/1/2016; A/E, 9/14/2017;		
A, 2/1/2018; A/E, 5/17/2018; A,		
9/11/2018; A/E, 4/11/2019; A,		
7/30/2019, A/E, 8/11/2020; A,		
12/15/2020; A/E, 4/1/2021; A,		
9/1/2021; A/E, 4/1/2022]		
8.200.520.12 COST OF		
LIVING ADJUSTMENT (COLA)		
DISREGARD COMPUTATION:		
The countable social security benefit without the COLA is calculated using		

the COLA increase table as follows:

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

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

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

Continued Next Page

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
<u>1</u>	2022 Jan - Dec	5.9	Jan 22
[1] <u>2</u>	2021 Jan - Dec	1.3	Jan 21
[2] <u>3</u>	2020 Jan - Dec	1.6	Jan 20
[3] <u>4</u>	2019 Jan - Dec	2.8	Jan 19
[4] <u>5</u>	2018 Jan - Dec	2.0	Jan 18
[5] <u>6</u>	2017 Jan - Dec	0.3	Jan 17
[6] <u>7</u>	2016 Jan - Dec	0	Jan 16
[7] <u>8</u>	2015 Jan - Dec	1.017	Jan 15
[8] <u>9</u>	2014 Jan - Dec	1.015	Jan 14
[9] <u>10</u>	2013 Jan - Dec	1.017	Jan 13
[10] <u>11</u>	2012 Jan - Dec	1.037	Jan 12
[11] <u>12</u>	2011 Jan - Dec	0	Jan 11
[12] <u>13</u>	2010 Jan - Dec	1	Jan 10
[13] <u>14</u>	2009 Jan - Dec	1	Jan 09
[14] <u>15</u>	2008 Jan - Dec	1.058	Jan 08
[15] <u>16</u>	2007 Jan - Dec	1.023	Jan 07
[16] <u>17</u>	2006 Jan - Dec	1.033	Jan 06
[17] <u>18</u>	2005 Jan - Dec	1.041	Jan 05
[18] <u>19</u>	2004 Jan - Dec	1.027	Jan 04
[19] <u>20</u>	2003 Jan - Dec	1.021	Jan 03
[20] <u>21</u>	2002 Jan - Dec	1.014	Jan 02
[21] <u>22</u>	2001 Jan - Dec	1.026	Jan 01
[22] <u>23</u>	2000 Jan - Dec	1.035	Jan 00
[23] <u>24</u>	1999 Jan - Dec	1.025	Jan 99
[24] <u>25</u>	1998 Jan - Dec	1.013	Jan 98
[25] <u>26</u>	1997 Jan - Dec	1.021	Jan 97
[26] <u>27</u>	1996 Jan - Dec	1.029	Jan 96
[27] <u>28</u>	1995 Jan - Dec	1.026	Jan 95
[28] <u>29</u>	1994 Jan - Dec	1.028	Jan 94
[29] <u>30</u>	1993 Jan - Dec	1.026	Jan 93
[30] <u>31</u>	1992 Jan - Dec	1.03	Jan 92
[31] <u>32</u>	1991 Jan - Dec	1.037	Jan 91
[32] <u>33</u>	1990 Jan - Dec	1.054	Jan 90
[33] <u>34</u>	1989 Jan - Dec	1.047	Jan 89
[34] <u>35</u>	1988 Jan - Dec	1.04	Jan 88
[35] <u>36</u>	1987 Jan - Dec	1.042	Jan 87
[36] <u>37</u>	1986 Jan - Dec	1.013	Jan 86
[37] <u>38</u>	1985 Jan - Dec	1.031	Jan 85
[38] <u>39</u>	1984 Jan - Dec	1.035	Jan 84
[39] <u>40</u>	1982 Jul - 1983 Dec	1.035	Jul 82
[40] <u>41</u>	1981 Jul - 1982 Jun	1.074	Jul 81
[41] <u>42</u>	1980 Jul - 1981 Jun	1.112	Jul 80
[42] <u>43</u>	1979 Jul - 1980 Jun	1.143	Jul 79
[43] <u>44</u>	1978 Jul - 1979 Jun	1.099	Jul 78
[44] <u>45</u>	1977 Jul - 1978 Jun	1.065	Jul 77
[45] <u>46</u>	1977 Apr - 1977 Jun	1.059	Apr 77

[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]

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

Year	Individual	Institution	Individual	Couple	Institution	Couple
	FBR	FBR	VTR	FBR	FBR	VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33
1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33
1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66
1/06 to 1/07	\$603	\$30	\$201	\$904	\$60	\$301.33
1/07 to 1/08	\$623	\$30	\$207.66	\$934	\$60	\$311.33
1/08 to 1/09	\$637	\$30	\$212.33	\$956	\$60	\$318.66
1/09 to 1/10	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/10 to 1/11	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/11 to 1/12	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/12 to 1/13	\$698	\$30	\$232.66	\$1,048	\$60	\$349.33
1/13 to 1/14	\$710	\$30	\$237	\$1,066	\$60	\$355
1/14 to 1/15	\$721	\$30	\$240	\$1,082	\$60	\$361
1/15 to 12/15	\$733	\$30	\$244	\$1,100	\$60	\$367
1/16 to 12/16	\$733	\$30	\$244	\$1,100	\$60	\$367
1/17 to 12/17	\$735	\$30	\$245	\$1,103	\$60	\$368
1/18 to 12/18	\$750	\$30	\$250	\$1,125	\$60	\$375
1/19 to 12/19	\$771	\$30	\$257	\$1,157	\$60	\$386
1/20 to 12/20	\$783	\$30	\$261	\$1,175	\$60	\$392
1/21 to 12/21	\$794	\$30	\$264.66	\$1,191	\$60	\$397
1/22 to 12/22	<u>\$841</u>	<u>\$30</u>	<u>\$280.33</u>	<u>\$1,261</u>	<u>\$60</u>	<u>\$420.50</u>

Continued Next Page

A. Ineligible child deeming allocation is ~~[\$397]~~ \$420.50.

B. Part B premium is ~~[\$148.50]~~ \$170.10 per month.

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

D. The SSI resource standard is \$2000 for an individual and \$3000 for a couple.
[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]

8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

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

amount: ~~[\$794]~~ \$841
Individual

~~[\$1,191]~~ \$1,261 Couple

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

amount: ~~[\$794]~~ \$841 - ~~[\$264.66]~~ \$280.33 = ~~[\$529.34]~~ \$560.67 Individual

~~[\$1,191]~~ \$1,261 - ~~[\$397]~~ \$420.50 = ~~[\$794]~~ \$840.50 Couple

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

Payment amount: ~~[\$794]~~ \$841 - ~~[\$264.66]~~ \$280.33 = ~~[\$529.34]~~ \$560.67 Individual

~~[\$1,191]~~ \$1,261 - ~~[\$397]~~ \$420.50 = ~~[\$794]~~ \$840.50 Couple

D. Child living in home with his or her parent:
Payment amount: ~~[\$794]~~ \$841

E. Individual in institution:
Payment amount: \$30.00
[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A, xx/xx/xxxx]

8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES: Effective January 1, ~~[2021]~~ 2022, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is ~~[\$2,382]~~ \$2,523.

[8.200.520.16 NMAC - Rp, 8.200.520.16 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]

8.200.520.20 COVERED QUARTER INCOME STANDARD:

Date	Calendar Quarter	Amount
		<u>Jan. 2022 - Dec. 2022</u> <u>\$1,510 per calendar quarter</u>
	Jan. 2021 - Dec. 2021	\$1,470 per calendar quarter
	Jan. 2020 - Dec. 2020	\$1,410 per calendar quarter

	Jan. 2019 - Dec. 2019	\$1,360 per calendar quarter
	Jan. 2018 - Dec. 2018	\$1,320 per calendar quarter
	Jan. 2017 - Dec. 2017	\$1,300 per calendar quarter
	Jan. 2016 - Dec. 2016	\$1,260 per calendar quarter
	Jan. 2015 - Dec. 2015	\$1,220 per calendar quarter
	Jan. 2014 - Dec. 2014	\$1,200 per calendar quarter
	Jan. 2013 - Dec. 2013	\$1,160 per calendar quarter
	Jan. 2012 - Dec. 2012	\$1,130 per calendar quarter
	Jan. 2011 - Dec. 2011	\$1,120 per calendar quarter
	Jan. 2010 - Dec. 2010	\$1,120 per calendar quarter
	Jan. 2009 - Dec. 2009	\$1,090 per calendar quarter
	Jan. 2008 - Dec. 2008	\$1,050 per calendar quarter
	Jan. 2007 - Dec. 2007	\$1,000 per calendar quarter
	Jan. 2006 - Dec. 2006	\$970 per calendar quarter
	Jan. 2005 - Dec. 2005	\$920 per calendar quarter
	Jan. 2004 - Dec. 2004	\$900 per calendar quarter
	Jan. 2003 - Dec. 2003	\$890 per calendar quarter
	Jan. 2002 - Dec. 2002	\$870 per calendar quarter
	[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 03/01/2017; A/E, 5/17/2018; A, 9/11/2018; A/E,	

4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]

**HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an emergency amendment for 8.291.430 NMAC, Section 10, effective 4/1/2022.

8.291.430.10 FEDERAL POVERTY LEVEL (FPL): This part contains the monthly federal poverty level table for use in determining monthly income standards for MAP categories of eligibility outlined in 8.291.400.10 NMAC:

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	[\$1,074] \$1,133	[\$1,428] \$1,507	[\$1,482] \$1,563	[\$2,040] \$2,152	[\$2,576] \$2,718	[\$2,684] \$2,832	[\$3,220] \$3,398
2	[\$1,452] \$1,526	[\$1,931] \$2,030	[\$2,004] \$2,106	[\$2,759] \$2,900	[\$3,484] \$3,662	[\$3,630] \$3,815	[\$4,355] \$4,578
3	[\$1,830] \$1,920	[\$2,434] \$2,553	[\$2,526] \$2,649	[\$3,477] \$3,647	[\$4,392] \$4,607	[\$4,575] \$4,798	[\$5,490] \$5,758
4	[\$2,209] \$2,313	[\$2,938] \$3,076	[\$3,048] \$3,192	[\$4,196] \$4,394	[\$5,300] \$5,550	[\$5,521] \$5,782	[\$6,625] \$6,938
5	[\$2,587] \$2,706	[\$3,441] \$3,599	[\$3,570] \$3,735	[\$4,915] \$5,142	[\$6,208] \$6,494	[\$6,467] \$6,765	[\$7,760] \$8,118
6	[\$2,965] \$3,100	[\$3,944] \$4,122	[\$4,092] \$4,277	[\$5,634] \$5,889	[\$7,116] \$7,439	[\$7,413] \$7,748	[\$8,895] \$9,298
7	[\$3,344] \$3,493	[\$4,447] \$4,646	[\$4,614] \$4,820	[\$6,353] \$6,636	[\$8,024] \$8,382	[\$8,359] \$8,732	[\$10,030] \$10,478
8	[\$3,722] \$3,886	[\$4,950] \$5,169	[\$5,136] \$5,363	[\$7,072] \$7,384	[\$8,932] \$9,326	[\$9,305] \$9,715	[\$11,165] \$11,658
+1	[\$378] \$393	[\$503] \$523	[\$522] \$543	[\$719] \$748	[\$908] \$944	[\$946] \$983	[\$1,135] \$1,180

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11/16/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A, 12/1/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022]

**SUPERINTENDENT OF
INSURANCE, OFFICE OF**

**TITLE 13 INSURANCE
CHAPTER 10 HEALTH
INSURANCE
PART 36 HEALTH CARE
AFFORDABILITY FUND**

13.10.36.1 ISSUING
AGENCY: New Mexico Office of Superintendent of Insurance (“OSI”).
[13.10.36.1 NMAC – N, 5/1/2022]

13.10.36.2 SCOPE: These rules govern the establishment and provision of a Health Care Affordability Plan and administration of the Health Care Affordability Fund (the “Fund”).
[13.10.36.2 NMAC – N, 5/1/2022]

13.10.36.3 STATUTORY AUTHORITY: Section 59A-23F-12 NMSA 1978 (the “Health Care Affordability Plan”).
[13.10.36.3 NMAC – N, 5/1/2022]

13.10.36.4 DURATION:
Permanent.
[13.10.36.4 NMAC – N, 5/1/2022]

13.10.36.5 EFFECTIVE DATE: May 1, 2022, unless a later date is cited at the end of a section.
[13.10.36.5 NMAC – N, 5/1/2022]

13.10.36.6 OBJECTIVE:
These rules establish policies, procedures, and controls for the establishment and maintenance of a “Health Care Affordability Plan” as funded by the “Health Care

Affordability Fund” to achieve the public policy purposes in the manner prescribed under Sections 59A-23F-11 and 59A-23F-12 NMSA 1978.
[13.10.36.6 NMAC – N, 5/1/2022]

13.10.36.7 DEFINITIONS:
Terms are as defined in the Insurance Code, and as supplemented below.

A. “Advance state payments” means marketplace affordability program payments by the fund to a participating health insurance issuer on a monthly basis to lower premium and state out-of-pocket assistance for consumers.

B. “Affordability criteria” means the factors used to determine the amount of premium assistance or state out-of-pocket

assistance that will be provided from the fund on behalf of an eligible individual.

C. “Attachment range” means the amount of claims costs incurred by a participating health insurance issuer for a covered person’s covered benefits in a plan year, above and below which the claims costs for benefits are eligible for reinsurance payments under the small group reinsurance program.

D. “Coinsurance rate” means the reimbursement percentage paid by the fund to a health insurance issuer participating in the small group reinsurance program for claims incurred for a covered person’s covered benefits in a plan year which are in the attachment range.

E. “Eligible plan” means a health plan sold on the New Mexico health insurance exchange (the “exchange” or “marketplace”) that meets the requirements for the state premium assistance program.

F. “Federal poverty level or FPL” means the federal poverty level issued annually by the U.S department of health and human services at aspe.hhs.gov/poverty-guidelines/.

G. “Income criteria” means parameters to establish eligibility for marketplace affordability programs.

H. “Modified adjusted gross income or MAGI” means household size and income calculated to determine eligibility for financial assistance on the New Mexico health insurance exchange.

I. “Marketplace affordability program” means a fund program that reduces premiums and OOP costs for individuals and families who purchase individual or family coverage on the exchange.

J. “OOP” means out-of-pocket.

K. “Participating health insurance issuer” means a health insurance issuer who is authorized to sell a QHP on the exchange or in the fully-insured small group market who has confirmed in writing its intention to participate in

a specified fund program prior to the commencement of the plan year.

L. “Plan year” means the year for which a participating health insurance issuer underwrites qualifying health insurance coverage.

M. “Premium assistance” means a fund program that pays a participating health insurance issuer to cover a portion of the premium obligation of a person who meets premium assistance affordability criteria.

N. “QHP” means a qualified health plan.

O. “Reinsurance payment” means an amount paid to a participating health insurance issuer under the small group reinsurance program.

P. “Small group reinsurance program” means a program to reduce premium rates for small businesses that purchase coverage in the fully-insured small group market through the purchase of reinsurance for claim costs that fall in the attachment range.

Q. “State benchmark plan” means a qualified health plan that has been approved for sale on the exchange and that is identified by the superintendent as the plan to be used in developing affordability criteria.

R. “State out-of-pocket assistance program” means a fund program that reduces OOP costs for households that meet eligibility and income criteria established by the superintendent.

[13.10.36.7 NMAC – N, 5/1/2022]

13.10.36.8

APPROPRIATIONS REQUESTS:

This rule governs appropriation requests.

A. Annually, the superintendent will submit appropriation requests to the legislative finance committee for each fund program. OSI will post proposed program parameters associated with the budget request on the agency’s website upon submission to the legislative finance committee.

B. The request for each fund program shall meet these minimum standards:

(1) for the affordability program, sufficient funding to provide premium reductions for individuals under four hundred percent of the FPL and OOP cost reductions for individuals under two hundred-fifty percent of the FPL;

(2) for the small business affordability program, sufficient funding to realize premium reductions for qualified health plans across the small group market; and

(3) for the uninsured program, sufficient funding to expand coverage to eligible individuals under two hundred percent of the FPL before expanding further up the income scale.

[13.10.36.8 NMAC – N, 5/1/2022]

13.10.36.9 PREMIUM ASSISTANCE AND ANNUAL OOP PROGRAMS:

This rule governs the annual state out-of-pocket assistance and premium assistance programs.

A. Affordability criteria: Annually, the superintendent shall publish a bulletin specifying affordability criteria for the ensuing plan year. Absent extenuating circumstances that mandate an earlier rate filing, the superintendent shall allow issuers at least 15 days from publication of the bulletin to make an initial QHP rate filing. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the bulletin, the superintendent may adjust the affordability criteria.

(1) These are the affordability criteria that the superintendent may consider to determine premium assistance eligibility for a plan year. The superintendent will use these criteria to establish a premium sliding scale based on household income:

(a) the percentage of an enrollee’s MAGI as computed according to federal standards;

(b) the percentage of enrollee’s MAGI that would be needed to purchase the state benchmark plan as established by the superintendent;

(c) the percentage of New Mexico residents at or below a given the FPL percentage; and

(d) The federal premium sliding scale for marketplace coverage.

(2) These are the affordability criteria that the superintendent may consider to determine state out-of-pocket assistance eligibility. The superintendent will use these criteria to establish state cost sharing reduction variants that improve the actuarial value of certain QHPs offered on the exchange:

(a) an enrollee's MAGI as computed according to federal standards;

(b) plan type and metal level tiers that qualify for state out-of-pocket assistance; and

(c) actuarial values for plans that qualify for state out-of-pocket assistance.

B. Income

eligibility parameters. Annually, the superintendent shall publish a bulletin specifying income eligibility parameters for the ensuing plan year. Absent extenuating circumstances that mandate an earlier rate filing, the superintendent shall allow participating health insurance issuers at least 15 days from publication of the bulletin to make an initial QHP rate filing. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the bulletin, the superintendent may adjust the income eligibility parameters. The income eligibility parameters may differ for the premium assistance program, state out-of-pocket assistance program or premium assistance for state residents who are members of federally-recognized tribes. In developing the criteria, the superintendent may consider the following factors:

(1) the income distribution of current marketplace enrollees;

(2) the income distribution of uninsured individuals

who qualify for coverage on the New Mexico health insurance exchange; or

(3) health insurance market stability issues and year-over-year trends in premium rate affordability.

C. General eligibility requirements.

(1) To qualify for state out-of-pocket and premium assistance, consumers must:

(a) be eligible to purchase a QHP on the exchange;

(b) qualify for federal premium assistance; and

(c) meet income criteria established annually by the superintendent.

(2) The superintendent will issue criteria for premium assistance that is available to members of federally-recognized tribes. To qualify, individuals must:

(a) meet all other criteria for state premium assistance; and

(b) be a member of a federally-recognized tribe.

D. Premium and state out-of-pocket assistance payment disbursements.

Disbursements for premium assistance or state out-of-pocket assistance to a participating health insurance issuer of an eligible enrollee who purchases an eligible plan are governed by this rule. Monthly, by the 15th of each month, the exchange shall report to the superintendent the total amount due to each participating health insurance issuer for premium assistance and state out-of-pocket assistance for coverage of its eligible enrollee(s) for the preceding calendar month.

(1) The monthly payment amount due to a participating health insurance issuer for premium assistance shall be the monthly aggregate amount of premium assistance for all eligible enrollees of the health insurance issuer for the month.

(a) Monthly state premium assistance amounts shall be calculated using the

following formula: gross monthly premium for state benchmark plan minus monthly federal premium tax credit minus applicable percentage of income established by superintendent multiplied by expected annual household income as outlined in 45 C.F.R. § 155.305(f)(i) divided by 12.

(b) Within 10 days of receiving the monthly accounting from the exchange, the superintendent will, by voucher, request that the secretary of finance and administration issue warrants as necessary to ensure payment to each participating health insurance issuer for the monthly amount determined to be due by the superintendent.

(2) The monthly payment amount to a participating health insurance issuer for state out-of-pocket assistance shall be determined as a percentage set by the superintendent of gross monthly premiums for enrollees of an eligible plan in a specified income tier, aggregated across all qualifying income tiers.

(3) To facilitate reconciliation, a health insurance issuer must track or accurately estimate claim costs in accordance with guidance published by the superintendent to allow for the determination of actual utilization of out-of-pocket assistance.

[13.10.36.9 NMAC – N, 5/1/2022]

History of 13.10.36 NMAC:
[RESERVED]

TRANSPORTATION, DEPARTMENT OF

TITLE 18 TRANSPORTATION AND HIGHWAY CHAPTER 24 AUTONOMOUS MOTOR VEHICLES PART 1 GENERAL PROVISIONS - DEFINITIONS AND TESTING

**18.24.1.1 ISSUING
AGENCY:** New Mexico department of transportation, Post Office Box

1149 Santa Fe, New Mexico 87504-1149 (505) 795-1401.
[18.24.1.1 NMAC - N, 04/19/2022]

18.24.1.2 SCOPE: This rule covers autonomous motor vehicle testing on public roadways in New Mexico.
[18.24.1.2 NMAC - N, 04/19/2022]

18.24.1.3 STATUTORY AUTHORITY: Sections 67-3-2, 67-3-11, and 67-3-14 NMSA 1978, and H.B. 270 2021 Legislative Session.
[18.24.1.3 NMAC - N, 04/19/2022]

18.24.1.4 DURATION: Permanent.
[18.24.1.4 NMAC - N, 04/19/2022]

18.24.1.5 EFFECTIVE DATE: April 19, 2022, unless a later date is cited at the end of a section.
[18.24.1.5 NMAC - N, 04/19/2022]

18.24.1.6 OBJECTIVE: The objective of these regulations is to establish the notification requirements for entities that wish to test autonomous motor vehicles on public roadways in New Mexico.
[18.24.1.6 NMAC - N, 04/19/2022]

18.24.1.7 DEFINITIONS: As used in these rules the context clearly indicates otherwise, the following definitions apply:

A. Definitions beginning with “A”:
(1) “Active safety system” means the vehicle systems that sense and monitor conditions inside and outside the vehicle for the purpose of identifying perceived present and potential dangers to the vehicle, occupants, and other road users, and automatically intervene to help avoid or mitigate potential collisions via various methods, including alerts to the driver, vehicle system adjustments, and active control of the vehicle subsystems (brakes, throttle, suspension, etc.).

(2) “Automated driving system” or “ADS” means the hardware and software that are collectively capable

of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain; “automated driving system” is used specifically to describe a level three, four or five driving automation system as defined in Society of Automotive Engineers Standard J3016, as published in the *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*.

(3) “Autonomous commercial motor vehicle” means a commercial motor vehicle, as defined in Subsection J of Section 66-1-4.3 NMSA 1978, that is equipped with and may be controlled by an automated driving system.

(4) “Autonomous motor vehicle” means a motor vehicle that is equipped with and may be controlled by an automated driving system and includes an autonomous commercial motor vehicle.

(5) “Autonomous motor vehicle operator” means the person who engages the automated driving system of an autonomous motor vehicle or autonomous commercial motor vehicle.

(6) “Autonomous motor vehicle tester” or “tester” means the entity who is testing autonomous motor vehicles on New Mexico public roadways.

(7) “Autonomous motor vehicle testing” or “autonomous commercial motor vehicle testing” means activities taken in full or in part to evaluate and assess:

(a) the automated driving system’s performance of the dynamic driving task; and

(b) the automated driving system’s performance with respect to applicable safety areas as defined by the federal national highway traffic safety administration for autonomous motor vehicle operations.

B. Definitions beginning with “B” [RESERVED]

C. “Commission” means the New Mexico state transportation commission.

D. Definitions beginning with “D”:
(1) “Department” means the New Mexico department of transportation.

(2) “Department secretary” means the cabinet secretary of the New Mexico department of transportation or his designated representative.

(3) “Driving automation” means the performance of part of all of the dynamic driving task by hardware or software on a sustained basis.

(4) “Dynamic driving task” as defined in Society of Automotive Engineers Standard (SAE) J3016 all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints, and including without limitation:

(a) lateral vehicle motion control via steering;

(b) longitudinal vehicle motion control via acceleration and deceleration;

(c) monitoring the driving environment via object and event detection, recognition, classification, and response preparation;

(d) object and event response execution;

(e) maneuver planning; and

(f) enhancing conspicuity via elements including but not limited to lighting, signaling, and gesturing.

(5) “Dynamic driving task fallback” means the response by the user or by an automated driving system to either perform the dynamic driving task or achieve a minimal risk condition after occurrence of a dynamic driving task performance-relevant

system failure(s) or upon exit of the automated driving system's operational design domain.

E. Definitions

beginning with "E" [RESERVED]

F. Definitions

beginning with "F":

(1) **"Fallback-ready user"** means the user of a vehicle equipped with an engaged level 3 automated driving feature who is able to operate the vehicle and is receptive to automated driving system-issued requests to intervene and to evident dynamic driving task performance-relevant system failures in the vehicle compelling him or her to perform the dynamic driving task fallback.

(2) **"Federal motor vehicle safety standards" or "FMVSS"** means a motor vehicle safety standard, as defined in 49 U.S.C Section 30102, issued by the National Highway Traffic Safety Administration.

(3) **"Fully autonomous motor vehicle"** means an autonomous motor vehicle that is equipped with an automated driving system designed to function as a level 4 or level 5 system under SAE J3016 and that may be designed to function either:

(a)

solely by use of the automated driving system;

(b)

by a human driver when the automated driving system is not engaged.

G. Definitions

beginning with "G" [RESERVED]

H. Definitions

beginning with "H" [RESERVED]

I. Definitions

beginning with "I" [RESERVED]

J. Definitions

beginning with "J" [RESERVED]

K. Definitions

beginning with "K" [RESERVED]

L. "Levels of driving automation"

means the functionality of an automated driving system and allocation of roles between a human user (if any) and the driving automation system in performing the dynamic driving task and fallback. Levels of driving automation is

categorized into six levels by the SAE in Standard J3016, *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*. The six levels include:

(1) Level 0

means 'no driving automation' in that the performance by the driver of the entire dynamic driving task even when enhanced by active safety systems.

(2) Level 1

means 'driver assistance' in that the sustained and operational design domain-specific execution by a driving automation system of either the lateral or the longitudinal vehicle motion control subtask of the dynamic driving task (but not both simultaneously) with the expectation that the driver performs remainder of the dynamic driving task.

(3) Level 2

means 'partial driving automation' in that the sustained and operational design domain-specific execution by a driving automation system of both the lateral and longitudinal vehicle motion control subtasks of the dynamic driving task with the expectation that the driver completes the object event detection and response subtask and supervises the driving automation system.

(4) Level 3

means 'conditional driving automation' in that the sustained and operational design domain-specific performance by an automated driving system of the entire dynamic driving task with the expectation that the dynamic driving task fallback-ready user is receptive to automated driving system-issued requests to intervene, as well as to dynamic driving task performance-relevant system failures in other vehicle systems and will respond appropriately.

(5) Level 4

means 'high driving automation' in that the sustained and operational design domain-specific performance by an automated driving system of the entire dynamic driving task and dynamic driving task fallback without any expectation that a user will respond to a request to intervene.

(6) Level 5

means 'full driving automation' in that the sustained and unconditional (i.e., not operational design domain-specific) performance by an automated driving system of the entire dynamic driving task and dynamic driving task fallback without any exception that a user will respond to a request to intervene.

M. Definitions

beginning with "M":

(1) **"Minimal risk condition"**

means a stable, stopped condition to which a user or an automated driving system may bring a vehicle after performing the dynamic driving task fallback in order to reduce the risk of a crash when a given trip cannot or should not be completed.

(2) **"Monitor"**

means a general term referencing a range of functions involving real-time human or machine sensing and processing of data used to operate a vehicle, or to support its operation.

(3) **"Monitor automated driving system performance"**

means the activities and automated routines for evaluating whether the driving automation system is performing part or all of the dynamic driving task appropriately.

(4) **"Monitor the driving environment"**

means the activities and automated routines that accomplish real-time roadway environmental object and event detection, recognition, classification, and response preparation (excluding actual response), as needed to operate a vehicle.

(5) **"Monitor vehicle performance"**

means the activities and automated routines that accomplish real-time evaluation of the vehicle performance, and response preparation, as needed to operate a vehicle.

N. Definitions

beginning with "N":

(1)

"National highway traffic safety administration" or "NHTSA" means the operating administration of the United States department of transportation that is delegated the

responsibilities described in 49 CFR Section 1.94.

(2) **“NMDOT program administrator”** means that person assigned by the NMDOT to oversee and coordinate the autonomous motor vehicle testing program and when applicable the program manager’s activity.

(3) **“Notification”** means the act of providing required information.

(4) **“Notification receipt”** means formal acknowledgment of having received a notification.

O. Definitions beginning with “O”:

(1) **“Object and event detection and response”** means the subtasks of the dynamic driving task that include monitoring the driving environment (detecting, recognizing, and classifying objects and events and preparing to respond as needed) and executing an appropriate response to such objects and events (i.e., as needed to complete the dynamic driving task and dynamic task fallback).

(2) **“Operate”** means collectively, the activities performed by a (human) driver (with or without support from one or more level 1 or 2 driving automation features) or by an automated driving system (level 3-5) to perform the entire dynamic driving task for a given vehicle during a trip.

(3) **“Operational design domain”** means the specific conditions under which a given driving automation system or feature thereof is designed to function, including, but not limited to, driving modes.

(4) **“Owner”** means the holder of the legal title of a vehicle.

P. “Program manager” or “contractor” means, when applicable, that person, firm, or organization selected by the NMDOT for the purpose of administering the autonomous motor vehicle testing program in New Mexico.

Q. Definitions beginning with “Q” [RESERVED]

R. “Request to intervene” means an alert provided by an automated driving system to a driver or fallback-ready user indicating that they should promptly perform the dynamic driving task fallback, resume manual operation of the vehicle, or achieve a minimal risk condition.

S. Definitions beginning with “S”:

(1) **“SAE J3016”** means the Society of Automotive Engineers current standard for the *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*.

(2) **“System failure”** means a malfunction in an automated driving system and other vehicle system that prevents the automated driving system from reliably sustaining dynamic driving task performance (partial or complete).

(3) **“Sustained” (operation of a vehicle)** means performance of part or all of the dynamic driving task both between and across external events, including responding to external events and continuing performance of part or all of the dynamic driving task in the absence of external events.

T. “Trip” means the traversal of an entire travel pathway by a vehicle from the point of origin to a destination.

U. Definitions beginning with “U”:

(1) **“Usage specification”** means a particular level of driving automation within a particular operational design domain.

(2) **“User”** means a general term referencing the human role in driving automation.

(3) **“User receptivity”** means an aspect of consciousness characterized by a person’s ability to reliably and appropriately focus their attention in response to a stimulus.

V. Definitions beginning with “V” [RESERVED]

W. Definitions beginning with “W” [RESERVED]

X. Definitions beginning with “X” [RESERVED]

Y. Definitions beginning with “Y” [RESERVED]

Z. Definitions beginning with “Z” [RESERVED] [18.24.1.7 NMAC - N, 04/19/2022]

18.24.1.8

RESPONSIBILITY: It shall be the responsibility of each division and section within the department to carry out their pertinent functions relating to programming, design and contracting for each project concerning the autonomous motor vehicle testing program. The department shall handle all phases of the autonomous motor vehicle testing program.

[18.24.1.8 NMAC - N, 04/19/2022]

18.24.1.9 AUTONOMOUS MOTOR VEHICLE TESTING AND OPERATION:

A. The testing and operating of autonomous motor vehicles on public roads in New Mexico require compliance with all applicable federal and state laws and regulations and municipal ordinance that govern motor vehicle operations, unless an exemption or waiver has been granted from the governing authority.

B. Vehicles equipped with an automated driving system shall meet and follow all applicable federal laws, regulations, and guidelines governing motor vehicles; meet all applicable certificates, title and registration, licensing, and insurance requirements; and be capable of complying with all applicable traffic and motor vehicle safety laws and regulations of the state of New Mexico, unless an exemption or waiver has been granted from the governing authority.

C. For autonomous motor vehicle testing or operating with a human driver:

(1) The person testing or operating the autonomous motor vehicle may be issued a traffic citation or other applicable penalty in the event of a failure to comply with traffic and motor vehicle laws.

(2) Only a trained employee, contractor or other person authorized by the company developing the automated driving system may operate or monitor the performance of the vehicles and automated driving system.

D. For fully autonomous motor vehicle testing or operating without a driver:

(1) Testing or operation of vehicles that do not have a person present in the vehicle shall be allowed only if such vehicles are fully autonomous, and if prior to commencing testing or operation of the fully autonomous motor vehicles, an autonomous motor vehicle testing statement and certification has been submitted to the New Mexico department of transportation acknowledging:

(a) When required by federal law, the fully autonomous motor vehicle is equipped with an automated driving system that in compliance with all applicable federal law and federal motor vehicle safety standards and the vehicle bears the required certification label(s) including reference to any exemption granted under applicable federal law.

(b) If a failure of the automated driving system occurs that renders that system unable to perform the entire dynamic driving task relevant to its intended operational design domain, the fully autonomous motor vehicle will achieve a minimal risk condition.

(c) The fully autonomous motor vehicle is capable of complying with all applicable traffic and motor vehicle safety laws and regulations of the state of New Mexico that do not relate to or support motor vehicle operation by a human driver, and the person testing or operating the fully autonomous motor vehicle may be issued a traffic citation or other applicable penalty in the event the vehicle fails to comply with traffic and motor vehicle laws.

(d) The fully autonomous motor vehicle registered owner is required to ensure

it meets all applicable certificate, title registration, licensing, and insurance requirements.

(e) Compliance with the law enforcement protocol and submission of a Law Enforcement Interaction Protocol outlined in Section 18.24.1.10 NMAC.

(2) If a person fails to submit the required documents outlines above, the New Mexico department of transportation has the authority to immediately issue a cease and desist letter revoking any permissions to operate a fully autonomous motor vehicle on New Mexico's public roads, until the person has submitted the statement and is in compliance with laws and regulations relating to fully autonomous motor vehicles. [18.24.1.9 NMAC - N, 04/19/2022]

18.24.1.10 LAW ENFORCEMENT INTERACTION PROTOCOL:

A. Prior to testing or operating a fully autonomous motor vehicle on New Mexico public roadways without a driver, the autonomous motor vehicle owner shall provide the New Mexico department of public safety and the New Mexico department of transportation a copy of a law enforcement interaction protocol that will instruct first responders in the vicinity of the operational design domain how to interact with the fully autonomous motor vehicle in emergency and traffic enforcement situations. This interaction protocol shall be on file with and available through the New Mexico state police.

B. The law enforcement interaction protocol shall include:

(1) How to communicate with a fleet support specialist who is available during the times the vehicle is in operation;

(2) How to safely remove the vehicle for the roadway;

(3) How to recognize whether the vehicle is in autonomous mode and steps to safely ow the vehicle;

(4) A description of the cities where the vehicle will be in operation;

(5) Any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with the operation of the autonomous motor vehicle.

C. For the purpose of this section, vehicle owner, registration, insurance, and contact information for the fully autonomous motor vehicle can be accessed through the New Mexico motor vehicle division system. Exchange of information, issuance of citations and repair orders with the fully autonomous motor vehicle owner shall be done through the electronic mail or physical mailing address provide, which can be accessed through the MVD system.

D. The law enforcement interaction protocol submitted by the vehicle owner will detail how compliance with the relevant sections of Part 3, Article 7 of Chapter 66, Motor Vehicles, will be ensured in the event of a collision.

(1) The fully autonomous motor vehicle's owner contact information, registration, and insurance information shall be noted on the New Mexico crash report.

(2) If injury to a person, damage to any vehicle, or damage to any other property occurred in the collision, the officer shall provide the fully autonomous motor vehicle owner's name, address, and insurance information to the drivers of all other vehicles, any injured parties involved in the collision, and owners of damaged property.

(3) If the fully autonomous motor vehicle violates a traffic law resulting in the collision, the officer may issue a citation to the registered owner of the vehicle.

E. If the fully autonomous motor vehicle that is operated on a roadway doesn't display license plates for the current registration year, officers shall issue a citation to the vehicle owner.

<p>F. If the fully autonomous motor vehicle does not have documents on file with the New Mexico motor vehicle division that show it meets the financial responsibility requirements under Section 66-5-205 NMSA 1978, officers shall issue a citation to the registered owner of the vehicle.</p>	<p>(1) owner and business name;</p> <p>(2) mailing address;</p> <p>(3) physical address;</p> <p>(4) contact information including;</p> <p>(a) business telephone number;</p> <p>(b) business fax number;</p> <p>(c) email address;</p> <p>(5) business type (sole proprietorship, partnership, LLP, LLC, corporation);</p> <p>(6) state where incorporated;</p> <p>(7) business principal;</p> <p>(8) upon request, make a list of authorized agents and drivers (if applicable);</p> <p>(a) driver’s credentials (CDL if applicable);</p> <p>(b) vehicles being tested including;</p> <p>(c) year;</p> <p>(d) make;</p> <p>(e) model;</p> <p>(f) vehicle identification number (VIN).</p> <p>(9) level of automation being tested.</p> <p>(10) operational design domain being test including:</p> <p>(a) roadway classifications.</p> <p>(i) freeway;</p> <p>(ii) highway;</p> <p>(iii) arterials;</p> <p>(iv) streets;</p> <p>(v) unimproved;</p> <p>(vi) urban;</p> <p>(vii) rural;</p>	<p>(viii) other - not included above.</p> <p>(b) environmental limitations:</p> <p>(i) snow;</p> <p>(ii) ice;</p> <p>(iii) limited visibility;</p> <p>(iv) night driving;</p> <p>(v) other - not included above.</p> <p>(c) speeds;</p> <p>(d) geo-fencing.</p> <p>(11) description of the minimal risk condition for system failure.</p> <p>(12) location or areas testing will occur.</p> <p>(13) dates and frequency of testing.</p> <p>(14) level of autonomous being tested.</p> <p>(15) demonstration of having an instrument of insurance, surety bond, or proof of self insurance in an amount of at least \$5 million.</p> <p>(16) proof of registration and licensing for each autonomous motor vehicle being tested and operated.</p> <p>B. The vehicle owner shall supply the New Mexico department of transportation with the forementioned information biennially or when changes occur with the information previously provided, whichever occurs first. [18.24.1.12 NMAC - N, 04/19/2022]</p> <p>18.24.1.13 PROCEDURES TO BE FOLLOWED BY THE DEPARTMENT:</p> <p>A. The department will make available on on-line information and notification form for submitting the information required in Subsection A of 18.24.1.12 NMAC.</p> <p>B. Upon submittal of the required information the notifier will receive an acknowledgment receipt form the department. If a</p>
<p>G. If a fully autonomous motor vehicle becomes disabled as a result of a collision or malfunction, and the owner is unable to provide for its custody or removal, the officer shall remove the vehicle or cause it to be removed for any of the following:</p>		
<p>(1) pursuant to Section 66-7-350 NMSA 1978;</p> <p>(2) for seizure pursuant to law;</p> <p>(3) for obstruction of traffic;</p> <p>(4) when disabled at a gore point;</p> <p>(5) when disabled or abandoned in a hazardous location.</p>		
<p>H. Officers shall inventory the fully autonomous motor vehicle prior to its removal, documenting the contents and condition of the vehicle on the vehicle removal report. [18.24.1.10 NMAC - N, 04/19/2022]</p>		
<p>18.24.1.11 LOCATION: The testing or operations of autonomous motor vehicles shall not be restricted by geographic location or roadwaytype other than as defined by the automated driving system’s operational design domain inclusive of any other restrictive limitations inherent to a vehicle’s operation. [18.24.1.11 NMAC - N, 04/19/2022]</p>		
<p>18.24.1.12 NOTIFICATION INFORMATION:</p> <p>A. Prior to testing or operating a fully autonomous motor vehicle, and in addition to the law enforcement interaction protocol, the vehicle owner shall supply the New Mexico department of transportation with the following:</p>		

person fails to submit that notification required under 18.24.1.12 NMAC, the New Mexico department of transportation has the authority to immediately issue a cease and desist letter suspending operation of the autonomous vehicle on New Mexico's public roads, until the notification has been submitted.

C. The department will maintain a database of current autonomous motor vehicle testing occurring in New Mexico.

D. The database will include information that is self-reported by the registered autonomous motor vehicle owner.

[18.24.1.13 NMAC - N, 04/19/2022]

18.24.1.14 FEES: It will be the responsibility of the autonomous vehicle owner to pay all necessary registration, titling, and licensing fees as required under all other relevant regulations specific to motor vehicle registration titling and licensing.

[18.24.1.14 NMAC - N, 04/19/2022]

HISTORY OF 18.24.1 NMAC:

Pre-NMAC Regulatory Filing

History: None

Other History: Content promulgated from law enacted by HB270, 2021 Regular Legislative Session.

End of Adopted Rules

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Issue 6	March 10	March 22
Issue 7	March 24	April 5
Issue 8	April 7	April 19
Issue 9	April 21	May 3
Issue 10	May 5	May 24
Issue 11	May 26	June 7
Issue 12	June 9	June 21
Issue 13	July 1	July 12
Issue 14	July 14	July 26
Issue 15	July 28	August 9
Issue 16	August 11	August 23
Issue 17	August 25	September 13
Issue 18	September 15	September 27
Issue 19	September 29	October 11
Issue 20	October 13	October 25
Issue 21	October 27	November 8
Issue 22	November 17	November 29
Issue 23	December 1	December 13
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