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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August 9, 2022

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Notices of Rulemaking and Proposed Rules

AGRICULTURE, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING
EXTENDED PUBLIC COMMENT AND ADDITIONAL HEARING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE and amend 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE.

PURPOSE AND SUMMARY OF THE PROPOSED RULES:

The proposed repeal and replace of 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE creates a definition section; updates the list of Texas pecan weevil quarantined counties to correspond with those identified in Texas law; clarifies disposition of non-compliant regulated articles; adds an additional cold storage treatment that provides for treatment of regulated articles at 12.2°F for a period of fourteen days as also provided in California Code of Regulations (CCR) 3273 "Walnut and Pecan Pests"; adds a Liability Disclaimer that relinquishes the board and the department from liability for costs incurred related to inspection, expulsion or disposition of non-compliant regulated articles, or compliance with other provisions of the exterior quarantine rule; and creates additional sections which state that all regulated articles are further subject to the provisions of any other laws, regulations, or regulatory order of the state of New Mexico or the United States Department of Agriculture.
The proposed amendments to 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE include: changing the duration of the rule to permanent; moving the definition for non-compliant to the definitions section; changing treatment certificate documentation requirements to include treatment dates, destination contact information, and other information as deemed relevant by the department; adding an additional cold storage treatment for regulated articles at 12.2°F for a period of fourteen days to align with cold treatments allowed under California Code of Regulations (CCR) 3273 "Walnut and Pecan Pests"; and updating formatting to comply with state requirements. Amending the Disposition of Violations section to clarify authorities related to the expulsion of non-compliant regulated articles for the purpose of addressing specific instances of non-compliance, and adding terms for reimbursement for costs incurred by the department for disposition of non-compliant regulated articles to ensure the state is not held responsible for those costs including non or delinquent payments. Adding Otero County to quarantined counties due to the detection of additional pecan weevil infested areas in the county in an effort to slow the spread of pecan weevil to uninfested pecan growing areas of the state.

STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9, NMSA 1978 Compilation and the Pecan Act, Chapter 76, Article 16, Sections 1 through 9, NMSA 1978 compilation.

Copies of the Notice of Proposed Rulemaking and proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (https://www.nmda.nmsu.edu) and at agency district and field offices.

Previously noticed in Issue 14, July 26, 2022, of the NM Register. **Friday, August 26, 2022,** at 3:00 pm NMDA will host a public video/telephonic and in person hearing at the New Mexico Department of Agriculture, at 3190 S. Espina, Las Cruces, NM, on the corner of Espina and Gregg.

Join via Video for Friday, August 26, 2022, 3:00 pm hearing:
Meeting URL: https://nmsu.zoom.us/j/95032243174
Meeting ID: 950 3224 3174
Passcode: 538839
or
Join via Phone for Friday, August 26, 2022, 3:00 pm hearing:
+1 669 900 6833 or +1 253 215 8782
Meeting ID: 950 3224 3174
Passcode: 538839

Monday, August 29, 2022, at 4:00 pm NMDA will host a public hearing at the Artesia Public Schools Board Room, Admin Building located at 1106 W. Quay in Artesia, New Mexico.

An additional hearing date has been scheduled for **Friday, September 9, 2022**, at 3:00 pm NMDA will host a public hearing at the Tularosa Community Center, located at 1050 N. Bookout Rd. in Tularosa, New Mexico.

The hearing for proposed amendment of 21.17.36 NMAC, PECAN WEEVIL INTERIOR QUARANTINE will immediately follow the hearing for the proposed repeal and replace of 21.17.28 NMAC, PECAN WEEVIL EXTERIOR QUARANTINE.
Oral comments will be accepted at the hearing from members of the public and any interested parties. Written comments will now be accepted through 5:00 pm on September 12, 2022. Comments may be submitted via email to comments@nmda.nmsu.edu or may be filed by sending original copies to:
New Mexico Department of Agriculture, Office of Director
MSC 3189, PO Box 30005, 3190 S. Espina, Las Cruces, NM 88003-8005
Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with

the understanding that if there is any dispute regarding a signature, NMDA reserves the right to require that original signatures be provided to verify the electronic or facsimile signature.

SPECIAL NEEDS: If you are an individual with a disability who needs 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 NMDA at (575) 646-3702 at least one week prior to the meeting or as soon as possible.

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

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed repeal and replacement of rule, 7.2.2 NMAC, "Vital Records and Statistics". The public hearing will be held on September 20, 2022 at 9 a.m. via Cisco WebEx online, via telephone, and comments will be received via email through the conclusion of the hearing.

The hearing is being held via internet, email, and telephonic means due to the concerns surrounding Coronavirus and in consideration of Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of a Public Health Emergency, and any subsequent executive orders. Members of the public who wish to submit public comment regarding the proposed rule changes will be able to do so via video conference and via telephone during the course of the hearing, and by submitting written comment before the conclusion of the hearing.

The hearing will be conducted to receive public comments regarding the proposed repeal and replacement of the current rule, 7.2.2 NMAC, concerning vital records and health statistics. The proposed replacement rule is intended to provide greater clarity in existing regulatory and statutory requirements, to address recent statutory revisions to the Vital Statistics Act, Sections 24-14-1 to 24-14-31 NMSA 1978, and to add the reporting requirements as found in Section 24-1-43, NMSA 1978, Reporting; medical aid in dying.

The legal authority authorizing the proposed repeal and replacement of the rule by the Department is at Subsection E of Section 9-7-6 NMSA 1978, Sections 24-14-1 to 24-14-31 NMSA, 1978, as amended, and Section 24-1-43 NMSA 1978.

Purpose of changes are listed below:

7.2.2.3 - Statutory Authority:
- To revise the section to reflect the statutory authority for the regulations.

7.2.2.7 - Definitions:
- The purpose of the changes is to:
  - o add the definition of "Healthcare provider" to define who is required to report prescribed medical aid in dying prescriptions pursuant to the End-of-Life Options Act;
  - o add the definition of "medical aid in dying" to provide a description of the act of medical aid in dying as found in the Medical Aid in Dying Act;
  - o add a definition of "homeless" for the purposes of waiving fees for vital records for homeless individuals pursuant to Subsection XX of Section XX-X-XX; and
  - o Renumber definitions section to incorporate the new definitions.

7.2.2.13 - Registration of death:
- The purpose of the changes in this section are to:
  - o Change the title to be consistent with the style of the current regulations;
  - o Require electronic registration of death by all parties involved in the death registration process.
    - ▪ Electronic registration of deaths allows deaths to be recorded more quickly and in a standardized fashion consistent with the state's electronic vital records systems.
  - o Clarifying deadlines for the registration of death
    - ▪ Timely reporting of deaths is important to assist families and executors in the timely administration of all duties and legal processes required after a death including processing the estate, the probate process, and funeral services. Timely reporting of deaths also provides accurate data for health equity purposes.
  - o Providing a process for what happens to a birth record after the death of a registrant and providing for a mechanism to obtain an original certificate of birth for an infant who was born alive and dies within two months of birth.
    - ▪ This change is to put into rule the process of what happens to a birth record after the registrant is deceased. For purposes of fraud prevention, It is important that birth records for deceased individuals not be released without the corresponding watermark. Also understanding that a new parent may not have a chance to get an original birth certificate for their child if a death occurs soon after birth, the department is creating a limited mechanism to access an unmarked record for a short amount of time.

7.2.2.16 - Authorization for final disposition:
- The purpose of the change in section D is to add a requirement of providing vital records a certified copy of a death certificate for a death that did not occur in New Mexico for a Disinterment or reinterment permit.
  - o This requirement is important because vital records must confirm the death of an individual to issue a disinterment or reinterment

permit. As the New Mexico Vital Records does not have access to other state's records, they must have the requesting party provide that death certificate.

1.1.1.17 - Amendment of Live Birth and Death Certificates
- The purpose of the changes in this section are to add sections (3) and (4) to 7.2.2.17(D) which state that a name may not be removed from a vital record without a court order and that no amendment may be made to a birth record after the registrant is deceased without a court order. The section is additionally renumbered as necessary.

o Vital Records may only make certain changes without a court order. For the purposes of fraud prevention, any change that occurs after a death or significantly alters a name on a record including dropping a name must be sanctioned by the court.

7.2.2.23 - Fees for Copies, Searches and Other Services
- The purposes of the changes in this section are as follows:

o Section C adds a process to remove fees for vital records for individuals who are homeless at the time of the records request.

▪ This part is added for compliance with 24-14-29 NMSA 1978

o Section G adds notification of administrative closures of cases after six months of inactivity.

▪ Cases cannot be kept open indefinitely by vital records. After more than six months of inactivity, a new search would need to be conducted and the law requires that a fee be charged for that search -24-14-29 NMSA 1978

7.2.2.24 - Court Orders:
- This amendment adds section C clarifying that changes in a court order are only applicable to those registrants named in the court order and may not change any other record unless specified in the court order.

o This is to provide extra clarity on an issue that has caused confusion for the public regarding which documents can be changed when a court order is issued that only affects a single individual. For example a court order changing the name of one individual would only permit a change on that individual's record. If that individual is also listed on a separate record that belongs to another individual, a child for example, that child's record may only be changed if the court order specifically directs a change to that record as well.

7.2.2.25 - Naming
- This is a new section added to provide clear requirements for any record in which a name is given to a registrant. The name given must comply with the requirements listed.

o The requirements are derived from New Mexico statutes and New Mexico and Federal case law.

7.2.2.26 - Reporting; Medical Aid in Dying
- This is a new section added to provide a process for reporting prescriptions of medical aid in dying pursuant to the requirements of Section 24-1-43, NMSA 1978.

Any interested member of the public may attend the hearing and submit data, views, or arguments either orally or in writing on the proposed rule amendments during the hearing. To access the hearing by telephone: please call 1-844-992-4726. Your telephone comments will be recorded. To access the hearing via internet: please go to Webex.com; click the "Join" button; click the "Join a meeting" button; enter the following meeting number and password where indicated on screen—Meeting number (access code): 2495 982 5553 #, Meeting password: Kfpzw3mmY42 click the "OK" button. You may also provide comment via Chat during the live streaming.

Written public comment regarding the proposed rule amendments can be submitted by either mailing the comment to the following address:

Sheila Apodaca
Paralegal/Legal Assistant
Office of General Counsel
New Mexico Department of Health
1190 S. St. Francis Drive, Suite N-4095
Santa Fe, NM 87505
(505) 827-2723

Or preferably by e-mailing the comment to the e-mail address: Sheila.Apodaca@state.nm.us.

Written comments must be received by the close of the public rule hearing on September 15, 2022. All written comments will be published on the agency website at http://nmhealth.org/about/asd/cmo/rules/ within three (3) days of receipt, and will be available at the New Mexico Department of Health Public Health Division for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Sheila Apodaca by telephone at (505) 827-2997. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

The foregoing are summaries of the proposed rule. The proposed rule includes various additional substantive revisions not identified here. Free copies of the full text of the proposed rule may be obtained online from the Department's website at https://nmhealth.org/publication/regulation/.

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 September 23, 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 promulgation of a new

part to Title 16, Chapter 10 regarding Telemedicine.

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/u/kb6Sxtbxwe

Purpose. In an effort to improve access to and quality of health care across the geographic and economic spectrum of New Mexico the New Mexico Medical Board has drafted a new part to their rules that would cover Telemedicine. The Board's intent is to facilitate the important use of Telemedicine and to streamline the practice of medicine that does not involve direct patient contact, i.e. radiology, pathology and others where the goal is to process data to facilitate a diagnosis and therefore care. This new part will outline what is expected when providing care via Telemedicine.

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 September 21, 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) 476-7220 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:

NEW PART to 16.10 NMAC - Telemedicine
As a general summary, the proposed new part is to add a more elaborate explanation of Telemedicine Requirements to the NMMB Rules.

RACING COMMISSION

NOTICE OF PUBLIC MEETING AND RULES HEARING

The New Mexico Racing Commission (Commission) will hold a Public Meeting and Rules Hearing on **September 22, 2022**. The Rules hearing will be held during the Commission's regular business meeting with the public session beginning at 9:00 a.m. The Rules Hearing and Commission meeting will be held in person at the New Mexico Racing Commission Boardroom, 4900 Alameda Blvd., NE, Albuquerque, New Mexico and virtually via Zoom.

Topic: Regular Commission Meeting and Rules Hearing
Time: September 22, 2022 09:00 AM Mountain Time (US and Canada)

Join Zoom Meeting
https://us02web.zoom.us/j/85194670359?pwd=tclxENsRIFejyJHJ4dT0urUE_zQVg4.1

Meeting ID: 851 9467 0359
Passcode: tNQxx1
One tap mobile
+13462487799,,85194670359#,,,,*140967# US (Houston)
+16694449171,,85194670359#,,,,*140967# US

Dial by your location
+1 346 248 7799 US (Houston)
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 312 626 6799 US (Chicago)
+1 646 931 3860 US
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Washington DC)
Meeting ID: 851 9467 0359
Passcode: 140967
Find your local number: https://us02web.zoom.us/u/kdrB856Xdo

The Commission is proposing the following amendments listed below to the Rules Governing Horse Racing in New Mexico to clarify the rules regarding the safety and integrity of horseracing and purse moneys.

15.2.1 NMAC – Gaming
15.2.2 NMAC – Associations
15.2.3 NMAC – Flat Racing Officials
15.2.4 NMAC – Types of Races
15.2.5 NMAC – Horse Race – Rules of the Race
15.2.6 NMAC – Veterinary Practices,

Equine Health, Medication, and Trainer Responsibility
16.47.1 NMAC – General Provisions

A copy of the proposed rules may be found on the Commission's website: https://www.nmrc.state.nm.us/rules-regulations/. You may also contact Denise Chavez at (505) 249-2184 to request to receive a copy of the proposed rules by regular mail.

Interested persons may submit their written comments on the proposed rules to the Commission at the address below and/or may appear at the scheduled meeting and provide brief, verbal comments. All written comments must be received by the Commission by 12:00 PM on September 21, 2022. Written comments should be submitted to: Denise Chavez, Law Clerk, via email at DeniseM.Chavez@state.nm.us.

The **final** agenda for the Commission meeting will be available one hundred twenty (120) hours prior to the meeting. A copy of the **final** agenda may be obtained from Denise Chavez or from the Commission's website.

No technical information served as the basis for the proposed rule.

Anyone who requires special accommodations is requested to notify the Commission of such needs at least five days prior to the meeting.

Statutory Authority: Legal authority for this rulemaking can be found in the New Mexico Horse Racing Act, Sections 60-1A-1 through 60-1A-30 NMSA 1978 (2007, as amended through 2017), which, among other provisions, specifically authorizes the Commission to promulgate rules and regulations and carry out the duties of the Act to regulate horse racing in the State.

The Commission proposes the following rule amendments:

Subsection B of 15.2.1.9 NMAC: The purpose of the proposed amendments is to have the processes better comport with the goal of administrative disciplinary actions and to place a portion of the rule to a more applicable part of the rule book.

Subsection B of 15.2.2.8 NMAC: The purpose of the proposed amendment is to enable the racing industry to offset the cost of the new federal legislation utilizing gaming money.

Subsection A of 15.2.3.8 NMAC: The purpose of the proposed amendment is to recognize all positions that should be deemed as racing officials.

Subsection C of 15.2.4.8 NMAC: The purpose of the proposed amendment is to negate conflict of NM Racing Commission rules regarding the condition of claimed horses.

Subsection D of 15.2.5.13 NMAC: The purpose of the proposed amendment is to implement best practice in order to alleviate safety issues in the paddock and starting gate.

Subsections A & C of 15.2.6.9 NMAC: The purpose of the proposed amendments is to clarify that both post-race and out-of-competition findings are prima facie evidence that a prohibited substance was administered to the horse.

Subsection A & B of 15.2.6.10 NMAC: The purpose of the proposed amendments is to clarify that the security guard is provided and employed by the racetrack and not the NM Racing Commission as the current verbiage has been confused in the courts and Subsection B (1) is repetitive.

Subsection P of 16.47.1.8 NMAC: The purpose of the proposed amendment is to clarify the licensing rule concerning an applicant working in more than one capacity in the horseracing industry.

Subsections A, B & D of 16.47.1.10 NMAC: The purpose of the proposed amendment is to make the requirements for becoming a trainer more stringent to assure the enhancement of the welfare and safety of the equine athlete; to allow the commission to hold trainers accountable for the condition of horses in their care, custody and control; and lastly to force trainers to do their due diligence in ensuring that newly acquired horses are free of any prohibited substances.

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 amendments to 13.10.35 NMAC MINIMUM STANDARDS FOR DENTAL AND VISION PLANS. This hearing will commence on **September 12, 2022, at 9:00 a.m.**

PURPOSE OF THE PROPOSED RULES: The proposed amendments will clarify consumer protections and ensure that stand-alone dental or vision plans provide actuarially supported rates for the insured.

STATUTORY AUTHORITY: Sections 59A-2-9, 59A-23F-7, and 59A-23G-1 et seq. NMSA 1978.

TO ATTEND THE HEARING:
Join Zoom Meeting
https://us02web.zoom.us/j/82443988785?pwd=TS9abmw5UGRpSDVvMnU4TzVyZWpBUT09
Meeting ID: 824 4398 8785
Passcode: 638838
Join via Telephone: 346 248 7799

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/5776 or by requesting a copy by calling (505) 372-9135.

Written comments will be accepted through 4:00 p.m. on September 12, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on September 22, 2022. All comments shall be filed electronically through the OSI eDocket https://edocket.osi.state.nm.us/guest/case-view/5776 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. 2022-0055
IN THE MATTER OF ADOPTING AMENDMENTS TO 13.10.35 NMAC MINIMUM STANDARDS FOR DENTAL AND VISION PLANS

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.

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Freya Tschantz at 505-372-9135 no later than ten (10) business days prior to the hearing.

DONE AND ORDERED this 9th day of August, 2022
/S/RUSSELL TOAL

TAXATION AND REVENUE DEPARTMENT

NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal and replace rules to provide guidance on digital advertising and business location, as well as agricultural products and the treatment of cannabis as authorized by Section 9-11-6.2 NMSA 1978:

Summary of Proposed Changes:

The New Mexico Taxation and Revenue Department proposes to repeal and replace the following rule(s):

Property Tax Code, Section 7-35-2 NMSA 1978
3.6.1.7 - Definitions

Property Tax Code, Section 7-36-14 NMSA 1978
3.6.5.21 NMAC - Taxable Situs - Allocation of Value of Property

Property Tax Code, Section 7-36-16 NMSA 1978
3.6.5.24 - Valuation of Residential Property - Counties Whose Ratio is 85%

Property Tax Code, Section 7-36-27 NMSA 1978
3.6.5.34 - Special Method of Valuation - Pipelines, Tanks, Sales Meters and Plants Used in the Processing, Gathering, Transmission, Storage, Measurement or Distribution of Oil, Natural Gas, Carbon Dioxide or Liquid Hydrocarbons

Property Tax Code, Section 7-37-5.1 NMSA 1978
3.6.6.13 - Disabled Veteran Exemption

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

Purpose of Proposed Rule: The proposed rules are being enacted, amended, repealed, and repealed and replaced to provide guidance on digital advertising and business location, and also agricultural products and the treatment of cannabis.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on September 9, 2022 at 10:00AM through the internet, email, and telephonic means.

The Public Hearing will be accessible via Zoom https://us02web.zoom.us/j/81404506245?pwd=dWNpVmJKZ0FPRVc3d2ZNN0RkbkZIdz09 or by telephone by dialing 1 346 248 7799 Meeting ID: 814 0450 6245 Passcode: 727016. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us.

The proposals were placed on file in the Office of the Secretary on July 28, 2022. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about October 11, 2022.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Alicia Romero at Alicia.Romero@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests

but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules may be found at www.tax.newmexico.gov/proposed-regulations-hearing-notices.aspx or are available upon request by contacting the Tax Policy Office at policy.office@state.nm.us.

Notice of Acceptance of Written Public Comment: Written comments on the proposals can submitted by email to policy.office@state.nm.us or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before September 8, 2022. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

TAXATION AND REVENUE DEPARTMENT

NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to enact, amend, and repeal and replace rules to provide guidance on digital advertising, treatment off cannabis under certain rules, as well as removing outdated language about reimbursed expenditures, as authorized by Section 9-11-6.2 NMSA 1978:

Summary of Proposed Changes:

The New Mexico Taxation and Revenue Department proposes to amend the following rule(s):

Tax Administration Act, Section 7-1-14 NMSA 1978
3.1.4.13 NMAC - Reporting According to Business Location

Gross Receipts and Compensating Tax Act, Section 7-9-3.5 NMSA 1978
3.2.1.19 NMAC - Gross Receipts - Receipts of Agents

The New Mexico Taxation and Revenue Department proposes to repeal and replace the following rule(s):

Gross Receipts and Compensating Tax Act, Section 7-9-18 NMSA 1978
3.2.106.7 NMAC - Definitions

Gross Receipts and Compensating Tax Act, Section 7-9-55 NMSA 1978
3.2.213.7 NMAC - Definitions
3.2.213.9 NMAC - Broadcasting and Related Advertising

The New Mexico Taxation and Revenue Department proposes to enact the following rule(s):

Gross Receipts and Compensating Tax Act, Section 7-9-18 NMSA 1978
3.2.106.15 NMAC - Cannabis

Gross Receipts and Compensating Tax Act, Section 7-9-55 NMSA 1978
3.2.213.13 NMAC Receipts of a Digital Platform That Displays Digital Advertising

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

Purpose of Proposed Rule: The proposed rules are being enacted, amended, repealed, and repealed and replaced to provide guidance on digital advertising, treatment off cannabis under certain rules, as well as removing outdated language about reimbursed expenditures.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on September 8, 2022 at 10:00AM through the internet, email, and telephonic means. The Public Hearing will be accessible via Zoom https://us02web.zoom.us/j/84355521638?pwd=SnViVlRaUjU2amwrSXNUN2NDUENsUT09 or by telephone by dialing 1 346 248 7799 Meeting ID: 843 5552 1638 Passcode: 543446. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us.

The proposals were placed on file in the Office of the Secretary on July 28, 2022. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about October 11, 2022.

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

Copies of the proposed rules may be found at www.tax.newmexico.gov/proposed-regulations-hearing-notices.aspx or are available upon request by contacting the Tax Policy Office at policy.office@state.nm.us.

Notice of Acceptance of Written Public Comment: Written comments on the proposals can submitted by email to policy.office@state.nm.us or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before September 8, 2022. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

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 September 13, 2022 from 10:00 am to 12:00 pm. The public comment hearing will also be conducted virtually.

Please click the link below to join the webinar:

https://us06web.zoom.us/j/84437889747?pwd=S2txSkJBVHRROGM4TlZNdHNrVitSQT09
Passcode: 005682
Or One tap mobile :
US: +13462487799,,84437889747#,,,,*005682# or +16694449171,,84437889747#,,,,*005682#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 346 248 7799 or +1 669 444 9171 or +1 669 900 6833 or +1 253 215 8782 or +1 564 217 2000 or +1 646 931 3860 or +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799 or +1 386 347 5053
Webinar ID: 844 3788 9747
Passcode: 005682
International numbers available: https://us06web.zoom.us/u/kreQM8ocx

The purpose of the public hearing will be to obtain input and public comment on proposed prevailing wage rates and subsistence and zone pay for Public Works projects for 2023.

Summary: The proposed amendment updates the prevailing wage rates and subsistence and zone pay in sections 11.1.2.20 and 11.1.2.21 NMAC for 2023 as required under Section 13-4-11 NMSA 1978.

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 of the Labor Relations Division shall determine the prevailing wage rates and the prevailing fringe benefit rates.

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 September 12, 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.

End of Notices of Proposed Rulemaking

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.

GAME AND FISH DEPARTMENT
STATE GAME COMMISSION

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING
PART 6 MIGRATORY GAME BIRD

19.31.6.1 ISSUING AGENCY: New Mexico department of game and fish.
[19.31.6.1 NMAC - Rp, 19.31.6.1 NMAC, 9/1/2022]

19.31.6.2 SCOPE: Sportspersons interested in migratory game bird management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC.
[19.31.6.2 NMAC - Rp, 19.31.6.2 NMAC, 9/1/2022]

19.31.6.3 STATUTORY AUTHORITY: Section 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds and fish.
[19.31.6.3 NMAC - Rp, 19.31.6.3 NMAC, 9/1/2022]

19.31.6.4 DURATION: September 1, 2022 - March 31, 2023.
[19.31.6.4 NMAC - Rp, 19.31.6.4 NMAC, 9/1/2022]

19.31.6.5 EFFECTIVE DATE: September 1, 2022, unless a later date is cited at the end of a section.
[19.31.6.5 NMAC - Rp, 19.31.6.5 NMAC, 9/1/2022]

19.31.6.6 OBJECTIVE: Establishing open hunting seasons, regulations, rules and procedures governing the issuance of migratory game bird licenses and permits by the department.
[19.31.6.6 NMAC - Rp, 19.31.6.6 NMAC, 9/1/2022]

19.31.6.7 DEFINITIONS:

A. "Bernardo pond unit" shall mean that portion of Bernardo wildlife management area 600 feet south of U.S. 60 and west of the unit 7 drain.

B. "Bernardo youth unit" shall mean that portion of Bernardo wildlife management area immediately south of the Quagmire and east of the unit 7 drain.

C. "Central flyway" shall mean that portion of New Mexico east of the continental divide.

D. "Dark goose" shall mean Canada goose or white-fronted goose.

E. "Department" shall mean the New Mexico department of game and fish.

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

G. "Dove north zone" or "north zone" shall mean that portion of New Mexico north of Interstate 40 from the Arizona-New Mexico border to Tucumcari and U.S. 54 at its junction with Interstate 40 at Tucumcari to the New Mexico-Texas border.

H. "Dove south zone" or "south zone" shall mean that portion of New Mexico south of Interstate 40 from the Arizona-New Mexico border to Tucumcari and U.S. 54 at its junction with Interstate 40 at Tucumcari to the New Mexico-Texas border.

I. "Eastern New Mexico sandhill crane hunt area" or "eastern" shall mean the following counties: Chaves, Curry, De Baca, Eddy, Lea, Quay and Roosevelt.

J. "Estancia valley sandhill crane hunt area" or "EV" shall mean that area beginning at Mountainair bounded on the west by N.M. highway 55 north to N.M. 337, north to N.M. 14, and north to Interstate 25; on the north by Interstate 25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to N.M. 55 in Mountainair.

K. "Falconry" shall mean hunting migratory game birds using raptors.

L. "Federal youth waterfowl hunting days" shall mean the special seasons where only those 17 years of age and younger may hunt ducks, coots and gallinules in the Pacific flyway or ducks and coots in the central flyway. A supervising adult at least 18 years of age must accompany the youth hunter. The adult may not hunt ducks, coots, or gallinules, but may participate in other seasons that are open on the special youth days.

M. "Light geese" shall mean snow geese, blue phase snow geese and Ross's geese.

N. "Light goose conservation order" shall mean those methods, bag and possession limits and dates approved by the U.S. fish and wildlife service towards reducing over-abundant light goose populations.

O. "Middle Rio Grande valley (MRGV) dark goose hunt area" shall mean Sierra, Socorro and Valencia counties.

P. "Middle Rio Grande valley (MRGV) sandhill crane hunt area" shall mean Valencia and Socorro counties.

Q. "Migratory game bird" shall mean band-tailed pigeon, mourning dove, white-winged dove,

sandhill crane, American coot, gallinule, snipe, ducks, geese, sora and Virginia rail.

R. "North zone" shall mean that portion of the Pacific flyway north of Interstate 40, and that portion of the central flyway north of Interstate 40 from the continental divide to Tucumcari and U.S. 54 at its junction with Interstate 40 at Tucumcari to the New Mexico-Texas border.

S. "Pacific flyway" shall mean that portion of New Mexico west of the continental divide.

T. "Possession limit" shall mean the number of birds in a person's possession regardless of the location stored.

U. "Quagmire" shall mean that portion of Bernardo wildlife management area 600 feet south of U.S. 60 and east of the unit 7 drain.

V. "South zone" shall mean that portion of the Pacific flyway south of Interstate 40, and that portion of the central flyway south of Interstate 40 from the continental divide to Tucumcari and U.S. 54 at its junction with Interstate 40 at Tucumcari to the New Mexico-Texas border.

W. "Southwest band-tailed pigeon hunting area" or "southwest BPHA" shall mean that portion of New Mexico both south of U.S. 60 and west of Interstate 25.

X. "Southwest New Mexico sandhill crane hunt area" or "SW" shall mean that area bounded on the south by the New Mexico-Mexico border; on the west by the New Mexico-Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to N.M. 26, east to N.M. 27, north to N.M. 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna county line, and south to the New Mexico-Mexico border.

Y. "Wildlife management areas" or "WMAs" shall mean those areas as described in 19.34.5 NMAC Wildlife Management Areas.

[19.31.6.7 NMAC - Rp, 19.31.6.7 NMAC, 9/1/2022]

19.31.6.8 ADJUSTMENT OF SANDHILL CRANE PERMITS: The director, with verbal concurrence of the chairperson or their designee, may adjust the number of permits to address significant changes in harvest levels. This adjustment may be applied to any or all of the entry hunt codes.

[19.31.6.8 NMAC - Rp, 19.31.6.8 NMAC, 9/1/2022]

19.31.6.9 LICENSE AND APPLICATION REQUIREMENTS:

A. License: A Harvest Information Program (HIP) number shall be required. Waterfowl hunters 16 years of age and older are required to have in their possession a federal migratory bird hunting and conservation stamp (duck stamp). It shall be unlawful to take or attempt to take migratory birds without a HIP number, or duck stamp if required.

(1) Any person taking or attempting to take sandhill cranes in the eastern hunt area must have a valid license and a free sandhill crane hunting permit obtained from department offices or website.

(2) For EV sandhill crane, MRGV sandhill crane, MRGV youth-only sandhill crane and SW sandhill crane: in addition to a valid license, a special permit obtained by drawing shall be required.

(3) For the light goose conservation order: in addition to a valid license, a free light goose conservation order permit obtained from department offices or website shall be required.

(4) For band-tailed pigeon hunting: in addition to a valid license, a free band-tailed pigeon permit obtained from department offices or website shall be required.

B. Valid dates of license or permit: All permits and licenses shall be valid only for the dates, legal sporting arms, bag limit and area printed on the permit or license.

[19.31.6.9 NMAC - Rp, 19.31.6.9 NMAC, 9/1/2022]

19.31.6.10 MANNER AND METHODS FOR MIGRATORY GAME BIRDS:

A. Hours: Migratory game birds may be hunted or taken only during the period from one-half hour before sunrise to sunset, unless otherwise specifically allowed or restricted by rule.

(1) On the Bottomless lakes overflow, and Bernardo, Casa Colorada, Jackson lake, La Joya and W.S. Huey WMAs, hunting hours shall mean from one-half hour before sunrise to 1:00 p.m. unless otherwise stated in rule. For hunting September teal on Bernardo and La Joya WMAs, hunting hours are from one-half hour before sunrise to sunset.

(2) During the light goose conservation order hunt dates, hunting hours shall mean from one-half hour before sunrise to one-half hour after sunset, excluding the WMAs listed in Paragraph (1) above.

B. Lands and waters owned, administered, controlled or managed by the state game commission:

(1) State wildlife management areas open, species that can be hunted and days open for hunting:

(a) Bernardo WMA:

(i) That portion of the Bernardo WMA south of U.S. 60 is open to teal hunting each day of the September teal season and the federal youth waterfowl hunting days. That portion of the Bernardo WMA north of U.S. 60 is closed except during the light goose conservation order.

(ii) The Quagmire shall be open only on Tuesday, Thursday and Sunday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule.

(iii) The Bernardo pond unit shall be open for general waterfowl hunting on Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe

during established seasons, unless otherwise specifically allowed by rule.

(iv) The Bernardo youth unit shall be open for youth waterfowl hunting on Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule.

(b) The Edward Sargent, W. A. Humphries, Rio Chama, Urraca, Colin Neblett, Water canyon, Marquez/LBar and Elliot S. Barker WMAs shall be open for hunting dove and band-tailed pigeon during established seasons.

(c) The portion of Jackson lake WMA west of N.M. 170 shall be open on Mondays, Wednesdays and Saturdays to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe. The portion of Jackson lake WMA east of N.M. 170 shall be open to falconry-only migratory game bird hunting during established seasons.

(d) The lesser prairie-chicken management areas, Double E and River Ranch WMAs shall be open to hunt dove during established seasons.

(e) La Joya WMA:

(i) the entire La Joya WMA shall be open to teal hunting each day of the September teal season and each day of the federal youth waterfowl hunting days;

(ii) that portion of La Joya WMA north of the main east/west entrance road and west of the railroad tracks shall be open on Saturdays, Mondays and Wednesdays to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule;

(iii) that portion of La Joya WMA south of the main east/west entrance road and west of the railroad tracks shall be open on Sunday, Tuesday and Thursday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule;

(iv) that portion of La Joya WMA east of the railroad tracks shall be open to hunt dove, ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons.

(f) The Charette lake, McAllister lake, Wagon Mound, Tucumcari, Socorro-Escondida, Hammond tract and Retherford tract WMAs shall be open for all migratory game bird hunting during established seasons.

(g) The W.S. Huey WMA shall be open for dove hunting on Monday, Wednesday and Saturday during established seasons.

(2) All WMAs shall be open to falconry waterfowl hunting each day of the established falconry season, unless otherwise restricted by rule.

[19.31.6.10 NMAC - Rp, 19.31.6.10 NMAC, 9/1/2022]

19.31.6.11 SPECIES, OPEN AREAS, SEASON DATES AND DAILY BAG LIMITS: 2022-2023 season, all dates are 2022 unless otherwise specified. Possession limits are three times the daily bag limit unless otherwise specified.

species	open areas	season dates	daily bag limit
mourning and white-winged dove	north zone	Sept. 1 - Nov. 29	15 (singly or in aggregate)
	south zone	Sept. 1 - Oct. 28 and Dec. 1 - Jan. 1, 2023	
band-tailed pigeon	southwest BPHA	Oct. 1 - 14	2
	statewide except southwest BPHA	Sept. 1 - 14	
regular season sandhill crane (free permit required)	eastern	Oct. 29 - Jan. 29, 2023	3 (6 in possession)

CENTRAL FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.

species	season dates	daily bag limit
September teal: blue-winged teal, green-winged teal, and cinnamon teal	Sept. 10 - 18	6 (singly or in the aggregate)
ducks	north zone: Oct. 8 - Jan. 11, 2023	6 (singly or in the aggregate) that consists of no more than 5 mallard of which only 2 may be female mallard, (Mexican ducks are included towards the mallard bag limit), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 1 pintail and 2 canvasback
	south zone: Oct. 28 - Jan. 31, 2023	

youth waterfowl days	north zone: Sept. 24 - 25 south zone: Oct. 1 - 2	**Ducks**: 6 (singly or in the aggregate) that consists of no more than 5 mallard of which only 2 may be female mallard, (Mexican ducks are included towards the mallard bag limit), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 1 pintail and 2 canvasback **Coots:** 15
American coot	north zone: Oct. 8 - Jan. 11, 2023 south zone: Oct. 28 - Jan. 31, 2023	15
gallinule	Sept. 10 - Nov. 18	1
snipe	Oct. 8 - Jan. 22, 2023	8
Virginia rail & sora	Sept. 10 - Nov. 18	10 (singly or in the aggregate; 20 in possession)
dark goose: regular season closed in Sierra, Socorro and Valencia counties	Oct. 17 - Jan. 31, 2023	5
dark goose: special MRGV season	Dec. 19 - Jan. 31, 2023	2 (2 per season)
light goose	Oct. 17 - Jan. 31, 2023	50 (no possession limit)
light goose conservation order	Feb. 1 - Mar. 10, 2023	no bag or possession limit

PACIFIC FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.		
Species	**season dates**	**daily bag limit**
youth waterfowl days	Oct. 8 - 9	**Ducks**: 7 (singly or in the aggregate) that consists of no more than 2 female mallard, 2 redhead, 1 pintail and 2 canvasback; **Coots and gallinules:** 25 (singly or in the aggregate)
Ducks	Oct. 19 - Jan. 31, 2023	7 (singly or in the aggregate); that consists of no more than 2 female mallard, 2 redhead, 1 pintail and 2 canvasback
Scaup	Oct. 19 - Jan. 12, 2023	2 (as part of the aggregate duck bag)
American coot and gallinule	Oct. 19 - Jan. 31, 2023	25 (singly or in the aggregate)
Snipe	Oct. 17 - Jan. 31, 2023	8
Virginia rail & sora	Sept. 10 - Nov. 18	25 (singly or in the aggregate)
Goose	north zone: Sept. 24 - Oct. 9 and Nov. 2 - Jan. 31, 2023 south zone: Oct. 17 - Jan. 31, 2023	5 Canada geese, 10 white-fronted geese and 20 light geese

[19.31.6.11 NMAC - Rp, 19.31.6.11 NMAC, 9/1/2022]

19.31.6.12 FALCONRY SEASONS: 2022-2023 season, all dates are 2022 unless otherwise specified. Bag limits are three singly or in the aggregate and nine in possession unless otherwise specified.

CENTRAL FLYWAY		
species	**open areas**	**season dates**
mourning and white-winged dove	north	Sept. 1 - Dec. 4 and Dec. 21 - Jan. 1, 2023
	south	Sept. 1 - Nov. 5 and Nov. 22 - Jan. 1, 2023

band-tailed pigeon	southwest BPHA	Oct. 1 - 14
	statewide except southwest BPHA	Sept. 1 - 14
sora and Virginia rail	all	Sept. 10 - Dec. 25
snipe	all	Oct. 8 - Jan. 22, 2023
gallinule	all	Sept. 10 - Dec. 25
ducks and coots	north	Sept. 10 - 18 and Oct. 8 - Jan 11, 2023
	south	Sept. 10 - 18 and Oct. 28 - Jan 31, 2023
goose (light and dark)	all	Oct. 17 - Jan. 31, 2023
goose (dark)	MRGV	Dec. 19 - Jan. 31, 2023
sandhill crane	regular (eastern)	Oct. 15 - Jan. 29, 2023; 3 (6 in possession)
	Estancia valley	Oct. 29 - Dec. 27; 3 (6 in possession)
PACIFIC FLYWAY		
species	**open areas**	**season dates**
mourning and white-winged dove	north	Sept. 1 - Dec. 4 and Dec. 21 - Jan. 1, 2023
	south	Sept. 1 - Nov. 5 and Nov. 22 - Jan. 1, 2023
band-tailed pigeon	southwest BPHA	Oct. 1 - 14
	statewide except southwest BPHA	Sept. 1 - 14
ducks	all	Oct. 19 - Jan. 31, 2023
scaup	all	Oct. 19 - Jan. 12, 2023
goose (all)	north	Sept. 24 - Oct. 9 and Nov. 2 - Jan. 31, 2023
	south	Oct. 17 - Jan. 31, 2023
snipe	all	Oct. 17 - Jan. 31, 2023
coots and gallinule	all	Oct. 19 - Jan. 31, 2023
sora and Virginia rail	all	Sept. 10 - Nov. 18

[19.31.6.12 NMAC - Rp, 19.31.6.12 NMAC, 9/1/2022]

19.31.6.13 RESERVED
[19.31.6.13 NMAC - Rp, 19.31.6.13 NMAC, 9/1/2022; Repealed, 9/1/2022]

19.31.6.14 REQUIREMENTS FOR THE SPECIAL BERNARDO YOUTH WATERFOWL UNIT: Blind selection will be available on a first-come, first-serve basis from one-half hour before sunrise to 1:00 p.m. Youth hunters must be accompanied by a supervising adult who may not hunt. A maximum of four people, at least half of which must be youth hunters, is allowed per blind.
[19.31.6.14 NMAC - Rp, 19.31.6.14 NMAC, 9/1/2022]

19.31.6.15 SEASON DATES, OPEN AREAS, BAG LIMITS, HUNT CODES AND PERMIT NUMBERS FOR THE SPECIAL ESTANCIA VALLEY, MIDDLE RIO GRANDE VALLEY AND SOUTHWEST NEW MEXICO SANDHILL CRANE SEASONS:

A. The daily bag limit is 3. The possession limit is twice the daily bag limit, except for the MRGV youth-only hunt where the daily bag and possession limit is 3. The hunting seasons for 2022-2023 are:

hunt location	**hunt dates**	**hunt code**	**permits**
EV	Oct. 29 - Nov. 1 and Nov. 3 - Nov. 6	SCR-0-101	65
MRGV	Nov. 12 - 13	SCR-0-102	80
MRGV	Nov. 26 - Nov. 27	SCR-0-103	80

MRGV	Dec. 10 - 11	SCR-0-104	80
MRGV	Jan. 7 - 8, 2023	SCR-0-105	80
MRGV	Jan. 14 - 15, 2023	SCR-0-106	80
MRGV, youth-only	Nov. 19	SCR-0-107	24
SW	Oct. 29 - Nov. 6	SCR-0-108	70
SW	Jan. 7 - 8, 2023	SCR-0-109	70

B. Hunters who participate in the MRGV season shall be required to check-out at designated check stations when they harvest any sandhill cranes.

C. The department may cancel one or more EV, MRGV or SW sandhill crane hunts if harvest is expected to exceed our federal allocation of greater sandhill cranes.

[19.31.6.15 NMAC - Rp, 19.31.6.15 NMAC, 9/1/2022]

HISTORY OF 19.31.6 NMAC:

Pre-NMAC Filing History: The material in this part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 486, Establishing 1967 Seasons On Quail, Pheasants, Prairie Chickens, and Lesser Sandhill (Little Brown) Crane And Additional Seasons On Migratory Waterfowl, filed 9/22/67; Regulation No. 494, Establishing 1968 Seasons On Migratory Waterfowl, Common Snipe, Lesser Sandhill Crane, Scaled, Gambel's, And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 10/2/68; Regulation No. 508, Establishing 1969 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Scaled, Gambel's And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 9/19/69; Regulation No. 527, Establishing 1971 Seasons On Migratory Waterfowl And Lesser Sandhill Cranes, filed 9/10/71; Regulation No. 540, Establishing 1972 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, And Wilson's Swipe, filed 9/26/72; Regulation No. 551, Establishing 1973 Seasons On Migratory Waterfowl And Lesser Sandhill Crane, filed 8/20/73; Regulation No. 560, Establishing 1974 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/21/74; Regulation No. 570, Establishing 1975 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/5/75; Regulation No. 578, Establishing 1976 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 8/31/1976; Regulation No. 588, Establishing 1977 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/6/1977; Regulation No. 594, Establishing 1978 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/11/1978; Regulation No. 601, Establishing 1979 Seasons on Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/30/1979; Regulation No. 606, Establishing 1980 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/3/80; Regulation No. 611, Establishing 1981 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/4/1981; Regulation No. 616, Establishing 1982 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/3/1982; Regulation No. 626, Establishing 1983 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/7/1983; Regulation No. 631, Establishing 1984 Seasons On Migratory Waterfowl, filed 8/31/1984; Regulation No. 638, Establishing 1985 Seasons On Migratory Waterfowl, filed 9/11/1985; Regulation No. 643, Establishing 1986-1987 Seasons On Migratory Birds, filed 8/24/1987; Regulation No. 660, Establishing 1988-1989 Seasons On Migratory Birds, filed 6/28/1988; Regulation No. 669, Establishing 1989-1990 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Sandhill Crane, Band-tailed Pigeon, Dove, And Setting Falconry Seasons, filed 10/5/1989; Regulation No. 680, Establishing 1990-1991 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 9/28/1990; Regulation No. 687, Establishing 1991-1992 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 8/6/1991; Regulation No. 698, Establishing 1991-92 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 8/6/1991; Regulation No. 698, Establishing 1992-1993 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry seasons, filed 9/15/1992; Regulation No. 704, Establishing 1993-1994 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 3/11/1993; Regulation No. 707,Establishing The 1994-1995,

1995-1996, 1996-1997 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 7/28/1994; Regulation No. 708, Establishing The 1994-1995, 1995-1996, And 1996-1997 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 9/7/1994.

NMAC History:
19 NMAC 31.6, Waterfowl, filed 8/31/1995
19.31.6 NMAC, Waterfowl, filed 8/15/2000
19.31.6 NMAC, Waterfowl, filed 8/26/2002
19.31.6 NMAC, Waterfowl, filed 8/12/2003
19.31.6 NMAC, Waterfowl, filed 8/2/2004
19.31.6 NMAC, Waterfowl, filed 8/8/2005
19.31.6 NMAC, Waterfowl, filed 8/1/2006
19.31.6 NMAC, Waterfowl, filed 8/16/2007
19.31.6 NMAC, Migratory Game Bird, filed 8/13/2008
19.31.6 NMAC, Migratory Game Bird, filed 8/17/2009
19.31.6 NMAC, Migratory Game Bird, filed 8/2/2010
19.31.6 NMAC, Migratory Game Bird, filed 8/1/2011
19.31.6 NMAC, Migratory Game Bird, filed 8/14/2012
19.31.6 NMAC, Migratory Game Bird, filed 8/29/2013

History of Repealed Material:
19.31.6 NMAC, Waterfowl, filed 8/15/2000 - duration expired 3/31/2002
19.31.6 NMAC, Waterfowl, filed 8/26/2002 - duration expired 3/31/2003
19.31.6 NMAC, Waterfowl, filed 8/12/2003 - duration expired 3/31/2004
19.31.6 NMAC, Waterfowl, filed 8/2/2004 - duration expired 3/31/2005
19.31.6 NMAC, Waterfowl, filed 8/8/2005 - duration expired 3/31/2006
19.31.6 NMAC, Waterfowl, filed 8/1/2006 - duration expired 3/31/2007
19.31.6 NMAC, Waterfowl, filed 8/16/2007 - duration expired 3/31/2008
19.31.6 NMAC, Migratory Game Bird, filed 8/13/2008 - duration expired 3/31/2009
19.31.6 NMAC, Migratory Game Bird, filed 8/17/2009 - duration expired 3/31/2010
19.31.6 NMAC, Migratory Game Bird, filed 8/2/2010 - duration expired 3/31/2011
19.31.6 NMAC, Migratory Game Bird, filed 8/1/2011 - duration expired 3/31/2012
19.31.6 NMAC, Migratory Game Bird, filed 8/14/2012 - duration expired 3/31/2013
19.31.6 NMAC, Migratory Game Bird, filed 8/29/2013 - duration expired 3/31/2014
19.31.6 NMAC, Migratory Game Bird, filed 8/31/2014 - duration expired 3/31/2015
19.31.6 NMAC, Migratory Game Bird, filed 9/1/2015 - duration expired 3/31/2016
19.31.6 NMAC, Migratory Game Bird, filed 6/30/2016 - duration expired 3/31/2017
19.31.6 NMAC, Migratory Game Bird, filed 7/27/2017 - duration expired 3/31/2018
19.31.6 NMAC, Migratory Game Bird, filed 7/2/2018 - duration expired 3/31/2019
19.31.6 NMAC, Migratory Game Bird, filed 8/28/2019 - duration expired 3/31/2020
19.31.6 NMAC, Migratory Game Bird, filed 8/13/20 - duration expired 3/31/2021
19.31.6 NMAC, Migratory Game Bird, filed 8/12/21 - duration expired 3/31/2022

GAME AND FISH DEPARTMENT
STATE GAME COMMISSION

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING
PART 12 BARBARY SHEEP, ORYX, AND PERSIAN IBEX

19.31.12.1 ISSUING AGENCY: New Mexico department of game and fish.
[19.31.12.1 NMAC - Rp, 19.31.12.1 NMAC, 4/1/2023]

19.31.12.2 SCOPE: Sportspersons interested in Barbary sheep, oryx and Persian ibex management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978, and Title 19 NMAC.
[19.31.12.2 NMAC - Rp, 19.31.12.2 NMAC, 4/1/2023]

19.31.12.3 STATUTORY AUTHORITY: Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds and fish.
[19.31.12.3 NMAC - Rp, 19.31.12.3 NMAC, 4/1/2023]

19.31.12.4 DURATION: April 1, 2023 through March 31, 2027.
[19.31.12.4 NMAC - Rp, 19.31.12.4 NMAC, 4/1/2023]

19.31.12.5 EFFECTIVE DATE: April 1, 2023, unless a later date is cited at the end of an individual section.
[19.31.12.5 NMAC - Rp, 19.31.12.5 NMAC, 4/1/2023]

19.31.12.6 OBJECTIVE: Establishing open hunting seasons and regulations, rules and procedures governing the distribution and issuance of Barbary sheep, oryx and Persian ibex licenses by the department.
[19.31.12.6 NMAC - Rp, 19.31.12.6 NMAC, 4/1/2023]

19.31.12.7 DEFINITIONS:
A. "Broken-horned oryx" or "BHO" shall mean an oryx of either sex that possesses at least one horn missing at least twenty-five percent of its normal growth. This

may be determined by comparing the broken horn's length to the remaining horn or where it is readily apparent the terminal end would not taper to a point for another twenty-five percent of growth.

B. "Department" shall mean the New Mexico department of game and fish.

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

D. "Either sex" or "ES" shall mean any one animal of the species.

E. "Female or immature Barbary sheep" or "F-IM" shall mean any female Barbary sheep, or a male Barbary sheep with horns less than 18 inches long.

F. "Female or immature Persian ibex" or "F-IM" shall mean any female Persian ibex, or a male Persian ibex with horns less than 20 inches long.

G. "Game management units" or "GMUs" shall mean those areas as described in state game commission rule 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

H. "McGregor Range" shall mean all areas within GMU 28.

I. "Off-range" shall mean those areas outside of White Sands Missile Range, Holloman Air Force Base, Fort Bliss/McGregor Range areas in GMUs 19, 28, and other lands closed to hunting.

J. "Veteran" shall refer to New Mexico resident veteran as described in 19.31.3 NMAC.

K. "White Sands missile range" or "WSMR" shall mean that portion of GMU 19 controlled by the department of defense.

L. "Wildlife management areas" or "WMAs" shall mean those areas as described in state game commission rule 19.34.5 NMAC Wildlife Management Areas.

[19.31.12.7 NMAC - Rp, 19.31.12.7 NMAC, 4/1/2023]

19.31.12.8 ADJUSTMENT OF LICENSES: The director, with the verbal concurrence of the chairperson of the New Mexico state game commission or their designee, may adjust the number of licenses for oryx, Barbary sheep or Persian ibex up or down to address significant changes in population levels or to address critical department management needs. The director may change or cancel all hunts on military lands to accommodate closures on those lands; if changed, the season length and bag limit shall remain the same as assigned on the original hunt code.

[19.31.12.8 NMAC - Rp, 19.31.12.8 NMAC, 4/1/2023]

19.31.12.9 BARBARY SHEEP, ORYX, AND PERSIAN IBEX LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:

A. Veteran hunts: It shall be unlawful for anyone who is not qualified for the veteran oryx hunt to apply for or hold a veteran oryx license.

B. Persian ibex once-in-a-lifetime: It shall be unlawful for anyone to apply for a once-in-a-lifetime Persian ibex license if he or she has held a once-in-a-lifetime license to hunt Persian ibex. Persian ibex hunts for population management, incentive hunts, once-in-a-youth, muzzle-loading rifles, bows, year-round off-mountain hunts, and hunts for female or immature Persian ibex are not considered once-in-a-lifetime and anyone may apply for these hunts or hold these licenses even if they have held a once-in-a-lifetime Persian ibex license.

C. Persian ibex once-in-a-youth: It shall be unlawful for any youth (under age 18) to apply for a once-in-a-youth Persian ibex license if he or she has ever held a Persian ibex youth license.

D. Oryx once-in-a-lifetime: It shall be unlawful, beginning April 1, 1993, for anyone to apply for a once-in-a-lifetime oryx license if he or she has held a once-in-a-lifetime license to hunt oryx. Oryx hunts for population management, broken-horned, once-in-a-youth and incentive hunts are not considered once-in-a-lifetime and anyone may apply for these hunts or hold these licenses even if they have held a once-in-a-lifetime license.

E. Oryx once-in-a-youth: It shall be unlawful for any youth (under age 18) to apply for a once-in-a-youth GMU 19 WSMR ES oryx license if he or she has held a once-in-a-youth license.

[19.31.12.9 NMAC - Rp, 19.31.12.9 NMAC, 4/1/2023]

19.31.12.10 POPULATION MANAGEMENT HUNTS:

A. The director or their designee may authorize population management hunts for oryx, Barbary sheep or Persian ibex when justified in writing by department personnel.

B. The director or their designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses to be issued.

C. In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunters' names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

[19.31.12.10 NMAC - Rp, 19.31.12.11 NMAC, 4/1/2023]

19.31.12.11 BARBARY SHEEP HUNTING SEASONS: Barbary sheep hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, sporting arms, number of licenses, and bag limit. Public draw Barbary sheep licenses for GMUs 29, 30, 32, 36, and 37 are available only through application in the special entry draw. Private land-only licenses for GMUs 29, 30, 32, 36, and 37 shall be issued over-the-counter and shall be valid

only on deeded private lands. All Barbary sheep licenses listed in Subsections A and B of Section 19.31.12.11 NMAC (with the exception of hunts on McGregor range when the license holder claimed residency as allowed by 17-3-4.A.5 NMSA 1978) shall also be valid for over-the-counter hunt areas with any legal sporting arm. The department shall issue military-only Barbary sheep hunting licenses for McGregor range to full time military personnel providing a valid access authorization issued by Fort Bliss.

A. Public draw hunts:

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	licenses	bag limit
32, 36, 37	1/1-1/15	1/1-1/15	1/1-1/15	1/1-1/15	BBY-2-100	75	ES
32, 36, 37	10/10-10/16	10/10-10/16	10/10-10/16	10/10-10/16	BBY-1-101	50	ES
32, 36, 37	12/4-12/10	12/4-12/10	12/4-12/10	12/4-12/10	BBY-1-102	50	ES
32, 36, 37	12/15-12/21	12/15-12/21	12/15-12/21	12/15-12/21	BBY-1-103	75	ES
32, 36, 37	1/20-1/26	1/20-1/26	1/20-1/26	1/20-1/26	BBY-1-104	150	ES
32, 36, 37	2/1-2/7	2/1-2/7	2/1-2/7	2/1-2/7	BBY-1-105	150	ES
32, 36, 37	2/12-2/18	2/12-2/18	2/12-2/18	2/12-2/18	BBY-1-106	150	ES
32, 36, 37	2/21-2/27	2/21-2/27	2/21-2/27	2/21-2/27	BBY-1-107	150	ES
29, 30	1/1-1/15	1/1-1/15	1/1-1/15	1/1-1/15	BBY-2-108	75	ES
29, 30	10/10-10/16	10/10-10/16	10/10-10/16	10/10-10/16	BBY-1-109	75	ES
29, 30	12/4-12/10	12/4-12/10	12/4-12/10	12/4-12/10	BBY-1-110	75	ES
29, 30	12/15-12/21	12/15-12/21	12/15-12/21	12/15-12/21	BBY-1-111	75	ES
29, 30	1/20-1/26	1/20-1/26	1/20-1/26	1/20-1/26	BBY-1-112	200	ES
29, 30	2/1-2/7	2/1-2/7	2/1-2/7	2/1-2/7	BBY-1-113	200	ES
29, 30	2/12-2/18	2/12-2/18	2/12-2/18	2/12-2/18	BBY-1-114	200	ES
29, 30	2/21-2/27	2/21-2/27	2/21-2/27	2/21-2/27	BBY-1-115	200	ES
28 McGregor range	12/9-12/13	12/14-12/18	12/13-12/17	12/12-12/16	BBY-1-116	10	ES
28 McGregor range, military only	12/9-12/13	12/14-12/18	12/13-12/17	12/12-12/16	BBY-1-117	10	ES
28 McGregor range	12/30-12/31	12/28-12/29	12/27-12/28	12/26-12/27	BBY-1-118	80	F-IM
28 McGregor range, military only	12/30-12/31	12/28-12/29	12/27-12/28	12/26-12/27	BBY-1-119	10	F-IM
28 McGregor range	1/6-1/7	1/4-1/5	1/3-1/4	1/2-1/3	BBY-1-120	50	F-IM
28 McGregor range, military only	1/6-1/7	1/4-1/5	1/3-1/4	1/2-1/3	BBY-1-121	10	F-IM

B. Private land-only hunts: Private land-only Barbary sheep licenses shall be restricted to the hunt dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the draw hunt code listed in Subsection A of Section 19.31.12.11 NMAC for the GMU where the private landowner's property lies. Private land-only Barbary sheep licenses shall be unlimited and available from any license vendor and the department's web site. Private land-only Barbary sheep licenses are valid only on deeded private property where the licensee has written permission to hunt.

C. Over-the-counter hunts: The hunt area shall be statewide except on WMAs during closures, WSMR, Fort Bliss portions of GMU 19 and the draw areas of GMUs 28, 29, 30, 32, 36 and 37.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	licenses	bag limit

statewide, restrictions listed above	4/1/2023-3/31/2024	4/1/2024-3/31/2025	4/1/2025-3/31/2026	4/1/2026-3/31/2027	BBY-1-300	unlimited	ES

D. Special management properties: For private lands within GMUs 29, 30, 32, 36 and 37, the department may work with interested landowners to develop appropriate bag limits, weapon types, season dates and authorization numbers for private land hunting needed to achieve the proper harvest on the deeded private land of the participating ranches.
[19.31.12.11 NMAC - Rp, 19.31.12.12 NMAC, 4/1/2023]

19.31.12.12 ORYX HUNTING SEASONS:
A. Oryx once-in-a-lifetime and once-in-a-youth hunts for any legal sporting arms type shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	licenses	bag limit
19 WSMR	9/8-9/10	9/6-9/8	9/5-9/7	9/4-9/6	ORX-1-100	70	ES
19 WSMR	9/22-9/24	9/20-9/22	9/19-9/21	9/18-9/20	ORX-1-101	70	ES
19 WSMR, veteran	10/20-10/22	10/18-10/20	10/17-10/19	10/16-10/18	ORX-1-102	75	ES
19 WSMR	11/3-11/5	11/1-11/3	10/31-11/2	10/30-11/1	ORX-1-103	70	ES
19 WSMR	12/1-12/3	11/29-12/1	11/28-11/30	11/27-11/29	ORX-1-104	70	ES
19 WSMR	1/12-1/14	1/10-1/12	1/9-1/11	1/8-1/10	ORX-1-105	70	ES
19 WSMR	1/26-1/28	1/24-1/26	1/23-1/25	1/22-1/24	ORX-1-106	70	ES
19 WSMR	2/9-2/11	2/7-2/9	2/6-2/8	2/5-2/7	ORX-1-107	70	ES
19 WSMR	2/23-2/25	2/21-2/23	2/20-2/22	2/19-2/21	ORX-1-108	70	ES
19 WSMR	3/8-3/10	3/7-3/9	3/6-3/8	3/5-3/7	ORX-1-109	70	ES
19 WSMR, mobility impaired	10/6-10/8	10/4-10/6	10/3-10/5	10/2-10/4	ORX-1-110	20	ES
19 WSMR, once-in-a-youth	10/6-10/8	10/4-10/6	10/3-10/5	10/2-10/4	ORX-1-111	40	ES

B. Oryx broken-horned on-range hunts for any legal weapon shall be as indicated below, listing the hunt dates, hunt codes, number of licenses and bag limit.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	licenses	bag limit
19 WSMR	9/8-9/10	9/6-9/8	9/5-9/7	9/4-9/6	ORX-1-112	15	BHO
19 WSMR	9/22-9/24	9/20-9/22	9/19-9/21	9/18-9/20	ORX-1-113	15	BHO
19 WSMR	11/3-11/5	11/1-11/3	10/31-11/2	10/30-11/1	ORX-1-114	15	BHO
19 WSMR	12/1-12/3	11/29-12/1	11/28-11/30	11/27-11/29	ORX-1-115	15	BHO
19 WSMR	1/12-1/14	1/10-1/12	1/9-1/11	1/8-1/10	ORX-1-116	15	BHO
19 WSMR	1/26-1/28	1/24-1/26	1/23-1/25	1/22-1/24	ORX-1-117	15	BHO
19 WSMR	2/9-2/11	2/7-2/9	2/6-2/8	2/5-2/7	ORX-1-118	15	BHO
19 WSMR	2/23-2/25	2/21-2/23	2/20-2/22	2/19-2/21	ORX-1-119	15	BHO
19 WSMR	3/8-3/10	3/7-3/9	3/6-3/8	3/5-3/7	ORX-1-120	15	BHO

C. Off-range oryx hunts or hunts on McGregor Range shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit. The department shall issue military only oryx hunting licenses for McGregor range to full time military personnel providing a valid access authorization issued by Fort Bliss (McGregor range, military only).

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	licenses	bag limit
statewide, off-range	6/1-6/30	6/1-6/30	6/1-6/30	6/1-6/30	ORX-1-204	96	ES
statewide, off-range, youth only	6/1-6/30	6/1-6/30	6/1-6/30	6/1-6/30	ORX-1-205	24	ES
statewide, off-range	7/1-7/31	7/1-7/31	7/1-7/31	7/1-7/31	ORX-1-206	96	ES
statewide, off-range, youth only	7/1-7/31	7/1-7/31	7/1-7/31	7/1-7/31	ORX-1-207	24	ES
statewide, off-range	8/1-8/31	8/1-8/31	8/1-8/31	8/1-8/31	ORX-1-208	96	ES
statewide, off-range, youth only	8/1-8/31	8/1-8/31	8/1-8/31	8/1-8/31	ORX-1-209	24	ES
statewide, off-range	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-210	96	ES
statewide, off-range, youth only	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-211	24	ES
statewide, off-range	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-212	96	ES
statewide, off-range, youth only	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-213	24	ES
statewide, off-range	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-214	96	ES
statewide, off-range, youth only	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-215	24	ES
statewide, off-range	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31	ORX-1-216	96	ES
statewide, off-range, youth only	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31	ORX-1-217	24	ES
statewide, off-range	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-218	96	ES
statewide, off-range, youth only	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-219	24	ES
statewide, off-range	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-220	80	ES
statewide, off-range, youth only	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-221	20	ES
statewide, off-range, age 70 and older	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-222	40	ES
statewide, off-range	3/1-3/31	3/1-3/31	3/1-3/31	3/1-3/31	ORX-1-223	96	ES
statewide, off-range, youth only	3/1-3/31	3/1-3/31	3/1-3/31	3/1-3/31	ORX-1-224	24	ES
28 McGregor range	12/16-12/17	12/21-12/22	12/20-12/21	12/19-12/20	ORX-1-225	25	ES
28 McGregor range, military only	12/16-12/17	12/21-12/22	12/20-12/21	12/19-12/20	ORX-1-226	25	ES
28 McGregor range	1/6-1/7	1/4-1/5	1/3-1/4	1/2-1/3	ORX-1-227	25	ES
28 McGregor range, military only	1/6-1/7	1/4-1/5	1/3-1/4	1/2-1/3	ORX-1-228	25	ES

D. Private land-only oryx hunts: Private land-only oryx licenses shall be valid only on deeded private land and restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the statewide public draw hunt codes listed in Subsection C of Section 19.31.12.12 NMAC above. Hunts on private land for April and May are restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the hunt codes listed below. The number of private land-only oryx licenses shall be unlimited.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	bag limit
statewide, private land	4/1-4/30	4/1-4/30	4/1-4/30	4/1-4/30	ORX-1-2000	ES
	5/1-5/31	5/1-5/31	5/1-5/31	5/1-5/31	ORX-1-2020	ES

E. Oryx incentive authorizations: The director may annually allow up to two oryx authorizations to be issued by drawing for deer and elk hunters submitting their legally harvested animal for CWD testing. Authorizations to purchase the license may be used either by the applicant or any individual of the selected applicant's choice and may be transferred through sale, barter, or gift. Oryx incentive hunts shall be any one hunt selected from Subsection A of Section 19.31.12.12 NMAC. Bag limit shall be either sex with any legal sporting arms and hunt area of the selected hunt.

F. Oryx hunt for injured service men and women: The department shall annually issue up to 10 authorizations for hunting by injured service men and women on White Sands missile range. The director shall determine the procedures for issuing the authorizations, and the dates for each hunt.

[19.31.12.12 NMAC - Rp, 19.31.12.13 NMAC, 4/1/2023]

19.31.12.13 PERSIAN IBEX HUNTING SEASONS: Persian ibex hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit. Holders of the off-mountain license (IBX-1-528) may apply for any Florida mountains ibex hunt unless otherwise restricted by rule. Any valid Persian ibex license shall be valid during the off-mountain (IBX-1-528) hunts. Holders of a valid ibex license may take an unlimited number of ibex for the year-long off-mountain hunt. The Florida mountain hunt area is that portion of GMU 25 bounded by interstate 10 on the north, U.S.-Mexico border on the south, NM 11 on the west and the Dona Ana-Luna county line on the east. The year-long off-mountain hunt area is any public land open for hunting and private lands with written permission outside the Florida mountain hunt area.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates	hunt code	licenses	bag limit
25 Florida mountains	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15	IBX-2-100	100	ES
25 Florida mountains, once-in-a-lifetime	11/15-11/29	11/15-11/29	11/15-11/29	11/15-11/29	IBX-1-101	15	ES
25 Florida mountains	12/9-12/13	12/14-12/18	12/13-12/17	12/12-12/16	IBX-1-102	20	F-IM
25 Florida mountains, once-in-a-youth	12/27/2023-1/10/2024	12/27/2024-1/10/2025	12/27/2025-1/10/2026	12/27/2026-1/10/2027	IBX-1-103	5	ES
25 Florida mountains	1/15-1/29	1/15-1/29	1/15-1/29	1/15-1/29	IBX-2-104	100	ES
25 Florida mountains	2/3-2/7	2/1-2/5	2/7-2/11	2/6-2/10	IBX-1-105	20	F-IM
25 Florida mountains	2/17-2/23	2/22-2/28	2/21-2/27	2/20-2/26	IBX-3-106	15	ES
Statewide, off-mountain, over-the-counter	4/1/2023-3/31/2024	4/1/2024-3/31/2025	4/1/2025-3/31/2026	4/1/2026-3/31/2027	IBX-1-528	unlimited	ES

[19.31.12.13 NMAC - Rp, 19.31.12.14 NMAC, 4/1/2023]

HISTORY OF 19.31.12 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/1967;
Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/1967;
Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/1968;
Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/1968;
Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/1968;
Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/1968;
Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/1968;
Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/1969;
Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/1969;
Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/1969;

Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/1969;
Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/1970;
Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/1970;
Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/1970;
Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/1971;
Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/1971;
Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/1971;
Regulation No. 531, Establishing A Season On Javelina, filed 12/17/1971;
Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/1972;
Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/1972;
Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/1972;
Regulation No. 542, Establishing A Season On Javelina, filed 12/1/1972;
Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/1973;
Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/1973;
Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/1973;
Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/1974;
Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/1974;
Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/1974;
Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/1975;
Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/1975;
Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/1975;
Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/1976;
Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/1977;
Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/1978;
Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/1979;
Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/1980;
Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/1981;
Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/1982;
Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/1983;
Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/1984;
Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/1985;
Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/1986;
Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/1987;
Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1,

1988 through March 31, 1989, filed 12/18/1987;
Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;
Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/1989;
Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/1989;
Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/1991;
Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/1992;
Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/1993.

History of Repealed Material:
19.31.8 NMAC, Big Game, filed 3/1/2001 - duration expired 3/31/2003.
19.31.8 NMAC, Big Game and Turkey, filed 3/3/2003 - duration expired 3/31/2005.
19.31.8 NMAC, Big Game and Turkey, filed 12/15/2004 - duration expired 3/31/2007.
19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12/1/2006 - duration expired 3/31/2009.
19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3/13/2009 - duration expired 3/31/2011.
19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12/16-/2013 - duration expired 3/31/2015.
19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3/172015, repealed 3/31/2016.
19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 2/29/2016, duration expired 3/31/2019.
19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 8/31/2018, duration expired 3/31/2023.

HUMAN SERVICES DEPARTMENT
CHILD SUPPORT ENFORCEMENT DIVISION

The New Mexico Human Services Department based on its 5/5/2022 public hearing has decided to repeal 8.50.125 NMAC - Fees, Payments, and Distributions, filed 12/13/2010 and replace with 8.50.125 NMAC - Fees, Payments, and Distributions, adopted 7/13/2022 and effective 9/1/2022.

HUMAN SERVICES DEPARTMENT
CHILD SUPPORT ENFORCEMENT DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 125 FEES, PAYMENTS, AND DISTRIBUTIONS

8.50.125.1 ISSUING AGENCY: New Mexico Human Services Department - Child Support Enforcement Division.
[8.50.125.1 NMAC - Rp, 8.50.125.1 NMAC, 9/1/2022]

8.50.125.2 SCOPE: To the general public. For use by the Title IV-D agency and recipients of IV-D services.
[8.50.125.2 NMAC - Rp, 8.50.125.2 NMAC, 9/1/2022]

8.50.125.3 STATUTORY AUTHORITY: Public Assistance Act, Section 27-2-27 et seq., NMSA 1978. The human services department is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.).
[8.50.125.3 NMAC - Rp, 8.50.125.3 NMAC, 9/1/2022]

8.50.125.4 DURATION: Permanent.
[8.50.125.4 NMAC - Rp, 8.50.125.4 NMAC, 9/1/2022]

8.50.125.5 EFFECTIVE DATE: September 1, 2022, unless a later date is cited at the end of a section.
[8.50.125.5 NMAC - Rp, 8.50.125.5 NMAC, 9/1/2022]

8.50.125.6 OBJECTIVE: To provide regulations in accordance with federal and state law and regulations.
[8.50.125.6 NMAC - Rp, 8.50.125.6 NMAC, 9/1/2022]

8.50.125.7 DEFINITIONS: [RESERVED]
[See 8.50.100.7 NMAC]

8.50.125.8 CHILD SUPPORT PAYMENTS:
A. The IV-D agency has in effect procedures for the payment of support through the IV-D agency upon the request of either the non-custodial party or the custodial party, regardless of whether arrearages exist or withholding procedures have been instituted. The IV-D agency is designated to administer the state's withholding system. The IV-D agency monitors all amounts paid and the dates of payments and records them on an individual payment record. As a condition of receiving IV-D services and cooperating with the IV-D agency, recipients must submit to the IV-D agency child support received

directly from the non-custodial party. If the recipient of title XIX (medicaid) services elects to receive medical support services only, the recipient of title XIX (medicaid) services may keep child support payments received directly from the payor.

B. All support payments disbursed by the IV-D agency shall be through electronic funds transfer (EFT). The custodial party must elect to receive the payments via direct deposit or a pre-paid debit card authorized by the IV-D agency. If a custodial party receiving support payments fails to choose either option at the time of application or when requested by the IV-D agency, they will automatically be enrolled in the IV-D authorized pre-paid debit card program and will be sent a fee schedule. Exceptions to disbursements via EFT may be granted for exceptional circumstances. Those wishing to request an exemption should request an "EFT exemption form" from the IV-D agency. The form must be fully completed to include an explanation of the exceptional circumstances requiring an exemption from EFT. The IV-D agency will respond in writing either granting or denying the request for an exemption.

[8.50.125.8 NMAC - Rp, 8.50.125.8 NMAC, 9/1/2022]

8.50.125.9 STATE DISBURSEMENT UNIT: The state IV-D agency has established and operates a state disbursement unit (SDU) for the collection and disbursement of payments in all IV-D cases pursuant to 42 USC 654(a).

[8.50.125.9 NMAC - Rp, 8.50.125.9 NMAC, 9/1/2022]

8.50.125.10 COLLECTION OF FEES/RECOUPMENTS: New Mexico is a cost recovery state, and other states' IV-D agencies have been notified of this fact. All fees charged to the custodial party are deducted from payments the IV-D agency distributes to the custodial party. The amount the IV-D agency deducts from each payment will not exceed ten percent of the total amount of the distribution. Once the percentage for the fee is deducted, the balance of the distribution is sent to the custodial party. Title IV-A, Title IV-E and medicaid-only (Title XIX) recipients are not charged any fees; federal regulations will not allow cost recovery on these cases.

A. Fee types and amounts:

(1) non-IV-D wage withholding payment processing only: $25 (annually);

(2) non-IV-A full service IRS collection: applicable federal fee;

(3) paternity genetic testing: as charged by lab;

(4) non-IV-A/IV-E case processing: actual cost;

(5) filing fee: actual cost;

(6) witness fee: actual cost;

(7) service of process: actual cost;

(8) expert witness fee: actual cost;

(9) court costs: as assessed;

(10) establishment of support obligation and paternity (if necessary): $250;

(11) modification: $150;

(12) enforcement: $250;

(13) tax intercept related: as determined by federal regulations;

(14) IRS tax intercept service: $25;

(15) TRD tax intercept service: $20;

(16) administrative offset: applicable federal fee.

B. Refund of fees: Fees are to be refunded only under the following conditions:

(1) fees have been charged in error or overcharged;

(2) the court orders a refund.

C. Fees are assessed to the custodial or non-custodial party requesting an action or service (i.e. establishment of paternity, modification or enforcement of support obligation) in a IV-D case in accordance with the fee schedule above.

D. Genetic testing fees: See 8.50.107.12 NMAC in addition to the fee schedule listed above.

E. Recoupment: The IV-D agency will recoup from the custodial party for any over-distribution of funds and for any funds collected from the non-custodial party that are returned for insufficient funds. If the recoupment is pursuant to an over-distribution of funds, the recoupment amount shall not exceed twenty-five percent of any future distribution to the custodial party until paid in full. If the recoupment is pursuant to insufficient funds received from the non-custodial party's payment, the recoupment amount shall be one hundred percent of any future distribution to the custodial party until paid in full.

[8.50.125.10 NMAC - Rp, 8.50.125.10 NMAC, 9/1/2022]

8.50.125.11 DISTRIBUTION OF COLLECTIONS (EXCEPT FOR FEDERAL INCOME TAX REFUND OFFSETS): Specific terms used in this section are derived from 42 USC 657 and 45 CFR 300 through 303.

A. In accordance with federal regulations, for purposes of distribution in a IV-D case, amounts collected, except for amounts collected through federal income tax refund offset, must be distributed as follows:

(1) monthly payment ordered for current ongoing support;

(2) monthly payment ordered for judgment on arrears;

(3) current support delinquency;

(4) past due support delinquency;

(5) in each of the categories above, the payment is prioritized in the following order: child support, medical support, spousal support; any payment that is insufficient to meet the entire

obligation will be applied in the order stated above.

B. The requirement to apply collections first to satisfy the current support obligation is critical in all IV-D cases to ensure that payment records are consistent in interstate cases, regardless of whether the amount applied to current support is paid to the family (as in a former assistance case) or retained by the state to recover unreimbursed assistance in a current assistance case.

C. Current assistance cases: The state will (not exceeding the cumulative amount of unreimbursed assistance paid to the family):

(1) pay to the federal government the federal share of the amount collected that is applied to assigned support;

(2) retain the state share of the amount collected that is applied to assigned support; and

(3) reduce the cumulative amount of unreimbursed assistance by the total amount collected that is applied to assigned support and disbursed under Paragraphs (1) and (2) of Subsection, C of 8.50.125.11 NMAC and distribute collections exceeding the cumulative amount of unreimbursed assistance to the family in excess of Paragraphs (1) and (2) of Subsection, C of 8.50.125.11 NMAC to satisfy never assigned support, unassigned support and conditionally assigned support.

D. The order in which collections are applied to satisfy assigned and unassigned arrearages in current assistance cases differ by state.

(1) For collections made prior to January 23, 2023, the state of New Mexico has selected the following option:

(a) collections will be first applied to current support;

(b) additional collections will be applied to temporarily assigned arrearages or conditionally assigned arrearages;

(c) additional collections will be applied to permanently assigned arrearages and

(d) additional collections will be applied to never assigned arrearages, unassigned pre-assistance arrearages and unassigned during assistance arrearages.

(2) For collections made effective on or after January 23, 2023, the state of New Mexico has selected the following option:

(a) collections will be first applied to current support;

(b) additional collections will be first applied to permanently assigned arrearages;

(c) additional collections will be applied to temporarily assigned arrearages or conditionally assigned arrearages; and

(d) additional collections will be applied to never assigned arrearages, unassigned
Pre-assistance arrearages and unassigned during assistance arrearages.

E. Former assistance cases:

(1) For collections made prior to October 1, 1998, the state shall:

(a) first, distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;

(b) second, distribute any amount above the current monthly support obligation to arrearages owed to the family or assigned to the state; the federal statute does not specify the order in which collections are applied to satisfy arrearages; the state must have procedures that specify the order in which assigned arrearages will be satisfied; if the state distributes any amount to assigned arrearages, the state must pay to the federal government the federal share of the amount so collected; the state must retain the state share of the amount so collected, with one exception; the state may retain or pay to the family the state share of collections applied to arrearages that accrued while the family was receiving assistance after October 1, 1996.

(2) For collections made on or after October 1, 1998, or earlier at state option, the state shall:

(a) distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;

(b) distribute any amount above the current monthly support obligation to satisfy never-assigned arrearages and pay that amount to the family;

(c) distribute any amount above amounts distributed in Subparagraphs (a) and (b) of this section to satisfy unassigned pre-assistance arrearages and conditionally-assigned arrearages in any order and pay that amount to the family;

(d) distribute any amount above amounts distributed in Subparagraphs (a), (b) and (c) of this section to satisfy permanently-assigned arrearages; the state must pay the federal government the federal share of the amount collected that is applied to assigned support; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to arrearages that accrued while the family was receiving assistance after October 1, 1996;

(e) reduce the cumulative amount of unreimbursed assistance by the total amount distributed under subparagraph (d), distribute collections exceeding the cumulative amount of unreimbursed assistance to satisfy unassigned during-assistance arrearages and pay those amounts to the family.

(3) For collections made effective on or after January 23, 2023 (other than through

federal income tax refund offset), the state shall:

(a) distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;

(b) distribute any amount above the current monthly support obligation to satisfy never-assigned arrearages and pay that amount to the family;

(c) distribute any amount above amounts distributed in Subparagraphs (a) and (b) of Paragraph (3) of Subsection E of 8.50.125.11 NMAC to satisfy unassigned pre-assistance arrearages and pay that amount to the family;

(d) distribute any amount above amounts distributed in Subparagraphs (a), (b) and (c) of Paragraph (3) of Subsection E of 8.50.125.11 NMAC to satisfy unassigned during assistance arrearages and pay those amounts to the family;

(e) distribute any amount above amounts distributed in Subparagraphs (a), (b), (c) and (d) of Paragraph (3) of Subsection E of 8.50.125.11 NMAC to satisfy conditionally-assigned arrearages and pay that amount to the family; the state must pay the federal government the federal share of the amount collected that is applied to assigned support; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to conditionally assigned arrearages; and

(f) distribute any amount above amounts distributed in Subparagraphs (a), (b), (c), (d) and (e) of Paragraph (3) of Subsection E of 8.50.125.11 NMAC to satisfy permanently-assigned arrearages and reduce the cumulative amount of unreimbursed assistance by the total amount distributed under Subparagraph (e) and (f) of this Paragraph; the state must pay the federal government the federal share of the amount collected that is applied to assigned support;; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to permanently assigned arrearages;

F. Never-assistance cases: All support collections in never-assistance cases must be paid (less any applicable fees) to the family.

G. Collected funds will be distributed to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

H. When the non-custodial parent has multiple cases with the IV-D agency, payments received from the non-custodial parent through wage withholding shall be distributed among all active cases on a pro-rata basis determined by the total amount of all monthly support obligations. Payments received through administrative enforcement mechanisms shall be distributed among multiple cases on a pro-rata split based on the total amount of arrearages owed at the time of the referral for administrative enforcement, except for reinstatement of license(s). Payments received for the reinstatement of licenses will be applied to the specific case(s) rather than split among multiple cases. Any other direct payments made by the non-custodial parent will be divided among all active cases involving the non-custodial parent.

[8.50.125.11 NMAC - Rp, 8.50.125.11 NMAC, 9/1/2022]

8.50.125.12 DISTRIBUTION OF COLLECTIONS THROUGH FEDERAL INCOME TAX REFUND OFFSET: Any amount of support collected through federal income tax refund offset may be retained by the state to the extent support arrearages have been assigned to the state up to the amount necessary to reimburse the state for cumulative amounts paid to the family as assistance by the state. The state will pay to the federal government the federal share of the amounts so retained. To the extent the amount collected exceeds the amount required to be retained, the state will pay the excess to the family.

A. Current assistance cases: Support collections through federal income tax refund offsets in current assistance cases are retained by the state up to the cumulative amount of unreimbursed assistance paid to the family. Collections over and above the cumulative amount of unreimbursed assistance are paid to the family. The order in which collections are applied to satisfy assigned and unassigned arrearages in current assistance cases differ by state.

(1) For collections made prior to January 23, 2023 the state of New Mexico has selected the following option:

(a) collections will first be applied to temporarily assigned arrearages or conditionally assigned arrearages;

(b) additional collections will be applied to permanently assigned arrearages; and

(c) additional collections will be applied to never assigned arrearages, unassigned pre-assistance arrearages and unassigned during assistance arrearages.

(2) For collections made on or after January 23, 2023, the state of New Mexico has selected the following option:

(a) collections will be first applied to current support (pass through described in Section 8.50.125.13 NMAC may apply here);

(b) additional collections will be first applied to permanently assigned arrearages;

(c) additional collections will be applied to temporarily assigned arrearages or conditionally assigned arrearages; and

(d) additional collections will be applied to never assigned arrearages, unassigned pre-assistance arrearages and unassigned during assistance arrearages.

B. Former assistance cases: For support collections made through federal income tax refund offsets in former assistance cases, the state shall:

(1) distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;

(2) distribute any amount above the current monthly support obligation to satisfy never-assigned arrearages and pay that amount to the family;

(3) distribute any amount above amounts distributed in Paragraphs (1) and (2) of this subsection to satisfy unassigned pre-assistance arrearages and pay that amount to the family;

(4) distribute any amount above amounts distributed in Paragraphs (1), (2) and (3) of this subsection to satisfy unassigned during assistance arrearages and pay those amounts to the family;

(5) distribute any amount above amounts distributed in Paragraphs (1), (2), (3) and (4) of this subsection to satisfy conditionally-assigned arrearages and pay that amount to the family; the state must pay the federal government the federal share of the amount collected that is applied to assigned support; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to conditionally assigned arrearages; and

(6) distribute any amount above amounts distributed in Paragraphs (1), (2), (3), (4) and (5) of this subsection to satisfy permanently-assigned arrearages and reduce the cumulative amount of unreimbursed assistance by the total amount distributed under Paragraph (5) and (6) of Subsection B of 8.50.125.12 NMAC; the state must pay the federal government the federal share of the amount collected that is applied to assigned support; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to permanently assigned arrearages and conditionally assigned arrearages.

C. Never-assistance cases: Support collections through federal income tax refund offsets in non-assistance cases are paid to the family.
[8.50.125.12 NMAC - Rp, 8.50.125.12 NMAC, 9/1/2022]

8.50.125.13 CURRENT ASSISTANCE PASS THROUGH PAYMENTS: At the discretion of the New Mexico legislature, the IV-D agency may disburse an amount based on budget availability (refer to NMSA § 27-2B-7 and disregard for child support payments in 8.102.520.9 NMAC for allowable amount), to the IV-A service recipient from collections on current support. Under no circumstances is a current or former IV-A recipient entitled to receive said amount as part of the arrearages owed to them. The disbursement to the custodial party, up to the maximum amount, shall only be made if the recipient is currently receiving TANF and the IV-D agency collects a payment from the non-custodial party. If the non-custodial party pays less than the maximum amount allowed to pass through, the custodial party shall only receive the amount of the payment collected. Neither the IV-D agency nor the IV-A agency will pay the difference to the custodial party between the maximum pass through amount and the amount paid by the non-custodial party. If the custodial party has more than one IV-D case, they will only receive the lower of the amount of the maximum disregard or the current monthly collection received on all cases. A pass through payment is in addition to, not in lieu of, the monthly TANF payment.
[8.50.125.13 NMAC - N, 9/1/2022]

8.50.125.14 DISTRIBUTION OF COLLECTIONS IN TITLE IV-E FOSTER CARE CASES: Amounts collected as support in Title IV-E foster care cases will be distributed in accordance with 45 CFR 302.52.
[8.50.125.14 NMAC - Rp, 8.50.125.13 NMAC, 9/1/2022]

8.50.125.15 ASSIGNED MEDICAL SUPPORT COLLECTIONS: Any amounts collected by the IV-D agency that represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the state will be forwarded to the medicaid agency for distribution. When a family ceases receiving assistance under the state's Title XIX (medicaid) plan, the assignment of medical support rights under section 1912 of the act terminates, except for the amount of any unpaid medical support obligation that has accrued under such assignment. The IV-D agency will attempt to collect any unpaid specific dollar amounts designated in the support order for medical support purposes. Under this requirement, any medical support collection made by the IV-D agency will be forwarded to the medicaid agency for distribution.
[8.50.125.15 NMAC - Rp, 8.50.125.14 NMAC, 9/1/2022]

8.50.125.16 CHILD LEVEL ACCOUNTING: An application for public assistance by any person constitutes an assignment by operation of law of any support rights the person is entitled to from any other person, whether the support rights are owed to the applicant or to any family member for whom the applicant is applying for or receiving assistance. Therefore, in current or former assistance cases, the IV-D agency may not use child-level accounting by splitting or pro-rating

the family grant amount on a per-child basis when the child is (or was) included in the family unit and must continue to apply collections to the cumulative amount of unreimbursed assistance balances based on the total monthly family grant amount.
[8.50.125.16 NMAC - Rp, 8.50.125.15 NMAC, 9/1/2022]

8.50.125.17 CHILD SUPPORT RECEIVED DIRECTLY FROM PAYORS: As a condition of receiving IV-D services, all recipients must submit to the IV-D agency all court ordered, voluntary agreement and voluntary contribution child support directly received from the non-custodial party. Failure to cooperate with this requirement may constitute cause for closing the IV-D case for non-cooperation. If the recipient of IV-D services elects to receive medical support services only, the recipient of IV-D services may keep child support payments received directly from the payor.
[8.50.125.17 NMAC - Rp, 8.50.125.16 NMAC, 9/1/2022]

8.50.125.18 CHILD SUPPORT COLLECTED FOR MEDICAID REFERRALS: A medicaid only recipient, for whom an assignment of support rights is in effect, must receive medical support services but may choose to receive full services. If the recipient elects to receive full services, the recipient is required to turn over all child support received, to be distributed in accordance with federal and state regulations. If the recipient elects to receive only medical support services, the recipient may keep child support payments received directly from the payor.
[8.50.125.18 NMAC - Rp, 8.50.125.17 NMAC, 9/1/2022]

8.50.125.19 CHILD SUPPORT CASE SERVICES: The IV-D agency provides two types of case services: full service and payment processing only.

A. Full services cases: Recipients of IV-A services are automatically enrolled for full services and recipients of title XIX may elect to receive full services for all support or solely for medical support. Full services cases include all services listed below as specific services may not be selected. Applicants not receiving any type of public assistance may also request full services that include:

(1) establishment of paternity;

(2) establishment of a child support, medical support order, or both;

(3) enforcement of a child support orders, spousal support orders (so long as there is a current order for child support), and medical support orders;

(4) administrative enforcement of orders, including referrals for tax intercepts, passport denial, license revocation, and financial institution data match;

(5) issuance of wage withholding against a non-custodial party's earnings/wages for support obligations; and

(6) modification of child support orders, if appropriate.

B. Payment processing only cases: A custodial party currently receiving full services from the IV-D agency or opening a new case with the IV-D agency may elect to receive payment processing only services so long as they are not currently receiving public assistance (Title IV-A or Title XIX) and does not have an outstanding balance of arrears owed to the state for prior public assistance. Payment processing only services are charged an annual fee as stated in section 10, above. In order to receive payment processing only services, the custodial party must produce a valid court order (either issued by or registered by a court in New Mexico) for a support obligation that contains an income withholding provision or a copy of an income withholding order indicating that payments are to be sent to the IV-D agency.

(1) The IV-D agency is not responsible for:

(a) establishing, modifying, or enforcing the support obligation;

(b) establishing, modifying, enforcing, sending, or terminating the income withholding order;

(c) calculating or determining the appropriate amount of support, payment toward arrears, delinquencies, and arrearages;

(d) appearing in court for any issues involving the establishment, modification, enforcement or termination of the support obligations.

(2) The IV-D agency will provide either the custodial party or the non-custodial party a printout of the payments received by the IV-D agency after receiving a written request.

(3) The IV-D agency may terminate the payment processing only services if no payments are received for a period of two months.
[8.50.125.19 NMAC - Rp, 8.50.125.18 NMAC, 9/1/2022]

8.50.125.20 ISSUANCE OF REPLACEMENT WARRANTS: If a custodial party or non-custodial parent claims that a warrant issued to him or her has not been received, a replacement warrant shall be issued only if the original warrant has not been redeemed or at the discretion of the IV-D agency. If the IV-D agency determines that a replacement warrant will be issued, any warrants that were fraudulently redeemed shall be reported by the intended recipient to the proper authorities as a pre-condition for the issuance of a replacement warrant. An unredeemed warrant is subject to the undistributed collections process, see 8.50.132 NMAC. The IV-D agency will replace a warrant that it can confirm was not redeemed and has not escheated to the IV-D agency through the undistributed collections process. If the IV-D agency is unable to confirm that a warrant has been redeemed due to the length of time that has passed since the warrant was issued, the IV-D agency will deny the request for a replacement warrant.
[8.50.125.20 NMAC - Rp, 8.50.125.19 NMAC, 9/1/2022]

History of 8.50.125 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:
ISD CSEB 501.1100, State and Local Requirements, 6/23/1980.
ISD CSEB 521.0000, Non-AFDC Fees and Costs, 6/23/1980.
ISD CSEB 521.0000, Non-AFDC Fees and Costs, 1/20/1981.
ISD CSEB 592.0000, Collection, 6/23/1980.
ISD CSEB 593.0000, Distribution, 6/23/1980.

NMAC History:
8 NMAC 5.CSE.000 through 8 NMAC 5.CSE.970, 12/30/1994.

History of Repealed Material:
8 NMAC 5.CSE, Child Support Enforcement - Repealed effective 5/31/2001.
8.50.125 NMAC, Fees, Payments, and Distributions, filed 5/14/2001 - Repealed effective 12/30/2010.
8.50.125 NMAC, Fees, Payments, and Distributions, filed 12/13/2010 - Repealed effective 9/1/2022.

Other: 8.50.125 NMAC, Fees, Payments, and Distributions, filed 5/14/2001 Replaced by 8.50.125 NMAC, Fees, Payments, and Distributions effective 12/30/2010.
8.50.125 NMAC, Fees, Payments, and Distributions, filed 12/13/2010 Replaced by 8.50.125 NMAC, Fees, Payments, and Distributions effective 9/1/2022.

HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.510 NMAC, Sections 11, 12, 13 and 15, effective 8/9/2022.

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 CRSA 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; A, 8/9/2022]

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~~] July 1, 2021
[~~$76~~] $78

B. Minimum monthly maintenance needs allowance (MMMNA):
[~~July 1, 2020~~] July 1, 2021
[~~$2,155~~] $2,178

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~~] July 1, 2021
[~~$646~~] $653

(2) Excess shelter allowance may not exceed the maximum:

(a) Jan. 1, 2022 $1,257

[~~(a)~~] **(b)** Jan. 1, 2021 $1,105

[~~(b)~~] **(c)** July 1, 2020 $1,062

[~~(c)~~] **(d)** Jan. 1, 2020 $1,103

[~~(d)~~] **(e)** July 1, 2019 $1,047

D. Any extra maintenance allowance ordered by a court of jurisdiction or a state administrative hearing officer.

E. Dependent family member income allowance (if applicable) calculated as follows: 1/3 X MMMNA - dependent member's income).

F. Non-covered medical expenses.

G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed [~~$3,260~~] $3,435.

[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; A, 8/9/2022]

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.

DATE	AVERAGE COST PER MONTH
A. July 1, 1988 - Dec. 31, 1989	$1,726 per month
B. Jan. 1, 1990 - Dec. 31, 1991	$2,004 per month
C. Jan. 1, 1992 - Dec. 31, 1992	$2,217 per month
D. Effective July 1, 1993, for application register on or after Jan. 1, 1993	$2,377 per month
E. Jan. 1, 1994 - Dec. 31, 1994	$2,513 per month
F. Jan. 1, 1995 - Dec. 31, 1995	$2,592 per month
G. Jan. 1, 1996 - Dec. 31, 1996	$2,738 per month
H. Jan. 1, 1997 - Dec. 31, 1997	$2,889 per month
I. Jan. 1, 1998 - Dec 31, 1998	$3,119 per month
J. Jan. 1, 1999 - Dec. 31, 1999	$3,429 per month
K. Jan. 1, 2000 - Dec. 31, 2000	$3,494 per month
L. Jan. 1, 2001 - Dec. 31, 2001	$3,550 per month
M. Jan. 1, 2002 - Dec. 31, 2002	$3,643 per month
N. Jan. 1, 2003 - Dec. 31, 2003	$4,188 per month
O. Jan. 1, 2004 - Dec. 31, 2004	$3,899 per month

P. Jan. 1, 2005 - Dec. 31, 2005 $4,277 per month
Q. Jan. 1, 2006 - Dec. 31, 2006 $4,541 per month
R. Jan. 1, 2007 - Dec. 31, 2007 $4,551 per month
S. Jan. 1, 2008 - Dec. 31, 2008 $4,821 per month
T. Jan. 1, 2009 - Dec. 31, 2009 $5,037 per month
U. Jan. 1, 2010 - Dec. 31, 2010 $5,269 per month
V. Jan. 1, 2011 - Dec. 31, 2011 $5,774 per month
W. Jan. 1, 2012 - Dec. 31, 2012 $6,015 per month
X. Jan. 1, 2013 - Dec. 31, 2013 $6,291 per month
Y. Jan. 1, 2014 - Dec. 31, 2014 $6,229 per month
Z. Jan. 1, 2015 - Dec. 31, 2015 $6,659 per month
AA. Jan. 1, 2016 - Dec. 31, 2016 $7,786 per month
BB. Jan. 1, 2017 - Dec. 31, 2017 $7,485 per month
CC. Jan. 1, 2018 - Dec. 31, 2018 $7,025 per month
DD. Jan. 1, 2019 - Dec. 31, 2019 $7,285 per month
EE. Jan. 1, 2020 - Dec. 31, 2020 $7,480 per month
FF. Jan. 1, 2021 - Dec. 31, 2021 $7,590 per month
GG. Jan. 1, 2022 - $7,811 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; A, 8/9/2022]

8.200.510.15 EXCESS HOME EQUITY AMOUNT FOR LONG-TERM CARE SERVICES:
A. Jan. 2022 $636,000
[~~**A.**~~] **B.** Jan. 2021 $603,000
[~~**B.**~~] **C.** Jan. 2020 $595,000
[~~**C.**~~] **D.** Jan. 2019 $585,000
[~~**D.**~~] **E.** Jan. 2018 $572,000
[~~**E.**~~] **F.** Oct. 2017 $560,000
[~~**F.**~~] **G.** Jan. 2017 $840,000
[~~**G.**~~] **H.** Jan. 2016 $828,000
[~~**H.**~~] **I.** 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; A, 8/9/2022]

HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.520 NMAC, Sections 11, 12, 13, 15 and 20, effective 8/9/2022.

8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:
A. One hundred percent federal poverty limits (FPL):

Size of budget group	FPL per month
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	FPL per month
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
8	[~~$4,950~~] $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	FPL per month
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	[~~$6,886~~] $7,189

Add [~~$700~~] $727 for each additional person in the budget group.

F. Two hundred percent FPL:

Size of budget group	FPL per month
1	[~~$2,147~~] $2,265
2	[~~$2,904~~] $3,052
3	[~~$3,660~~] $3,839
4	[~~$4,417~~] $4,625
5	[~~$5,174~~] $5,412
6	[~~$5,930~~] $6,199
7	[~~$6,687~~] $6,985
8	[~~$7,444~~] $7,772

Add [~~$757~~] $787 for each additional person in the budget group.

G. Two hundred thirty-five percent FPL:

Size of budget group	FPL per month
1	[~~$2,523~~] $2,662
2	[~~$3,412~~] $3,586
3	[~~$4,301~~] $4,511
4	[~~$5,190~~] $5,435
5	[~~$6,079~~] $6,359
6	[~~$6,968~~] $7,284
7	[~~$7,857~~] $8,208
8	[~~$8,746~~] $9,132

Add [~~$889~~] $924 for each additional person in the budget group.

H. Two hundred fifty percent FPL:

Size of budget group	FPL per month
1	[~~$2,684~~] $2,832
2	[~~$3,630~~] $3,815
3	[~~$4,575~~] $4,798
4	[~~$5,521~~] $5,782
5	[~~$6,467~~] $6,765
6	[~~$7,413~~] $7,748
7	[~~$8,359~~] $8,732
8	[~~$9,305~~] $9,715

Add [~~$946~~] $983 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; A, 8/9/2022]

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.

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
1	2022 Jan - Dec	5.9	Jan 22
[~~1~~] **2**	2021 Jan - Dec	1.3	Jan 21
[~~2~~] **3**	2020 Jan - Dec	1.6	Jan 20
[~~3~~] **4**	2019 Jan - Dec	2.8	Jan 19
[~~4~~] **5**	2018 Jan - Dec	2.0	Jan 18
[~~5~~] **6**	2017 Jan - Dec	0.3	Jan 17
[~~6~~] **7**	2016 Jan - Dec	0	Jan 16
[~~7~~] **8**	2015 Jan - Dec	1.017	Jan 15
[~~8~~] **9**	2014 Jan - Dec	1.015	Jan 14
[~~9~~] **10**	2013 Jan - Dec	1.017	Jan 13
[~~10~~] **11**	2012 Jan - Dec	1.037	Jan 12
[~~11~~] **12**	2011 Jan - Dec	0	Jan 11
[~~12~~] **13**	2010 Jan - Dec	1	Jan 10
[~~13~~] **14**	2009 Jan - Dec	1	Jan 09
[~~14~~] **15**	2008 Jan - Dec	1.058	Jan 08
[~~15~~] **16**	2007 Jan - Dec	1.023	Jan 07
[~~16~~] **17**	2006 Jan - Dec	1.033	Jan 06
[~~17~~] **18**	2005 Jan - Dec	1.041	Jan 05
[~~18~~] **19**	2004 Jan - Dec	1.027	Jan 04
[~~19~~] **20**	2003 Jan - Dec	1.021	Jan 03
[~~20~~] **21**	2002 Jan - Dec	1.014	Jan 02
[~~21~~] **22**	2001 Jan - Dec	1.026	Jan 01
[~~22~~] **23**	2000 Jan - Dec	1.035	Jan 00
[~~23~~] **24**	1999 Jan - Dec	1.025	Jan 99
[~~24~~] **25**	1998 Jan - Dec	1.013	Jan 98
[~~25~~] **26**	1997 Jan - Dec	1.021	Jan 97
[~~26~~] **27**	1996 Jan - Dec	1.029	Jan 96
[~~27~~] **28**	1995 Jan - Dec	1.026	Jan 95
[~~28~~] **29**	1994 Jan - Dec	1.028	Jan 94
[~~29~~] **30**	1993 Jan - Dec	1.026	Jan 93
[~~30~~] **31**	1992 Jan - Dec	1.03	Jan 92

[~~31~~] **32**	1991 Jan - Dec	1.037	Jan 91
[~~32~~] **33**	1990 Jan - Dec	1.054	Jan 90
[~~33~~] **34**	1989 Jan - Dec	1.047	Jan 89
[~~34~~] **35**	1988 Jan - Dec	1.04	Jan 88
[~~35~~] **36**	1987 Jan - Dec	1.042	Jan 87
[~~36~~] **37**	1986 Jan - Dec	1.013	Jan 86
[~~37~~] **38**	1985 Jan - Dec	1.031	Jan 85
[~~38~~] **39**	1984 Jan - Dec	1.035	Jan 84
[~~39~~] **40**	1982 Jul - 1983 Dec	1.035	Jul 82
[~~40~~] **41**	1981 Jul - 1982 Jun	1.074	Jul 81
[~~41~~] **42**	1980 Jul - 1981 Jun	1.112	Jul 80
[~~42~~] **43**	1979 Jul - 1980 Jun	1.143	Jul 79
[~~43~~] **44**	1978 Jul - 1979 Jun	1.099	Jul 78
[~~44~~] **45**	1977 Jul - 1978 Jun	1.065	Jul 77
[~~45~~] **46**	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; A, 8/9/2022]

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	$841	$30	$280.33	$1,261	$60	$420.50

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; A, 8/9/2022]

8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

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

Payment amount: [~~$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).

Payment 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/E, 4/1/2022; A, 8/9/2022]

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; A, 8/9/2022]

8.200.520.20 COVERED QUARTER INCOME STANDARD:

Date	Calendar Quarter Amount
Jan. 2022 - Dec. 2022	$1,510 per calendar quarter
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; A, 8/9/2022]

HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment for 8.291.430 NMAC, Section 10, effective 8/9/2022.

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; A, 8/9/2022]

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

This is an amendment to 11.21.1 NMAC, Section 7 effective 8/9/2022.

11.21.1.7 DEFINITIONS:

A. Statutory definition: The terms defined in Section 10-7E-4 NMSA 1978, shall have the meanings set forth therein.

B. Additional definitions: The following terms shall have the meanings set forth below.

(1) "Act" means the New Mexico Public Employee Bargaining Act, Sections 10-7E-1 through 10-7E-26 NMSA 1978 including any amendments to that statute.

(2) "Amendment of certification" means a procedure whereby an incumbent labor organization certified by the board to represent a unit of public employees or a public employer may petition the board to amend the certification to reflect a change such as a change in the name or the affiliation of the labor organization or a change in the name of the employer.

(3) "Certification of incumbent bargaining status" shall mean a procedure whereby a labor organization recognized by a public employer as the exclusive representative of an appropriate bargaining unit on June 30, 1999 petitions the board for a declaration of bargaining status under Subsection B of Section 10-7E-24 NMSA 1978. or after a local board certifying the representative ceases to exist by operation of Section 10-7E-10 NMSA 1978 (2020).

(4) "Challenged ballot" means the ballot of a voter in a representation election whose eligibility to vote is questioned either by a party to the representation case or by the director.

(5) "Challenged card" means a card or other showing of interest submitted pursuant to Section 11 or 23 of Part 2 of these rules, that the director or a party to the case alleges does not meet the requirements of 11.21.2.11 NMAC.

[~~(5)~~] **(6) "Complainant"** means an individual, labor organization, or public employer that has filed a prohibited practices complaint.

[~~(6)~~] **(7) "Delivering a copy"** as it pertains to service or filing of pleadings or other documents means: 1) handing it to the board, to its agent(s), to opposing counsel or unrepresented parties; 2) sending a copy by facsimile or electronic submission in accordance with 11.21.1.10 NMAC or 11.21.1.24 NMAC; 3) leaving it at the board's, opposing attorney's or party's office with a clerk or other person in charge thereof; or 4) if the attorney's or party's office is closed or the person to be served has no office, leaving it at the unrepresented person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

[~~(7)~~] **(8) "Director"** means the director of the public employee labor relations board.

[~~(8)~~] **(9) "Document"** means any writing, photograph, film, blueprint, microfiche, audio or video tape, data stored in electronic memory, or data stored and reproducible in visible or audible form by any other means.

[~~(9)~~] **(10) "Electronic submission"** means the filing of a pleading or other document with the board using the electronic system established by the PELRB, service by the parties, or email communications.

[~~(10)~~] **(11) "On a form prescribed by the director"** as used in these rules pertaining to the filing of documents with the board, shall include the electronic data submitted by use of any interactive form posted for that purpose on the board's website.

[~~(11)~~] **(12) "Probationary employee"** for state employees shall have the meaning set forth in the State Personnel Act and accompanying regulations; for other public employees, other than public school employees, it shall have the meaning set forth in any applicable ordinance, charter or resolution, or, in the absence of such a definition, in a collective bargaining agreement; provided, however, that for determining rights under the PEBA non-state employees a public employee may not be considered to be a probationary employee for more than one year after the date of hire by a public employer. If otherwise undefined, the term shall refer to an employee who has held that position, or a related position, for less than six months.

[~~(12)~~] **(13) "Prohibited practice"** means a violation of Section 10-7E-19, 10-7E-20 NMSA 1978 or Subsection A of Section 10-7E-21 NMSA 1978.

[~~(13)~~] **(14) "Representation case"** or **"representation proceeding"** means any matter in which a petition has been filed with the director requesting a certification or decertification election, or an amendment of certification, or unit clarification.

[~~(14)~~] (15) **"Respondent"** means a party against whom a prohibited practices complaint has been filed.

[~~(15)~~] (16) **"Rules"** means the rules and regulations of the board (these rules), including any amendments to them.

[~~(16)~~] (17) **"Unit accretion"** means the inclusion in an existing bargaining unit of employees who do not belong to any existing bargaining unit, who share a community of interest with the employees in the existing unit, and whose inclusion will not render the existing unit inappropriate.

[~~(17)~~] (18) **"Unit clarification"** means a proceeding in which a party to an existing lawful collective bargaining relationship petitions the board to change the scope or description of an existing bargaining unit; a change in union affiliation; to consolidate existing bargaining units represented by the same labor organization; or to realign existing bargaining units of employees represented by the same exclusive representative into horizontal units, where the board finds the unit as clarified to be an appropriate bargaining unit and no question concerning, representation arises.

[~~(18)~~] (19) **"Unit inclusions or exclusions"** means the status of an individual, occupational group, or group of public employees in clear and identifiable communities of interest in employment terms and conditions and related personnel matters, as being within or outside of an appropriate bargaining unit based on factors such as supervisory, confidential or managerial status, the absence thereof, job context, principles of efficient administration of government, the history of collective bargaining, and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act.
[11.21.1.7 NMAC - N, 3/15/2004; A, 2/28/2005; A, 10/16/2018; A, 7/1/2020; A, 8/9/2022]

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

This is an amendment to 11.21.2 NMAC, Sections 8, 11, 12, 13, 25, 33, 34 and 42, effective 8/9/2022.

11.21.2.8 COMMENCEMENT OF CASE: A representation case is commenced by filing a representation petition with the director on a form prescribed by the director. The form shall include, at a minimum, the following information: the petitioner's name, address, phone number, state or national affiliation, if any, and representative, if any; the name, address and phone number of the public employer or public employers whose employees are affected by the petition; a description of the proposed appropriate bargaining unit and any existing recognized or certified bargaining unit; the geographic work locations, occupational groups, and estimated numbers of employees in the proposed unit and any existing bargaining unit; a statement of whether or not there is a collective bargaining agreement in effect covering any of the employees in the proposed or any existing bargaining unit and, if so, the name, address and phone number of the labor organization that is party to such agreement; and a statement of what action the petition is requesting. [~~In addition, a~~] A petition [~~seeking a~~] for certification or decertification [~~election, shall~~] must be supported by [~~a~~] at least a thirty percent showing of interest [~~in the existing or proposed bargaining unit~~] as described in 11.21.2.11 NMAC. A petition shall contain a signed declaration by the person filing the petition that its contents are true and correct to the best of his or her knowledge and, in the case of a decertification petition that the filer is a member of the labor organization to whom the decertification petition applies.
[11.21.2.8 NMAC - N, 3/15/2004; A, 2/28/2005; A, 6/14/2013; A, 7/1/2020; A, 8/9/2022]

11.21.2.11 SHOWING OF INTEREST: With the petition and at the same time the petition is filed, the petitioner shall deposit with the director a showing of interest consisting of signed, dated statements, which may be in the form of cards or a petition, by at least thirty percent of the employees in the proposed unit stating, in the case of a petition for [~~a~~] certification [~~election~~], that each such employee wishes to be represented for the purposes of collective bargaining by the petitioning labor organization, and, in the case of a petition for a decertification election, that each such employee wishes a decertification election. Electronic signatures shall meet the requirements of the Uniform Electronic Transactions Act (Chapter 14, Article 16 NMSA 1978). Each signature shall be separately dated. Signatures dated more than one year prior to the filing of the petition not be considered when determining the sufficiency of a showing of interest or a determination of majority support, except for good cause shown. So long as it meets the above requirements, a showing of interest may be in the form of signature cards or a petition or other writing, or a combination of written forms and shall be presumed valid unless contradicted by the submission of clear and convincing evidence that they were obtained by fraud, forgery or coercion. No showing of interest need be filed in support of a petition for amendment of certification or unit clarification.
[11.21.2.11 NMAC - N, 3/15/2004; A, 8/9/2022]

11.21.2.12 INFORMATION REQUESTED OF PARTIES:

A. Within 10 days of the filing of a representation petition, the director shall by letter request of any party that appears to have an interest in the proceeding, including any public employees involved and any incumbent labor organizations, its position with respect to the appropriateness of the bargaining unit petitioned for; a statement of any issues of unit inclusion or exclusion that the party believes may be in dispute, and any other issue that could affect the outcome of the proceeding.

B. From any public employer involved, the director, within 10 days of the filing of a representation petition, shall also request a list of the employees [~~who would be eligible to vote if~~] holding positions in the petitioned-for unit [~~were found to be appropriate~~] or the unit to be decertified, based on the payroll period that ended immediately preceding the filing of the petition which contains the information described in Subsection A of Section 14 of the Act. The public-employer shall be instructed to file such a list within 10 days of the director's request. The board shall make the list available to the parties. If the petitioned-for unit is altered as a result of a hearing conducted pursuant to Section 13 of the Act, or by agreement of the parties, the employer shall provide an updated list of employees that were in the appropriate unit based on the payroll period that ended immediately preceding the filing of the petition no more than 10 days after receiving notice from the director of the changes to the petitioned-for unit.
[11.21.2.12 NMAC - N, 3/15/2004; A, 2/28/2005; A, 8/9/2022]

11.21.2.13 INITIAL INVESTIGATION OF PETITION: After a petition has been filed, the director shall investigate the petition. The investigation shall include the following steps and shall be completed within 30 days of the filing of the petition.

A. [~~The director shall check the showing of interest (if applicable) against the list of eligible employees, in the proposed unit filed by the public employer to determine whether the showing of interest has been signed and dated by a sufficient number of employees and that the signatures are sufficiently current. If signatures submitted for a showing of interest meet the requirements set forth in these rules, they shall be presumed valid unless the director is presented with clear and convincing evidence that they were obtained by fraud, forgery or coercion. In the event that evidence of such fraud, forgery or coercion is presented to the director, the director shall investigate the allegations as expeditiously as possible and shall keep the showing of interest confidential during the investigation. The director shall dismiss any petition supported by an improper or insufficient showing of interest, consistent with Section 23 (opportunity to present additional showing), and shall explain in writing the basis of the dismissal. The director's determination as to the sufficiency of a showing of interest is an administrative matter solely within the director's authority and shall not be subject to questions or review~~] The director shall determine the facial validity of the petition, including the facial appropriateness of the petitioned-for unit and may request the petitioner to amend a facially inappropriate petition. In the absence of an appropriate amendment, the director shall dismiss a petition asking for a certification of, or a clarification that would result in, a facially inappropriate unit, or that is otherwise facially improper, in which case he shall explain his reasons in writing.

B. [~~The director shall determine the facial validity of the petition, including the facial appropriateness of the petitioned-for unit and may request the petitioner to amend a facially inappropriate petition. In the absence of an appropriate amendment, the director shall dismiss a petition asking for an election in, or a clarification to, a facially inappropriate unit, or that is otherwise facially improper, in which case he shall explain his reasons in writing~~] The director shall determine whether there are significant issues of unit scope, unit inclusion or exclusion, labor organization or public employer status; a bar to the processing of the petition; or other matters that could affect the proceedings. The director shall make the determination pursuant to the provisions of Subsection C of Section 10-7E-13 and Section 10-7E-24 NMSA 1978, of the Public Employee Bargaining Act.

C. [~~The director shall determine whether there are significant issues of unit scope, unit inclusion or exclusion, labor organization or public employer status; a bar to the processing of the petition; or other matters that could affect the proceedings. The director shall make the determination pursuant to the provisions of Subsection C of Section 10-7E-13 and Section 10-7E-24 NMSA 1978, of the Public Employee Bargaining Act~~] The director shall check the showing of interest (if applicable) against the list of employees in the proposed unit filed by the public employer pursuant to Subsection B of 11.21.2.12 NMAC, to determine whether the showing of interest has been signed and dated by a sufficient number of employees and that the signatures are sufficiently current. If signatures submitted for a showing of interest meet the requirements set forth Section 11 of these rules, they shall be presumed valid unless the director is presented with clear and convincing evidence that they were obtained by fraud, forgery or coercion. In the event that evidence of such fraud, forgery or coercion is presented to the director, the director shall investigate the allegations as expeditiously as possible and shall keep the showing of interest confidential during the investigation. The director shall dismiss any petition supported by an improper or insufficient showing of interest, consistent with Section 23 (opportunity to present additional showing), and shall explain in writing the basis of the dismissal. The director's determination as to the sufficiency of a showing of interest is an administrative matter solely within the director's authority and shall not be subject to questions or review.
[11.21.2.13 NMAC - N, 3/15/2004; A, 2/28/2005; A, 8/9/2022]

11.21.2.33 CERTIFICATION:

A. If, after all issues concerning representation have been resolved, and the expiration of the intervention period described in Section 16 above, only one labor organization is seeking to represent the appropriate bargaining unit, the director shall compare the showing

of interest with the employee list provided by the employer pursuant to Subsection B of Section 12 above, and determine whether the petitioning labor organization has demonstrated majority support. In cases where the showing of interest demonstrates majority support the director shall issue a certificate showing the name of the labor organization selected as the exclusive representative and setting forth the bargaining unit it represents as well as the numerical basis for the determination. In cases where more than one labor organization seeks to represent the unit, or has intervened pursuant to Section 16 above, or where the showing of interest does not demonstrate majority support, the director shall proceed with an election as described in these rules.

B. In cases where an election is conducted, if no objections are filed pursuant to Section 34 below, then the director shall issue as may be appropriate either a certificate showing the name of the labor organization selected as the exclusive representative and setting forth the bargaining unit it represents, or a certification of results, showing that no labor organization was selected as bargaining representative. The results of each election shall be reviewed by the board and appropriate action taken at the next regularly scheduled meeting of the board after the objection period following the election.

[11.21.2.33 NMAC - N, 3/15/2004; A, 2/11/2020; A, 8/9/2022]

11.21.2.34 OBJECTIONS: Within five days following the service of a tally of ballots or the issuance of a certification pursuant to Subsection A of Section 33 above, a party may file objections to conduct affecting the determination of majority support without an election of the result of the election. Objections shall set forth all grounds for the objection with supporting facts and shall be served on all parties to the proceeding. The director shall, within 30 days of the filing of such objections, investigate the objections and issue a report thereon. Alternatively, the director may schedule a hearing on the objections within 30 days of the filing of the objections. A determination to hold a hearing is not reviewable by the board and shall follow the same procedures set forth in Subsections B, C and D of Section 19, Section 20 and Section 21 above. A party adversely affected by the director's or hearing examiner's report may file a request for review with the board under the same procedures set forth in Section 22, above. If the director, hearing examiner or board finds that the objections have merit and that conduct improperly interfered with the results of the election, then the results of the election may be set aside and a new election ordered. In that event, the director in his or her discretion may retain the same period for determining eligibility to vote as in the election that was set aside, or may establish a new eligibility period for the new election.

[11.21.2.34 NMAC - N, 3/15/2004; A, 8/9/2022]

11.21.2.42 DISCLAIMER OF INTEREST: Any labor organization holding exclusive recognition for a unit of employees may disclaim its representational interest in those employees at any time by submitting a letter to the PELRB and the employer disclaiming any representational interest in a unit for which it is the exclusive representative. Upon receipt of a letter disclaiming an interest under this rule, the board shall cause to be posted in a place or places frequented by employees in the affected bargaining unit, a notice that the union has chosen to relinquish representation of the employees and direct staff to dismiss any petitions to decertify the exclusive representative of the disclaimed unit.

[11.21.2 NMAC – N, 2/11/2020; A, 8/9/2022]

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

This is an amendment to 11.21.3 NMAC, Sections 8, 9, 21 & 22, effective 8/9/2022

11.21.3.8 COMMENCEMENT OF CASE:

A. A prohibited practices case shall be initiated by filing with the director a complaint on a form furnished by the director. The form shall set forth, at a minimum, name, address and phone number of the public employer, labor organization, or employee against whom the complaint is filed (the respondent) and of its representative if known, the specific section of the [~~act~~] Act claimed to have been violated; the name, address, and phone number of the complainant; a concise description of the facts constituting the asserted violation; and a declaration that the information provided is true and correct to the knowledge of the complaining party. The complaint shall be signed and dated, filed with the director, and served upon the respondent.

B. When an individual employee files a prohibited practices complaint alleging a violation of Subsection F and H of Section 19, Subsection C or D of Section 20 of the [~~act~~] Act, an interpretation given to the collective bargaining agreement by the employer and the exclusive representative shall be presumed correct.

[11.21.3.8 NMAC - N, 3/15/2004; A, 8/9/2022]

11.21.3.9 LIMITATIONS PERIOD: Any complaint filed more than six months following the conduct claimed to violate the [~~act~~] Act or more than six months after the complainant either discovered or reasonably should have discovered each conduct, shall be dismissed.

[11.21.3.9 NMAC - N, 3/15/2004; A, 8/9/2022]

11.21.3.21 ADMINISTRATIVE AGENCY DEFERRAL: Where the board becomes aware that a complainant has initiated another administrative or legal proceeding based on essentially the same facts and raising essentially the same issues as those raised in the complaint, the board may take any of the following actions, at the board's discretion:

A. The board may hold the proceedings under the [~~act~~] Act in abeyance pending the outcome of the other proceeding.

B. The board may go forward with its own processing. In so doing, the board may request that the other proceedings be held in abeyance pending outcome of the board proceeding.
In the event that the resolution of the proceedings in such other forum is contrary to the [~~act~~] Act or all issues raised before the board are not resolved, the board may proceed under the provisions of 11.21.3 NMAC.

C. For purposes of this rule, "board" shall mean the board or the director.
[11.21.3.21 NMAC - N, 3/15/2004; A, 8/9/2022]

11.21.3.22 ARBITRATION DEFERRAL:

A. If the subject matter of a prohibited practices complaint requires the interpretation of a collective bargaining agreement; and the parties waive in writing any objections to timeliness or other procedural impediments to the processing of a grievance, and the director determines that the resolution of the contractual dispute likely will resolve the issues raised in the prohibited practices complaint, then the director may, on the motion of any party, defer further processing of the complaint until the grievance procedure has been exhausted and an arbitrator's award has been issued.

B. Upon its receipt of the arbitrator's award, the complaining party shall file a copy of the award with the director, and shall advise the director in writing that it wishes either to proceed with the prohibited practice complaint or to withdraw it. The complaining party shall simultaneously serve a copy of the request to proceed or withdraw upon all other parties.

C. If the complaining party advises the director that it wishes to proceed with the prohibited practices complaint, or if the board on its own motion so determines, then the director shall review the arbitrator's award. If in the opinion of the director, the issues raised by the prohibited practices complaint were fairly presented to and fairly considered by the arbitrator, and the award is both consistent with the [~~act~~] Act and sufficient to remedy any violation found, then the director shall dismiss the complaint. If the director finds that the prohibited practice issues were not fairly presented to, or were not fairly considered by, the arbitrator, or that the award is inconsistent with the [~~act~~] Act or that the remedy is inadequate, then the director shall take such other action deemed appropriate. Among such other actions, the director may accept the arbitrator's factual findings while substituting legal conclusions and remedies pursuant to Subsection F of Section 10-7E-9 NMSA 1978 appropriate for the prohibited practice issues.

D. In the event that no arbitrator's award has been issued within one year following deferral under this rule, then the director may, after notice and in the absence of good cause shown to the contrary, dismiss the complaint.

E. The director's decision either to dismiss or further process a complaint pursuant to this rule may be appealed to the board under the procedure set forth in 11.21.3.13 NMAC. Interim decisions of the director under this rule, including the initial decision to defer or not to defer further processing of a complaint pending arbitration, shall not be appealable to the board.
[11.21.3.22 NMAC - N, 3/15/2004; A, 2/28/2005; A, 7/1/2020; A, 8/9/2022]

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

This is an amendment to 11.21.5 NMAC, Amending the Part Name and Sections 6, 8, 9, 10, 11, 12 & 13, effective 8/9/2022

TITLE 11 LABOR AND WORKERS COMPENSATION
CHAPTER 21 LABOR UNIONS/ LABOR RELATIONS
PART 5 [~~APPROVAL OF~~] LOCAL BOARDS

11.21.5.6 OBJECTIVE: The objective of Part 5 Chapter 21 is to [~~identify and process information~~] provide procedures necessary for a public employer other than the state to [~~file an application with the public employee labor relations board~~] comply with the provisions of Sections 10-7E-9 and 10-7E-10 NMSA 1978 (2020) for continued operation of a local labor board [~~conforming with Sections 10-7E-9 and 10-7E-10 NMSA 1978 (2020)~~].
[11.21.5.6 NMAC - N, 3/15/2004, A; 7/1/2020; A, 8/9/2022]

11.21.5.8 [~~**APPLICATION FOR APPROVAL OF A LOCAL BOARD ORDINANCE, RESOLUTION OR CHARTER**~~] **BIENNIAL AFFIRMATIONS:**

[~~**A.** Any public employer other than the state that intends to maintain a local public employee labor relations board after January 1, 2021 shall file an application for approval with the state board within the time limits specified in Section 10-7E-10 NMSA 1978 (2020).~~]

[~~**B.**~~] Any local board approved pursuant to Subsection A above, shall submit the affirmation required by Subsection D of Section 10 of the Act between November 1, and December 31 of each odd numbered year. Affirmations shall be filed with the board in accordance with NMAC 11.21.1.10 and shall substantially conform with the form created for that purpose and posted on the board's website.

[11.21.5.8 NMAC - N, 3/15/2004; A, 7/1/2020; A, 8/9/2022]

11.21.5.9 [~~**CONTENTS OF APPLICATION:**~~

~~**A.** An application to maintain a local board shall include, at a minimum, the following:~~

~~**(1)** an affirmation by the public employer that it intends to maintain a local public employee labor relations board;~~

~~**(2)** evidence that such board existed and its enabling legislation was approved by the public employee labor relations board prior to July 1, 2020;~~

~~**(3)** written notice from each labor organization representing employees of the public employer wishing to maintain the local board expressing the union's intention to continue to operate under the local board;~~

~~**(4)** the name of the local public employer;~~

~~**(5)** the name, address and phone number of the local governing body;~~

~~**(6)** a complete and fully integrated copy of the resolution, ordinance or charter amendment creating the proposed local board conforming with Sections 10-7E-9 and 10-7E-10 NMSA 1978 (2020).~~

~~**B.** All resolutions, ordinances or charter amendments under Subsection A above shall follow the board approved templates provided at www.state.nm.us/pelrb; provided, however, that the public employer may propose variances to the templates where appropriate, pursuant to 11.21.5.10 NMAC.~~

~~**C.** Upon receipt of an application for approval seeking variance from the board approved templates, the director shall review the application for conformance with Sections 10-7E-9 and 10-7E-10 NMSA 1978 (2020) and submit a recommendation to the PELRB for approval. If in the director's discretion it is desirable to hold a hearing or confer with the local public employer and any identified interested labor organizations before making a recommendation to the board a status and scheduling conference may be held.~~]
[RESERVED]

[11.21.5.9 NMAC - N, 3/15/2004; Rn, 11.21.5.13 NMAC & A, 2/28/2005; A, 7/1/2020; Repealed 8/9/2022]

11.21.5.10 CONTENTS OF APPLICATION FOR VARIANCE FROM BOARD APPROVED [~~**TEMPLATES**~~] **ORDINANCE, RESOLUTION, OR CHARTER AMENDMENT:**

A. In certain instances variances from the board approved [~~templates~~] ordinance, resolution or charter amendment may be required by the unique facts and circumstances of the relevant local public employer, to effectuate the purposes of the [~~act~~] Act.

B. In such instances, [~~the~~] an application for approval shall be submitted to the PELRB [~~additionally specify~~] which specifies the particular facts and circumstances requiring such variance, and inform the board of any [~~incumbent~~] exclusive [~~representative under Subsection B of Section 10-7E-24 of the Act NMSA 1978, and 11.21.2.36 NMAC of these rules~~] representing employees of the local public employer, and any other labor organizations believed by the public employer to be involved in attempting to organize any local public employees.

C. Upon receipt of an application for approval seeking variance from [~~the~~] a board approved ordinance, resolution or charter amendment [~~templates~~], the director shall hold a status conference with the local public employer or its representative and any identified interested labor organizations, to determine the issues and set a hearing date. Upon setting a [~~rule-making~~] hearing, the director shall cause notice of the hearing to be issued in accordance with Subsection B of 11.21.1.16 NMAC of these rules. In the event that the board determines that such variance is warranted, and the resolution, ordinance or charter amendment otherwise conforms to the requirements of the act and these rules, it shall authorize the director to proceed in processing the application pursuant to these rules.

[11.21.5.10 NMAC - N, 3/15/2004; Repealed 2/28/2005; N, 2/28/2005; A, 8/9/2022]

11.21.5.11 SUBMISSION OF RULES:

A. Each local board [~~submitting an application pursuant to Rule 11.21.5.8, above~~], shall submit a verified copy of the procedural rules enacted by the applying local board necessary to accomplish its functions and duties under the [~~ACT no later than April 30, 2021~~] Act.

B. Any proposed changes to the procedural rules of a local board must be approved by the PELRB prior to being enacted by the local board using the procedure set forth in 11.21.5.9 NMAC for ordinances, resolutions, and charter amendments.

[11.21.5.11 NMAC – Rp, 11.21.5 NMAC, N, 7/1/2020; A, 8/9/2022]

11.21.5.12 REVIEW OF LOCAL BOARD APPLICATIONS BY THE BOARD:

A. Upon receiving an application for approval [~~of a local board ordinance, charter amendment, or resolution~~] pursuant to 11.21.5.9 or 11.21.5.10 of these rules, the board shall conduct an administrative review of the application and, at a properly noticed public meeting or hearing, shall formally approve or disapprove the application. Public notice of such meetings or hearings shall be provided as required by law.

B. In considering such an application for approval [~~of a local board ordinance, charter amendment, or resolution~~], the board shall review all applications for approval [~~of such ordinance, charter amendment or resolution,~~] in light of the requirements of Section 10 of the Act and 11.21.5 NMAC. The

board shall require that the ordinance, resolution or charter amendment creating the local board be amended as necessary in order to meet the requirements of Section 10 of the Act and 11.21.5 NMAC.

C. Upon a finding that the application [for the local board ordinance, charter amendment, or resolution] meets statutory and regulatory requirements, the board shall approve such application If after approval pursuant to this rule a local board fails to act on or respond to a filing by an employee organization or public employer or public employee within a reasonable time, or otherwise acts in a manner inconsistent with Section 10-7E-9 NMSA 1978 (2020) the board shall exercise its jurisdiction over any matters then pending before the local board pursuant to Section 2 of the Act.

D. In the event an application demonstrates that the [local board ordinance, charter amendment, or resolution] proposed change does not meet the standards of Section 10 of the Act and 11.21.5 NMAC, the application shall be rejected and returned to the public employer. [Thereupon, the public employer shall have time available under Section 10-7E-10 NMSA 1978 (2020) in which to make such changes as are necessary to qualify for approval and resubmit its application. After the expiration of time in which a local board may cure defects under the Act, any matters then pending before the board relevant to that public employer shall be processed in accordance with the board's procedures.]

[11.21.5.12 NMAC - N, 3/15/2004; Rn, 11.21.5.14 NMAC & A, 2/28/2005; A, 2/11/2020; A, 7/1/2020; A, 8/9/2022]

11.21.5.13 [POST APPROVAL] LOCAL BOARD REPORTING REQUIREMENTS:

A. Following board approval of a local board, the local board or the public employer that created it shall file with the board any amendments to the ordinance, resolution, or charter amendment, creating the local board, or any procedural rules within 30 days of such changes, and timely respond to any inquiries by this board of its staff made pursuant to [Section] Sections 9 and 10 of the Act. [Upon a finding by the board that the local board no longer meets the requirements of Section 10 of the Act, the local board shall be so notified and be given a period of 30 days to come into compliance or prior approval shall be revoked.]

B. Each local board shall inform the board of any changes to the membership of the local board within 30 days of the resignation or appointment of any member of the local board. Such communications shall be in writing and filed with the board in accordance with NMAC 11.21.1.10.

[11.21.5.13 NMAC - N, 3/15/2004; Rn, 11.21.5.15 NMAC & A, 2/28/2005; A, 7/1/2020; A, 8/9/2022]

PUBLIC REGULATION COMMISSION

This is an amendment to 18.60.5 NMAC, Sections 7, 8, 12, 13, 15, 16, 17, 19 and 22, effective 8/9/2022.

18.60.5.7 DEFINITIONS: In addition to the definitions in Section 62-14-2 NMSA 1978, 18.60.2.7 NMAC and 18.60.4.7 NMAC, as used in this rule:

[**A. access information** means a telephone number, a facsimile number, an email address, and, if available, a web site address;

B. bid locate means the marking of underground facilities at the request of a project owner for the purpose of providing information to persons bidding on a project;

C. design locate means the marking of underground facilities at the request of a project owner or project engineer for the purpose of providing information to persons designing a project;

D. emergency locate means the marking of underground facilities at the request of a person for an underground facility owner as soon as practical, ideally within 2 hours for the purpose of an emergency excavation;

E. excavation locate means the marking of underground facilities for the purpose of providing information at the request of an excavator planning to commence excavation for the excavator's project;

F. holiday means the day New Mexico state government observes New Year's Day, Martin Luther King, Jr's, Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, President's Day, and Christmas Day;

G. mechanical vacuum excavation is deemed an appropriate non-mechanical method of excavating safely around underground facilities provided that the equipment has been specifically designed and built for this purpose and is operated in accordance with practices that provide appropriate levels of worker and public safety and prevent damage to buried facilities.

H. non-member UFO means a private underground facility owned by a homeowner and operated and located on a residential property or not subject to the jurisdiction of the commission;

I. project owner or **project engineer** means the owner of a project involving excavation or the person designated by the owner to be in charge of the project involving excavation;

J. road maintenance means routine grading and resurfacing of the earth and gravel surface, but not the subbase, of a roadway for the purpose of maintaining the surface condition of the road and includes recovery of material from a borrow ditch but does not include road construction or reconstruction and shall entail moving no more than four inches of earth; road maintenance does not include street sweeping or road milling and resurfacing as long as the subsurface is not disturbed;

K. underground facility operator (UFO) means a person who operates an underground facility;

~~L. working day means a 24 hour period excluding weekends and holidays.~~]

A. Definitions beginning with "A": access information means a telephone number, a facsimile number, an email address, and, if available, a web site address;

B. Definitions beginning with "B": bid locate means the marking of underground facilities at the request of a project owner or project engineer for the purpose of providing information to persons bidding on a project;

C. Definitions beginning with "C": [RESERVED]

D. Definitions beginning with "D": design locate means the marking of underground facilities at the request of a project owner or project engineer for the purpose of providing information to persons designing a project;

E. Definitions beginning with "E":

(1) effective date excludes the day that advance notice is provided as may be required in this rule, whereby the computed date shall begin at 12:01 a.m. after two full working days;

(2) emergency locate means the marking of underground facilities at the request of a person for an underground facility owner as soon as practical, ideally within 2 hours for the purpose of an emergency excavation;

(3) excavation locate means the marking of underground facilities for the purpose of providing information at the request of an excavator planning to commence excavation for the excavator's project;

F. Definitions beginning with "F": [RESERVED]

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": holiday means the day New Mexico state government observes New Year's Day, Martin Luther King, Jr's, Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, President's Day, and Christmas Day;

I. Definitions beginning with "I": [RESERVED]

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L": [RESERVED]

M. Definitions beginning with "M": mechanical vacuum excavation is deemed an appropriate non-mechanical method of excavating safely around underground facilities provided that the equipment has been specifically designed and built for this purpose and is operated in accordance with practices that provide appropriate levels of worker and public safety and prevent damage to buried facilities;

N. Definitions beginning with "N": non-member UFO means a private underground facility owned by a homeowner and operated and located on a residential property or not subject to the jurisdiction of the commission;

O. Definitions beginning with "O": [RESERVED]

P. Definitions beginning with "P":

(1) project engineer means the person designated by the owner to be in responsible charge of the project involving excavation, including the design thereof, and who is licensed in accordance with Section 61-23 NMSA;

(2) project owner means the owner of a project involving excavation;

Q. Definitions beginning with "Q": [RESERVED]

R. Definitions beginning with "R": road maintenance means routine grading and resurfacing of the earth and gravel surface, but not the subbase, of a roadway for the purpose of maintaining the surface condition of the road and includes recovery of material from a borrow ditch but does not include road construction or reconstruction and shall entail moving no more than four inches of earth; road maintenance does not include street sweeping or road milling and resurfacing as long as the subsurface is not disturbed;

S. Definitions beginning with "S": [RESERVED]

T. Definitions beginning with "T": [RESERVED]

U. Definitions beginning with "U": underground facility operator (UFO) means a person who operates an underground facility;

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": working day means a full business day excluding weekends and holidays;

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[18.60.5.7 NMAC - Rp, 18.60.5.7 NMAC, 1/15/2019; A 8/9/2022]

18.60.5.8 RESPONSIBILITIES OF ONE-CALL NOTIFICATION SYSTEMS: A one-call notification system shall:

A. provide toll-free access;

B. provide to the commission quarterly the name, contact person, and access information for each member of the one-call notification system;

C. notify the commission of the service area in which the one-call notification system operates;

D. have a written coordination agreement with other one-call notification systems operating in New Mexico;

E. keep a record of all locate requests, tickets, and clears for five years and make such records available to the commission upon request;

F. provide monthly reports to the commission, no later than the tenth of each month, with the following information:

(1) average wait time for answered calls for the previous month;

(2) number of calls received for the previous month;

(3) number of tickets generated for the previous month;

(4) number of requests by type (regular, priority, emergency) for the previous month.

G. report any changes in access information to the commission on or before the date the information will change;

H. establish a registry of non-member UFOs that voluntarily provide their contact and underground facility information for excavation purposes;

I. establish a positive response registry system; and

J. inform any person who calls with a complaint that [~~he or she~~] they may file a complaint with the commission's pipeline safety bureau, and provide the commission's pipeline safety bureau access information, if the one-call system is unable to satisfactorily resolve the matter.

K. processing locate requests;

(1) A one-call notification system may hold a locate request in suspension until it is complete. The one-call notification system shall contact an excavator, project owner, or project engineer within three hours to request any missing information that prevents the one-call notification system or non-member UFO from processing the request.

(2) A one-call notification system shall process all complete locate requests within three hours of receipt. A one-call notification system shall deem locate requests received on a weekend or holiday, or after 4:00 p.m. on a working day, to have been received at 7:00 a.m. on the next working day and shall deem locate requests received before 7:00 a.m. on a working day to have been received at 7:00 a.m. on that working day.

(3) Upon receipt of a complete conference or locate request, a one-call notification system shall issue a ticket with a unique number to the requesting person as confirmation, and shall send a ticket to all members of the system that have underground facilities in the excavation area, or notify the members by telephone. A ticket shall become effective at the date and time a one-call notification system issues a ticket number; if the ticket is for a conference, the ticket shall be marked "wide area conference," "bid conference," or "design conference," as appropriate.

(4) Any person may contact the one-call notification system and request confirmation of damage reports, conferences, and locate requests.

[18.60.5.8 NMAC - Rp, 18.60.5.8 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.12 DESIGN AND BID LOCATE REQUESTS: A project owner or project engineer shall request information regarding the location of underground facilities for design projects or bids in accordance with either Subsection A or B of this section, but may not switch methods once having made an election unless the existing utilities cannot be located by the UFO(s) in accordance with the requirements of applicable laws.

A. Physical locates:

(1) A project owner or project engineer may request a design or bid locate from one-call notification systems and non-member UFOs.

(2) The one-call notification system and non-member UFOs for the intended excavation area shall issue a ticket marked "bid locate" or "design locate" as appropriate.

(3) UFOs shall physically mark or clear the location of underground facilities on the site through a positive response system within two full working days from the date of the ticket.

(4) If one or more underground facilities have not been marked and positive response has not been provided, a project owner or project engineer shall call the one-call notification system for verification that advance notice was transmitted to the UFO and to provide notice that the underground facilities have not been located or cleared via a warning locate request. UFOs shall promptly respond to warning locate requests, ideally within two hours.

[~~(4)~~] **(5)** Designers or bidders, as appropriate, shall capture data from the site within 10 working days from the end of the two day marking period.

[~~(5)~~] **(6)** A project owner or project engineer shall not request relocates or time extensions for a design or bid locate.

B. Conferences:

(1) A project owner or project engineer may request a design or bid conference a minimum of two working days prior to conference from the one-call notification system and non-member UFOs for the intended excavation area and provide the proposed date, time, and location for the conference.

(2) A UFO shall contact the project owner or project engineer within two working days of the issuance of the conference ticket and confirm the proposed conference schedule, and if necessary, make arrangements to reschedule the conference not to exceed five working days from the proposed conference schedule on the conference ticket. A UFO shall be physically represented at the scheduled design or bid conference.

(3) The one-call notification system for the intended excavation area shall process the request as provided in Subsection K of 18.60.5.8 NMAC.

(4) UFOs shall arrange to provide information to designers or bidders within a reasonable time following the conference, but not to exceed 10 working days.

(5) A project owner or project engineer and UFOs shall continue with utility coordination until the design is complete or bid for the project has been awarded and an excavator requests an excavation locate.

[18.60.5.12 NMAC - Rp, 18.60.5.12 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.13 MARKING EXCAVATION SITES:

A. Excavators: As provided under Subsection B of 18.60.5.10 NMAC, excavators shall mark all proposed excavation sites in accordance with American public works association (APWA) standards to improve communication between the excavator and UFO. In assessing administrative penalties for violation of the Excavation Damage to Pipelines and Underground Utility Lines Law, Section 62-14-1 *et seq*. NMSA 1978 and this rule, the commission may consider whether and how well an excavator marked a proposed excavation site. Pre-marking a site in white indicates the actual excavation site (not limits of construction) and, therefore, will supersede marking instructions provided on locate requests and be used to determine alleged violations during staff investigations. When an excavator fails to pre-mark the actual excavation site, UFOs shall mark per the spotting instructions provided on the locate request and register a positive response indicating the site was not pre-marked.

B. UFOs:

(1) A UFO shall mark underground facilities for excavation purposes in accordance with the APWA standards.

(2) A UFO shall locate and mark its underground facilities within two full working days from the effective date of the ticket in accordance with Subsection A of 62-14-5 NMSA 1978.

(3) If a UFO determines it does not have underground facilities within the proposed limits of the excavation site, a UFO shall provide positive response to the one-call notification's positive response registry system and may write "clear" or "no underground facilities" and the UFO's name at the site in the appropriate color.

(4) The locate markings shall be valid for 15 working days from the end of the [~~two day marking~~] advance notice period. For the purpose of excavation, a working day begins on the work to begin date and time stamped on the ticket and ends 15 working days from such date and time.

(5) A UFO shall provide appropriate positive response to the one-call notification's positive response registry system for all advance notifications, including wide area, design, bid, standard, and road maintenance locate requests or conferences.

(6) If a UFO fails to mark its underground facility in accordance with the requirements of applicable laws, the UFO may be liable to the excavator, project owner, and project engineer in accordance with Subsection C of 62-14-5 NMSA 1978.

[18.60.5.13 NMAC - Rp, 18.60.5.13 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.15 EXCAVATION PROCEDURES:

A. Pre-excavation: Before excavating, an excavator shall determine whether all underground facilities have been marked.

(1) If all underground facilities have been marked or cleared through a positive response system and the [~~two working day~~] advance notice marking period has expired, the excavator may begin excavating.

(2) If one or more underground facilities have not been marked and positive response has not been provided, an excavator shall, prior to commencing excavation, call the one-call notification system for verification that advance notice was transmitted to the UFO and to provide notice that the underground facilities have not been located or cleared via a warning locate request. UFOs shall promptly respond to warning locate requests ideally within two hours.

B. Excavation:

(1) If, while excavating, an excavator observes evidence that an unmarked underground facility may exist, the excavator shall, before excavating in the immediate area of such evidence:

(a) make a reasonable effort to identify and contact the UFO and wait until the UFO marks or clears the immediate area of the evidence; the UFO shall mark or clear the area within two hours of contact or as expeditiously as possible if the excavation site is in a rural area;

(b) expose the underground facility by non-mechanical means or mechanical vacuum excavation methods.

(2) If excavation activity encroaches within 18 inches either side of a marking made by a UFO, an excavator shall, prior to excavating, expose the underground facility by non-mechanical means or mechanical vacuum excavation methods.

(3) If the exact subsurface location of the underground facility or utility cannot be determined by non-mechanical means or mechanical vacuum excavation methods as required in [~~Subparagraph (a) of Paragraph (1) and Paragraph (2) of this Subsection above~~] Subparagraph (a) of Paragraph (1) and (2) of Subsection B of 18.60.5.15 NMAC, the excavator shall contact the UFO directly and UFO shall work with the excavator to locate and expose the actual subsurface location of the underground facility or utility. If the UFO must resort to performing excavation to locate the facility, the UFO shall perform such excavation within five working days of notice from the excavator. If requested, the local one-call notification center shall provide the excavator with the contact telephone number of the UFO.

(4) If excavation activity cannot proceed without obliterating all or some of the markings made by a UFO, an excavator shall provide temporary offset marks or stakes to retain the information regarding the location of each UFO's underground facilities.

(5) The requirement to provide positive response for a facility does not apply to the homeowner of a residential property.

(6) The commission encourages excavators

to notify the UFO when excavation activity will be within twenty-five feet of the actual utility marking provided or as agreed upon by a right of way encroachment agreement or permit for infrastructure identified by the UFO as critical (i.e., transmission and trunk line pipelines, fiber optic, power, 911, etc.).

C. **Temporary suspension of excavation activity:** If staff determines that an excavation activity is not in compliance with the requirements of this rule, and that continued noncompliance may result in injury to persons or damage to property, staff may suspend the excavation activity until the excavation activity is brought into compliance with the requirements of this rule and excavation conditions are safe.

[18.60.5.15 NMAC - Rp, 18.60.5.15 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.16 EMERGENCY EXCAVATION AND DAMAGE REPORTING PROCEDURE: This section applies whenever failure of or damage to underground facilities or public infrastructure requires emergency excavation as defined in Subsection E of Section 62-14-2 NMSA 1978 and excavation shall be promptly commenced, ideally within 24 hours.

A. **Excavators:** An excavator who damages an underground facility while excavating with mechanical or non-mechanical equipment shall exercise prudence and shall:

(1) stop excavating immediately;

(2) call 911 if appropriate and the operator of the damaged underground facility and 811 to report the damaged facility;

(3) secure the site and direct people and traffic a safe distance away from the site of the damage;

(4) not leave the scene until authorized by an emergency responder or the operator of the damaged underground facility; an excavator may leave the scene without such authorization only if the excavator has made reasonable, if unsuccessful, efforts to contact the affected UFOs and has safely secured the site;

(5) not resume work within an unsafe distance of the damage until authorized by the operator of the damaged underground facility.

B. **Operators of failed or damaged underground facilities:** The operator of a failed or damaged underground facility shall exercise prudence and shall:

(1) immediately respond to a report of damage or failure to its underground facilities and travel to the site;

(2) prior to traveling to the site or upon arrival, call the one-call notification system for the excavation area to request an emergency locate;

(3) make the site safe and get the emergency situation under control;

(4) locate its own underground facilities as soon as practical, ideally within two hours;

(5) begin remedial action to restore service as soon as practical, ideally within 24 hours; and

(6) obtain a standard excavation locate ticket for repair work beyond resolution of the emergency situation.

C. **Operators of failed or damaged public infrastructure:** The entity responsible for the failed or damaged public infrastructure shall:

(1) call the one-call notification system for the excavation area to request an emergency locate;

(2) obtain an excavation locate ticket for repair work beyond resolution of the emergency situation.

D. **One-call notification system:** A one-call notification system shall upon request:

(1) issue an emergency excavation notice which shall be valid until the emergency is resolved, or for 48 hours, whichever is longer;

(2) issue a notice of a reported damage to each affected UFO.

[18.60.5.16 NMAC - Rp, 18.60.5.16 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.17 ABUSE OF THE LAW: A person shall be deemed to have willfully failed to comply with this rule or Chapter 62, Article 14 NMSA 1978 and shall be subject to the penalties in Section 62-14-8 NMSA 1978 if the person:

A. requests a locate for an area that cannot reasonably be excavated in 15 working days;

B. provides misinformation or withholds information regarding the size of an excavation area;

C. requests locates that unduly burden a one-call notification system or UFO;

D. requests a locate for fraudulent reasons;

E. fails to process locate requests within the requisite timeframe;

F. fails to mark, or provide positive response for its underground facilities within the requisite timeframe;

G. fails to determine if all underground facilities have been marked or cleared;

H. commences excavation prior to the expiration of the [~~two day~~] advance notice period;

I. obliterates markings at an excavation site without providing temporary offset marks or stakes;

J. alters any record relating to excavation activity;

K. fails to pre-mark the actual intended excavation route or site(s) as required;

L. fails to report or file a report of damage within requisite time frame; or

M. commits any other act that the commission determines violates Chapter 62, Article 14 NMSA 1978 or this rule.

[18.60.5.17 NMAC - Rp, 18.60.5.17 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.19 ALTERNATIVE DISPUTE RESOLUTION:

A. The commission encourages owners and operators of underground facilities, project owners, project engineers, and excavators to privately negotiate and settle disputes arising from excavation damage to underground facilities and construction or design expenses related to improper underground facility location.

B. In the event the parties are unable to resolve such disputes privately, any owner or operator of underground facilities, project owner, project engineer, or [~~any~~] excavator may request mediation or arbitration from the commission.

C. Staff may participate in mediation or arbitration proceedings.

D. In mediation and arbitration proceedings, persons shall be represented in accordance with the requirements of 18.60.4.11 NMAC.

[18.60.5.19 NMAC - Rp, 18.60.5.19 NMAC, 1/15/2019; A, 8/9/2022]

18.60.5.22 WAIVER OR VARIANCE FROM RULE REQUIREMENTS:

A. The commission may, in its discretion, waive or vary any requirement of this rule whenever the commission finds that such waiver or variance would be in the public interest.

B. An excavator, project owner, project engineer, one-call notification system, or UFO that cannot meet one or more of the requirements of this rule may petition the commission for a waiver or variance. The petition shall be in writing and shall include:

(1) a list of those requirements which the excavator, project owner, project engineer, one-call notification system, or UFO wishes to have waived or varied;

(2) an explanation and description of the specific conditions which prevent the requirement from being met; and,

(3) a statement of steps already taken and to be taken, with projected time limits for each step, in attempting to meet the requirements.

C. The commission may order a hearing on the merits of the petition.

D. An excavator, project owner, project engineer, one-call notification system, or UFO shall be required to comply with requirements it has petitioned to have waived or varied until the commission has issued an order on the merits of the petition, unless the commission or its designee grants an interim waiver of or variance from one of more of the requirements that are the subject of the petition.

[18.60.5.22 NMAC - Rp, 18.60.5.22 NMAC, 1/15/2019; A, 8/9/2022]

SUPERINTENDENT OF INSURANCE, OFFICE OF THE

The Office of Superintendent of Insurance held a hearing on 1/7/2022 on proposed changes to 13.10.34 NMAC. Following the hearing and after considering the received commentary, on 7/14/22 the Superintendent adopted the hearing officer's findings, conclusions and recommendations and repealed the existing rule of 13.10.34 NMAC, STANDARDS FOR ACCIDENT – ONLY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, DISABILITY INCOME, SUPPLEMENTAL, AND NON-SUBJECT WORKER EXCEPTED BENEFITS and replaced it with the new rule under the same part name, effective 7/1/2023.

SUPERINTENDENT OF INSURANCE, OFFICE OF THE

TITLE 13 INSURANCE
CHAPTER 10 HEALTH INSURANCE
PART 34 STANDARDS FOR ACCIDENT-ONLY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, DISABILITY INCOME, SUPPLEMENTAL, AND NON-SUBJECT WORKER EXCEPTED BENEFITS

13.10.34.1 ISSUING AGENCY: New Mexico Office of Superintendent of Insurance ("OSI").
[13.10.34.1 NMAC - Rp, 13.10.34.1 NMAC, 07/01/2023]

13.10.34.2 SCOPE: This section identifies the excepted benefits and excepted benefits products that are subject to this rule, and applicable exceptions.

A. Subject products. This rule applies to these excepted benefits products:

(1) accident only;

(2) specified disease or illness;

(3) hospital indemnity;

(4) other fixed indemnity;

(5) disability income;

(6) supplemental; and

(7) insurance similar to workers' compensation (non-subject worker).

B. Extraterritorial plans. This rule applies to every subject individual, group and blanket contract of insurance, including any certificate, delivered in this state, and to any subject contract issued to a group located outside of this state, if any covered person resides in this state, except:

(1) a group plan, and certificates of insurance relating to that plan, issued to an out-of-state employer that employs 100 or fewer New Mexico residents at any time during the calendar year; or

(2) a group or blanket plan issued to an out-of-state entity that resides in a state whose laws offer protections that, in the discretion of the superintendent, are equivalent to or more protective than New Mexico law.

C. Grandfathered plans. This rule does not apply to:

(1) An individual or blanket plan issued prior to the effective date of these rules if:

(a) the plan is guaranteed renewable, non-cancellable, or guaranteed renewable through a specified age, or conditionally renewable in the case of disability income plans;

(b) the plan is continually in force without any lapse; and

(c) there are no material changes in the substantive provisions of the plan after the effective date of this rule. An annual rate change that does not exceed ten percent is not considered a material change in the substantive provisions of a grandfathered plan unless the plan was issued with a guaranteed rate.

(2) An employer group, labor union, credit union, or bona fide association, as defined at Subsection A of Section 59A-23G-2 NMSA 1978, if:

(a) the carrier began offering the plan through the employer, labor union, credit union, or association prior to the effective date of this rule;

(b) the plan is continually in force without any lapse;

(c) eligibility for the plan is limited to employees, labor union, credit union, or association members and their dependents;

(d) there are no material changes in the substantive provisions of the plan after the effective date of this rule. An annual rate change that does not exceed ten percent is not considered a material change in the substantive provisions of a grandfathered plan unless the plan was issued with a guaranteed rate. Incremental changes in fixed dollar coverage amounts or benefit limitations consistent with inflation, and changes in plan enrollment of employees and their dependents (whether newly hired or newly enrolled) are also not considered a material change.

D. Self-funded plans. This rule does not apply to a self-funded employer plan.
[13.10.34.2 NMAC - Rp, 13.10.34.2 NMAC, 07/01/2023]

13.10.34.3 STATUTORY AUTHORITY: Sections 59A-18, 59A-16 and 59A-23G-3 NMSA 1978.
[13.10.34.3 NMAC - Rp, 13.10.34.3 NMAC, 07/01/2023]

13.10.34.4 DURATION: Permanent.
[13.10.34.4 NMAC – Rp, 13.10.34.4 NMAC, 07/01/2023]

13.10.34.5 EFFECTIVE DATE: July 1, 2023, unless a later date is cited at the end of a section.
[13.10.34.5 NMAC - Rp, 13.10.34.5 NMAC, 07/01/2023]

13.10.34.6 OBJECTIVE: The purpose of this rule is to establish regulatory requirements for the subject excepted benefit plans. The rule will standardize and simplify the terms and coverages; facilitate public understanding and comparison of coverage; eliminate provisions that may be misleading or confusing in connection with the purchase and renewal of the coverages or with the settlement of claims and require disclosures in the marketing and sale of subject excepted benefit plans.
[13.10.34.6 NMAC - Rp, 13.10.34.6 NMAC, 07/01/2023]

13.10.34.7 DEFINITIONS: For definitions of terms contained in this rule, refer to 13.10.29 NMAC, unless otherwise noted below.

A. "Accident only plan" means an insurance agreement that conditions a fixed indemnity benefit on the occurrence of an injurious accident.

B. "Certificate" means a document that extends coverage under a group plan to a group member.

C. "Direct response insurer" means a carrier who does not sell its insurance products through producers.

D. "Disability income plan" means an insurance agreement that provides income protection benefits during a period of disability resulting from either sickness, pregnancy, injury or a combination of these.

E. "Domestic co-insured" means a spouse or domestic partner insured under the same plan or certificate.

F. "Hospital indemnity plan" means an insurance agreement that conditions a fixed indemnity benefit on the hospitalization, hospital-based treatment or hospice care of a covered person.

G. "Occupational accident plan" means an accident-only plan that pays a fixed indemnity benefit for injury that results from an occupational accident involving a covered subject worker.

H. "Other fixed indemnity" means a fixed cash benefit payable to a covered person on the occurrence of an event, circumstance or condition, other than or in addition to accident, injury, illness or disability.

I. "Plan" means any individual, group or blanket insurance subject to this rule provided through a standalone policy, certificate, contract or rider.

J. "Non-contributory" means that a covered person pays no premium, membership fee or dues to qualify for coverage or benefits under the plan.

K. "Non-subject worker plan" means an insurance agreement that provides benefits similar to workers' compensation benefits to a self-employed non-subject worker.

L. "Specified disease plan" means an insurance agreement that conditions a fixed indemnity benefit on the occurrence or diagnosis of a specific disease or illness that is either life-threatening or likely to cause a covered person to incur significant financial obligations.

M. "Supplemental plan" means an insurance agreement that provides benefits that supplement

coverage under a group major medical, TRICARE or Champus plan.
[13.10.34.7 NMAC - Rp, 13.10.34.7 NMAC, 07/01/2023]

13.10.34.8 GENERALLY APPLICABLE PROVISIONS: A plan subject to this rule shall comply with these provisions:

A. Probationary periods. A plan shall not include a probationary or waiting period during which no coverage is provided for a covered benefit after the coverage effective date. A probationary period does not include an eligibility-waiting period during which no premium is paid, or an elimination period for a disability income plan.

B. Riders and other supplements. A rider, amendment, endorsement or other supplement shall explicitly state which benefits the carrier has amended or supplemented from the original plan.

C. Preexisting conditions. An individual plan, or plan sold through an association or group described in Paragraph (2) or (4) of Subsection A of Section 59A-23-3 NMSA 1978, shall not exclude coverage for a loss due to a preexisting condition unless the application or enrollment form includes a conspicuous notice about the scope and applicability of any such exclusion that will apply in the coverage, and that notice also appears in the plan document issued to the covered person at the start of the free look period.

D. Return of premium. A plan may include a return of premium or cash value benefit if authorized by the superintendent following an evaluation of the potential impact on the carrier's reserves and ability to service policy obligations. Nothing in this rule requires a carrier to seek authorization from the superintendent to return premiums unearned through termination or suspension of coverage, retroactive waiver of premium paid during a medical condition, payment of dividends on participating policies, or experience rating refunds.

E. Exclusions. A plan shall not exclude any type, circumstance or cause of loss that would not otherwise be covered, and the plan exclusions shall not, individually or collectively, unreasonably or deceptively alter the scope of coverage. Subject to the foregoing, a plan may exclude coverage for the following conditions, circumstances and causes of loss:

(1) preexisting conditions;

(2) loss resulting from or contributed to by:

(a) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or units auxiliary to it;

(b) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury within two years of the effective date of coverage;

(c) aviation, other than travel as a fare paying passenger on a commercial carrier; or

(d) incarceration or detention due to illegal activity.

(3) loss for which benefits are provided under Medicare or other governmental program (except Medicaid), a state or federal workers' compensation program, employers liability or occupational disease law, or motor vehicle no-fault law;

(4) participation in an illegal activity;

(5) voluntary intoxication by any legal or illegal drug, including alcohol;

(6) specifically named high-risk physical activities;

(7) international territorial limitations;

(8) occupational injury or disease;

(9) normal pregnancy or childbirth;

(10) foreign travel or residency; or

(11) any other type, circumstance or cause of loss if the carrier satisfies the superintendent that the exclusion promotes a legitimate underwriting or public policy objective or is required to comply with any state or federal law.

F. Contracted providers. A plan shall not condition a benefit or offer an enhanced benefit based on receipt of health care from any specific provider, provider network or facility, or based on the care methodology. A carrier shall not refer to a network or provider arrangement in any plan document or advertisement.

G. Marketing of blanket or group coverages. A carrier shall not sell any blanket coverage that is not described in Section 59A-23-2 NMSA 1978 or group coverage that is not identified or described in Section 59A-23-3 NMSA 1978.

H. Arbitration provisions. A plan shall not require a covered person or master policyholder to submit a dispute arising out of or relating to the plan to mediation or arbitration. A covered person or master policyholder may agree to participate in voluntary mediation or arbitration after the submission of a claim for benefits, or after a dispute arises.

I. Legal compliance. A covered person's rights under any plan shall be governed by the terms of the plan approved by the superintendent, and by applicable state and federal law. This rule does not limit the superintendent's authority to approve or disapprove a plan or plan provision as authorized by any other state or federal law.

J. Telemedicine services. A plan that provides a benefit conditioned on a covered person's receipt of a health care service shall provide that benefit if the service is delivered in-person or virtually. No plan may offer a telemedicine only benefit.

K. Discrimination. No carrier or plan shall discriminate in eligibility for coverage or benefits on the basis of sex, sexual orientation, gender, gender identity, race, religion, or national origin. A plan may differentiate on the basis of age in rating and age limits on coverage.

L. Insurance cards. A carrier shall not issue an insurance card or similar proof of coverage to a covered person.

M. Direct reimbursement. A carrier shall pay fixed indemnity benefits directly to a covered person unless the covered person assigns benefits after a covered loss occurs. A coercive assignment is unenforceable.

N. Inducements. Except as authorized by Section 59A-16-17 NMSA 1978, and these rules, a carrier shall not offer or provide monetary or other valuable consideration, engage in misleading or deceptive practices or make untrue, misleading, or deceptive representations in any plan document, advertising or sales presentation to induce enrollment.

O. Military service exclusion or suspension. If a plan contains a military service exclusion or a provision that suspends coverage during military service, the plan shall refund unearned premiums upon receipt of a written request for refund, or upon learning that a covered person has entered military service.

P. Individual noncancellable and guaranteed renewable policies. A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" individual plan shall not provide for termination of coverage of the domestic co-insured solely because of the occurrence of an event specified for termination of coverage of the covered person, other than nonpayment of premium. In addition, the plan shall provide that in the event of the covered person's death, the domestic co-insured of the covered person, if covered under the plan, shall become the policyholder.

(1) The terms "noncancellable" or "noncancellable and guaranteed renewable" may only be used in an individual excepted benefit plan if the covered person has the right to continue the coverage by timely paying premiums, until the age of 65 or until eligibility for Medicare, during which time the carrier has no unilateral right to change any provision of the plan.

(2) The term "guaranteed renewable" may only be used in a plan where the covered person has the right to continue in force, by timely paying premiums, until the age of 65 or until eligibility for Medicare, during which period the carrier has no unilateral right to change any provision of the plan, other than changes in premium rates by classes.

(3) In an individual plan covering domestic co-insureds, the age of the younger of the two shall be used as the basis for meeting the age and durational requirements of the definitions of "non-cancellable" or "guaranteed renewable." However, this requirement shall not prevent termination of coverage of the older of the two upon attainment of the stated age, so long as the plan may be continued in force as to the younger of the two to the age or for the durational period as specified in the plan.

Q. Dependent child. An individual excepted benefit plan's coverage for a child who is incapable of self-sustaining employment on the date the child would otherwise age out of coverage shall continue if the child depends on the covered person for support and maintenance. The plan may require that within 31 days of the date the company receives proof of the child's incapacity, the covered person may elect to continue the plan in force with respect to the child or insure the child under an approved conversion plan.

R. Continuous loss. A carrier shall not terminate a plan, except for non-payment of premium, during a period of continuous loss that commences during the period of coverage unless expressly limited by the duration of the benefit period, if any, or any maximum benefit limit.

S. Waivers. Where a waiver is required as a condition of plan issuance, renewal or reinstatement, a signed acceptance by the covered person is required. A waiver shall be limited to a specifically named or described disease, physical condition or activity.

T. Termination of coverage. A carrier may terminate a plan only for a reason specified in the agreement delivered to the covered person. A plan may authorize termination for:

(1) failure of the covered person or subscriber to pay the premiums and other applicable charges for coverage;

(2) material breach of a contractual obligation, or a prejudicial failure to satisfy a post-loss condition;

(3) fraud or misrepresentation affecting underwriting;

(4) expiration of term; or

(5) any reason that the superintendent determines is not substantively or procedurally unconscionable.

U. Notice required upon termination of coverage for individual plans. A carrier shall not terminate a plan unless it provides written notice to a covered person 30 days prior to the intended termination date. Notice of termination shall:

(1) be in writing and dated;

(2) state the reason for termination, with specific references to the clauses of the plan that justify the termination;

(3) state that a covered person's plan cannot be terminated because of health status, need for services, race, religion, national origin, gender, gender identity, age (except where allowed by law or rule), or sexual orientation of covered persons under the contract;

(4) state that a covered person who alleges that an enrollment has been terminated or not renewed because of the covered person's health status, need for health care services, race, religion, national origin, gender, gender identity, age or sexual orientation may file a complaint with the superintendent of insurance at www.osi.state.nm.us or 1-855-427-5674; and

(5) state that in the event of termination by either the covered person or the carrier, except

in the case of fraud or deception, the carrier shall, within 30 calendar days, return to the covered person or subscriber the portion of the money paid to the carrier that corresponds to any unexpired period for which payment had been received together with amounts due on claims, if any.

V. Notice required upon termination of coverage for group plans. A group plan shall specify that either the carrier or the group master policyholder shall provide notice to the party responsible for providing notice to each group certificate holder of any plan expiration, lapse or termination at least 30 days in advance. Except where the group policyholder or the employer is replacing a group plan with another carrier's plan, a carrier shall not terminate a group plan unless it provides written notice to the party responsible for providing notice to each certificate holder 30 days prior to the certificate holder's intended termination date. The party responsible for providing notice to each certificate holder shall attest that notice was provided 30 days prior to the intended termination date. Notice of termination shall:

(1) be in writing and dated;

(2) state the reason(s) for termination, with specific references to the clauses of the plan that justify the termination; and

(3) state that in the event of termination by either the group policyholder or the carrier, except in the case of fraud or deception, the carrier shall, within 30 calendar days, return to the group policyholder the money paid to the carrier that corresponds to any unexpired period for which payment had been received.

W. Claim form. If a carrier requires submission of a claim form as a condition of payment, the carrier, upon receipt of notice of a claim, shall deliver the form to the covered person. If a carrier does not deliver a claim form within 15 days after notice of a claim, the claimant shall be deemed to have complied with any proof of loss requirement if a written notice of claim contains sufficient detail to determine that a covered loss occurred.

X. Grace periods. A carrier shall grant a premium payment grace period of at least 10 days for a monthly premium plan and at least 31 days for a plan billed less frequently.

Y. Variability. A carrier who offers an individual plan with variable benefit types and levels shall submit for approval the outline of coverage and benefits that illustrates the plan design that would be available to a prospective covered person. A carrier who offers coverage to eligible covered persons under a group plan shall submit for approval an outline of coverage or certificate that corresponds with the plan design ultimately offered to those covered persons. A carrier shall comply with the variability guidance posted on the OSI website, including mapping requirements. Each distinct outline of coverage, or certificate shall be subject to a filing fee as specified in statute.

Z. Treatment trigger. Except as expressly authorized in this rule, no accident only or specified disease plan shall condition a benefit on a covered person's receipt of health care or offer a fee for service benefit.

AA. Portability. A portability or continuation provision in an employer group plan shall not allow a person whose group eligibility ends to continue group coverage for more than nine months. A portability or continuation provision in any other type of group plan shall not allow a covered person to continue coverage for more than three months. In the event of the death of a covered group member, coverage for a domestic co-insured of the decedent insured may continue for two years, until one-year after any minor dependent insured obtains the age of majority, and for one-year after circumstances creating dependency end for any other dependent insured.

BB. Subrogation. A carrier who offers or pays a fixed indemnity benefit shall not claim, assert or pursue subrogation.

CC. Benefit minimums. The superintendent may, after conducting a public hearing, issue an order mandating, or reducing mandated, benefit minimums for any type of subject plan. A non-contributory plan is not subject to any benefit minimum mandated by this rule. Benefit minimums are not applicable to the non-contributory portion of a plan that has both contributory and non-contributory portions.

DD. Value added product or service. A carrier shall not provide or offer a value added product or service in connection with a subject plan if any part of the cost of providing the product or service is included in the plan rates. A carrier who proposes to offer a value added product or service must provide actuarial certification of compliance with this rule.

[13.10.34.8 NMAC - Rp, 13.10.34.8 NMAC, 07/01/2023]

13.10.34.9 ADDITIONAL REQUIREMENTS FOR DISABILITY INCOME PLANS: A disability income plan is subject to these additional requirements:

A. Benefit reduction. A disability income plan may provide that benefits shall decrease by up to fifty percent if the covered person is or attains the age of 62 during the period of disability.

B. Disability limitation. A disability income plan shall only provide benefits for disability resulting from injury, sickness, pregnancy or combination of these causes.

C. Partial disability. A disability income plan shall consider an individual to be partially disabled if the individual:

(1) is unable to perform one or more but not all of the substantial and material duties or words of similar import, of the individual's employment or existing occupation or work a specified percentage of time, or a specified number of hours, or earn a specified amount of compensation; and

(2) remains engaged in work for wage or profit.

D. Residual disability. A disability income plan shall consider "residual disability" in relation to the individual's reduction in earnings and may be related either to the inability to perform some part of the "major," "important" or "essential duties" of employment or occupation or to the inability to perform all usual business duties for as long as is usually required. A disability income plan that provides for residual disability benefits may require a qualification period, during which the covered person must be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term "residual disability," a disability income plan may use "proportionate disability" or other term of similar import that, in the opinion of the superintendent, adequately and fairly describes the benefit.

E. Total disability. A disability income plan shall not define "total disability" more restrictively than a definition requiring that an individual who is totally disabled not be able to perform the duties of any employment or occupation for which he or she is or becomes qualified by reason of education, training, or experience; and is not, in fact, engaged in any employment or occupation for wage or profit.

(1) Total disability may be defined in relation to the inability of the insured to perform duties, and may include a reduction in earnings requirement, but may not be based solely on an insured's inability to:

(a) Perform any occupation whatsoever, any occupational duty, or any and every duty of his or her occupation; or

(b) Engage in a training or rehabilitation program.

(2) A disability income plan may require the covered person to have complete inability to perform all of the substantial and material duties of his or her regular occupation, or words of similar import.

(3) If the covered person is not employed at the onset of disability, a disability income plan shall not define total disability more restrictively than the inability to perform three or more activities of daily living, as certified by a physician.

(4) A carrier may require proof of disability or care to be provided by a physician other than the insured of a member of the insured's immediate family.

F. Independent examination. A carrier may require a covered person to undergo an independent examination to evaluate disability as often as reasonably necessary.

G. Elimination period. A disability income plan shall not include an elimination period greater than 30 days in the case of coverage providing a benefit duration of one year or less; 60 days in the case of coverage providing a benefit duration of greater than one year and no more than two years; 90 days in the case of coverage providing a benefit duration of greater than two years and no more than three years; 180 days in the case of coverage providing a benefit duration of greater than three years and no more than five years; or 365 days in all other cases. For purposes of this provision, the benefit duration shall disregard reduced benefit durations based on age. If a plan provides both full and partial disability, only one elimination period is allowed. The requirements of this section do not apply to a short term disability plan.

H. Minimum benefit period. After the elimination period, a disability income plan shall not have a benefit duration of less than three months, or until the disability ends, whichever is less.

I. Recurrent disabilities. Unless a disability income plan provides for a benefit payable to a certain age limit, a provision relating to recurrent disabilities shall not specify that a recurrent disability be separated by a period greater than six months.

[13.10.34.9 NMAC - Rp, 13.10.34.9 NMAC, 07/01/2023]

13.10.34.10 ADDITIONAL REQUIREMENTS FOR ACCIDENT-ONLY PLANS: An accident-only plan is subject to these additional requirements.

A. Plan definitions. An accident-only plan:

(1) shall not define "accident" more narrowly than an injurious event during the coverage period that was unexpected and unintended from the standpoint of the covered person.

(2) shall not define "injury" more narrowly than physical or mental harm that results from an accident, no matter the degree of harm or when it manifests.

B. Coverage requirements. An accidental death benefit in an accident-only plan shall be no less than $5,000 for a named covered person and any domestic co-insured. Dependent coverage for accidental death shall be no less than $2,500 for each dependent. The death benefit amount may vary for each specifically identified life insured under the policy or certificate. A dismemberment benefit shall be at least $2,500 for loss of an arm or leg. The benefit amount for partial dismemberment and loss of a non-limb body part shall be no less than $250 for each covered loss.

C. Basis of compensation. An accident-only plan shall only compensate for losses on a fixed-indemnity basis.

D. Specified accident. Specified accident insurance coverage shall only be sold as blanket coverage pursuant to Section 59A-23-2 NMSA 1978, or as nonrenewable individual coverage with a term not to exceed 30 days. Specified accident coverage shall only be offered in a designated specified accident plan.

E. Occupational accident plan. An occupational accident plan:

(1) shall only

be issued to an individual or group member who is a worker engaged in employment subject to New Mexico workers' compensation law protections.

(2) shall only pay benefits conditioned on the covered person sustaining a work-related injury.

(3) shall not coordinate with workers' compensation benefits.

(4) shall include this notice, displayed on a cover page or on the first page of the plan in bold 14-point type:

YOUR PURCHASE OF THIS PLAN DOES NOT RELEASE YOUR EMPLOYER FROM ANY LEGAL DUTY TO PROVIDE WORKERS' COMPENSATION COVERAGE. TO LEARN MORE ABOUT YOUR RIGHTS TO WORKERS' COMPENSATION COVERAGE PLEASE CONTACT:

STATE OF NEW MEXICO
WORKERS' COMPENSATION ADMINISTRATION
2410 CENTRE AVE SE
ALBUQUERQUE, NM 87106
505-841-6000
www.workerscomp.nm.gov

THIS PLAN ONLY PROVIDES BENEFITS IF YOU ARE INJURED WHILE ENGAGED IN EMPLOYMENT SUBJECT TO NEW MEXICO WORKERS' COMPENSATION LAWS. IF YOU ARE NOT ENGAGED IN SUCH EMPLOYMENT OR CEASE TO BE ENGAGED IN SUCH EMPLOYMENT, CONTACT US AT [INSERT NUMBER] AND WE WILL CANCEL THIS PLAN AND REFUND ANY UNEARNED PREMIUM.

(5) shall not reduce or eliminate any benefit because a covered person receives, or is entitled to receive, workers' compensation benefits.

(6) shall not exclude activities or accidents inherent to the covered person's occupation.

(7) shall not require a covered person to waive rights to workers' compensation coverage or benefits.

(8) shall be cancellable at any time.

(9) shall not be conditioned on a covered person receiving workers' compensation benefits.

(10) shall provide benefits for any injury that results during a covered person's work hours at the covered person's work location, subject to any authorized exclusion and to the going-and-coming rule. An injury to a traveling worker shall be covered if the injury results while the worker is traveling for the employer and is being compensated for the travel.

F. Sickness benefit. An accident-only plan shall not offer a benefit for any sickness or disease that is not caused by a covered accident. Sickness or disease benefits shall be limited to illness that arises within 90 days of the accident. Sickness benefits may include coverage for mental health care or nervous disorders that result from an accident.

G. Other Fixed Indemnity Benefits: An accident-only plan may offer other fixed indemnity benefits in compliance with Section 13.10.34.12.

H. Income replacement benefit. An accident-only plan may offer income replacement benefits only for disability resulting from a covered accident.

I. Accidental cause variation. An accident only plan that provides benefits, or benefit amounts, that vary depending on the accident cause, place, time or manner shall prominently set forth in the outline of coverage the circumstances under which different benefits or amounts are payable. A plan that includes accidental cause variation may be deemed a specified accident plan subject to the specified accident provisions of this rule.

J. Exclusion consistency. A carrier shall not suggest or imply that an accident only plan applies to injury that results from an excluded activity.

K. Death and dismemberment. An accident-only plan may offer a death and dismemberment benefit. When accidental death and dismemberment coverage is part of an individual plan, the covered person shall have the option to include all covered persons under the coverage and not just the principal covered person.

L. Delayed loss. Accident-only benefits shall be payable if a covered loss was caused by a covered accident during the period of coverage even if the loss first manifests after the period of coverage, provided notice of loss is provided within five years of the covered accident

M. Fractures or dislocations. A plan that provides coverage for fractures or dislocations shall provide benefits for full and partial fractures or dislocations.
[13.10.34.10 NMAC - Rp, 13.10.34.10 NMAC, 07/01/2023]

13.10.34.11 ADDITIONAL REQUIREMENTS FOR HOSPITAL INDEMNITY PLANS: A hospital indemnity plan is subject to these additional requirements.

A. Benefit minimum. A hospital indemnity plan shall pay a minimum lump-sum of no less than $1,500 upon initial confinement. A plan may offer additional lump-sum or daily benefits for additional periods of confinement as defined by the plan, subject to the provisions contained in this rule.

B. Continuous hospital confinement. A hospital indemnity plan shall treat consecutive days of in-hospital service received as an inpatient, and successive inpatient confinement for treatment of the same condition within 30 days of prior discharge, as a single period of confinement. A carrier shall not combine confinements that result from medically distinct causes. A plan may exclude benefits for any calendar day period of confinement that does not result in billed charges by a hospital.

C. Basis of compensation. A hospital indemnity plan shall provide benefits only on a fixed indemnity basis.

D. Hospital indemnity benefit limitations. A hospital indemnity plan shall only offer benefits conditioned on a covered person being hospitalized, or receiving hospice, convalescent or extended care, hospital-treatment related ambulatory surgical center services, ambulance service to or from a covered confinement, hospital-affiliated outpatient services, anesthesia, surgery, emergency care leading to a hospital, convalescent or hospice confinement, lost wages during a period of hospital confinement, or expenses to travel to or from a hospital confinement. These benefits shall not be offered as a separate rider.

E. Confinement defined. A hospital indemnity plan shall define "confinement" as any consecutive 24-hour period during which medical observation or services are provided on a continuous basis in a licensed medical facility, each immediately successive such period, and any period of time less than 24-hours on the date of discharge from any such confinement.

F. Convalescent or extended care. A plan that provides a benefit conditioned on a covered person receiving convalescent or extended care following hospitalization shall provide such benefits if the admission to the convalescent or extended care facility is within 14-days after discharge from the hospital.

[13.10.34.11 NMAC - Rp, 13.10.34.11 NMAC, 07/01/2023]

13.10.34.12 OTHER FIXED INDEMNITY: Other fixed indemnity benefits are subject to these additional requirements.

A. Benefits. Other fixed indemnity benefits shall be no less than $50 per triggering event, circumstance or condition. The aggregate amount of all other fixed indemnity benefits offered shall not exceed $10,000.

B. Limitations. A carrier shall not offer or sell a person a plan, or combination of plans, that provide more than ten other fixed indemnity benefits. A carrier shall not sell a plan that includes other fixed indemnity benefits if that would result in the customer having coverage for more than ten other fixed indemnity benefits under one or more plans. An application for a plan that offers other fixed indemnity benefits shall inquire whether a prospective insured has other excepted benefits coverage, and about the number and type of other fixed indemnity benefits covered by a prospective insured's other coverage, if any. A carrier that offers more than five other fixed indemnity benefits must do so in a manner which is not ambiguous, deceptive, or misleading, or which suggests that the package of fixed indemnity benefits is a substitute for or constitutes major medical insurance.

C. Other fixed indemnity benefit types. Unless otherwise limited by this rule, the other fixed indemnity benefits shall be limited to hospitalization, outpatient services, ambulance and other transportation services, behavioral health services, laboratory and imaging services, in-home care, durable medical equipment, home, work or vehicle modifications to accommodate disability, therapy services, treatment-related lost wages, health care related lodging, pet care and daycare services, or cosmetic services relating to a covered accident or illness. Other fixed indemnity benefits may be offered as a stand-alone policy or certificate of insurance or as a rider to an excepted benefit subject plan. A stand-alone other fixed indemnity plan shall include all notices required by this rule at an appropriate reading level which is understandable to a prospective insured.

D. Treatment trigger. Other fixed indemnity benefits may be conditioned upon a covered person receiving medical care given in a medically appropriate location. A carrier shall not condition payment for any such benefit on prior approval of treatment or on medical necessity.

[13.10.34.12 NMAC - Rp, 13.10.34.12 NMAC, 07/01/2023]

13.10.34.13 ADDITIONAL REQUIREMENTS FOR SPECIFIED DISEASE PLANS: A specified disease plan is subject to these additional requirements.

A. General requirements.

(1) A plan covering a single specified disease or combination of specified diseases shall not be sold or offered for sale other than as a specified disease plan.

(2) A specified disease plan that conditions payment upon a pathological diagnosis shall also provide that if the pathological diagnosis is not medically feasible, a clinical diagnosis will be accepted.

(3) A specified disease plan shall pay a lump-sum upon medical diagnosis of the specified disease, or for any form or variation of a specified disease that is covered by the plan.

(4) An individual specified disease plan shall be guaranteed renewable.

(5) A specified disease plan shall not be sold to a person covered by any Title XIX program (Medicaid, Centennial Care or any similar name). An individual specified disease plan shall contain a statement above the signature line of an individual applicant or covered person attesting that the person seeking to be covered for a specified disease is not covered by Medicaid. The statement may not be combined with any other statement for which the carrier may require the applicant or covered person's signature. For group plans, the carrier shall provide a notice in any enrollment materials of the above prohibition of sale of a specified disease plan to persons covered by Title XIX programs.

(6) Any benefit that is conditioned on repeated care for a specified disease shall begin with the first day of care even if the diagnosis is made at some later date.

(7) A specified disease plan shall provide benefits only on a fixed indemnity basis.

(8) A specified disease plan may offer other fixed indemnity benefits in compliance with 13.10.34.12.

B. Minimum benefits. The following minimum benefits standards apply to all specified disease coverages:

(1) No less than an aggregate amount of $5,000 per triggering diagnosis. The OSI may approve product filings that allow a lower aggregate amount for a variant or subtype of a covered specified disease that requires minimally invasive treatment or are non-life-threatening. OSI may also approve plan designs for more extensive coverage for dependents.

(2) Dollar benefit limits shall be offered for sale only in even increments of $1,000 unless for dependent extended coverage riders, in which case this extended coverage may be offered for sale only in even increments of $500.

(3) Where coverage is advertised or otherwise represented to offer generic coverage of a disease or diseases, the same dollar amounts shall be payable regardless of the particular variant or subtype of the disease, unless lower aggregate amounts have otherwise been approved under Paragraph (1) of this subsection.

C. Reductions in benefits. A specified disease plan shall not eliminate or reduce benefits based on the occurrence of specified events or attaining a certain age.

D. Overinsurance. No carrier or producer shall offer or sell a specified disease plan, or combination of such plans, that apply to more than eight specified diseases. Except for group specified disease plans offered by an employer, no carrier or producer shall sell a specified disease plan if that would result in the customer having coverage for more than eight specified diseases under plans issued by different carriers. Except for group specified disease plans offered by an employer, a specified disease plan application shall inquire whether a prospective insured has other specified disease coverage, and about the number and type of diseases covered by a prospective insured's other coverage, if any. A specified disease plan may provide benefits for all medically diagnosed and commonly recognized forms or variations of each specified disease or illness without having each variation count against the eight disease limit. A carrier shall not sell to an individual a specified disease plan if such coverage would result in the individual being covered by more than one specified disease plan for the same specified disease.
[13.10.34.13 NMAC - Rp, 13.10.34.13 NMAC, 07/01/2023]

13.10.34.14 ADDITIONAL REQUIREMENTS FOR HOSPICE CARE BENEFITS: A hospital indemnity plan that provides hospice coverage, separately or in conjunction with other hospital indemnity coverage, is subject to these additional requirements.

A. Scope. The hospice benefit shall apply to care received in a facility or through an in-home program, licensed, certified or registered in accordance with state law that provides a formal program of care that is:

(1) for terminally ill patients whose life expectancy is less than six months;

(2) provided on an inpatient or outpatient basis; and

(3) directed by a physician.

B. Benefits trigger. Hospice benefits shall be payable when the attending physician of the covered person provides a written statement that the covered person has a life expectancy of six months or less, and the person is receiving hospice care as described in this rule.

C. Hospice benefit. A hospice care benefit shall be no less than a lump-sum of $2,500.
[13.10.34.14 NMAC - Rp, 13.10.34.14 NMAC, 07/01/2023]

13.10.34.15 SUPPLEMENTAL PLAN: A supplemental plan is subject to these additional requirements.

A. Group coverage limitation. A carrier shall only offer or issue a supplemental plan to a person who is covered under a primary group major medical, TRICARE or Champus plan.

B. Plan design. A supplemental plan must be specifically designed to fill gaps in the primary coverage. This requirement is satisfied if the coverage is designed to fill gaps in cost-sharing in the primary coverage, such as coinsurance or deductibles, or the coverage is designed to provide benefits for items and services not covered by the primary coverage and that are not essential health benefits as defined under section 1302(b) of the Patient Protection and Affordable Care Act in the New Mexico benchmark plan, or the coverage is designed to both fill such gaps in cost-sharing under, and cover such benefits not covered by, the primary coverage.

C. No coordination. A supplemental plan shall not include a coordination-of-benefits provision but may condition payment of benefits on the covered person becoming obligated to pay a cost-sharing obligation under the primary coverage.

D. Indemnity. A supplemental plan shall not offer fixed indemnity benefits.

E. Filing requirement. For each supplemental plan filed with the superintendent, the carrier shall also file a separate document specifically identifying any offered benefits that are not covered by group major medical coverage and are not essential health benefits.

F. Exclusions. A supplemental plan shall include a provision that guarantees the plan will not impose an exclusion that does not appear in the covered person's group major medical plan.
[13.10.34.15 NMAC - Rp, 13.10.34.15 NMAC, 07/01/2023]

13.10.34.16 NON-SUBJECT WORKER PLAN: A non-subject worker plan is subject to these additional requirements.

A. Eligibility. A non-subject worker plan shall only be offered or sold to a person who is self-employed and not subject to New Mexico workers' compensation law protections. A carrier shall investigate and evaluate the self-employment status of each applicant for an individual non-subject worker plan, and of each person who applies to enroll in a group non-subject worker plan. An attestation of self-employment by an applicant shall not relieve a carrier from these duties. 1099 income, standing alone, is insufficient proof of self-employment.

B. Notice. An application for individual coverage, and an enrollment form for group coverage, shall include this notice, printed in 14-point type:

THE INSURANCE YOU ARE APPLYING FOR IS NOT A MAJOR MEDICAL INSURANCE PLAN. THE INSURANCE YOU ARE APPLYING FOR DOES NOT OFFER ANY BENEFIT FOR MEDICAL CARE YOU REQUIRE FOR AN OFF-WORK INJURY OR ILLNESS.

TO LEARN IF YOU ARE ELIGIBLE FOR A MAJOR MEDICAL PLAN, PLEASE VISIT WWW.BEWELLNM.COM. OR CALL 1-833-862-3935. PREMIUM DISCOUNTS, FINANCIAL ASSISTANCE, MEDICAID OR OTHER MAJOR MEDICAL COVERAGE OPTIONS MAY BE AVAILABLE.

C. Benefit requirements. The benefits provided under a non-subject worker plan are limited to medical expense reimbursement, wage loss replacement and lump-sum payment for permanent or temporary disability (full or partial) sustained by a covered person as a result of an on-the-job injury or occupational disease. A subject plan may provide any combination of such benefits, subject to the benefit levels rule.

D. Benefit levels. The benefits offered under a non-subject worker plan shall be no less than what a covered person would be entitled to receive if that person's self-employment was subject to New Mexico workers' compensation laws. A subject plan may provide lower benefit levels, and omit some such benefits, provided the carrier offers an applicant a plan that would provide workers' compensation equivalent benefits, and the covered person rejects that offer in writing. The rejection document shall include the following attestation printed in 14-point type:

[CARRIER] OFFERED APPLICANT AN INSURANCE PLAN THAT INCLUDED BENEFITS EQUIVALENT TO WHAT APPLICANT WOULD BE ENTITLED TO IF THE APPLICANT'S SELF-EMPLOYMENT WAS SUBJECT TO NEW MEXICO WORKERS' COMPENSATION LAWS. THE MONTHLY PREMIUM FOR THAT COVERAGE WOULD BE [$XX]. APPLICANT ELECTED TO PURCHASE THIS PLAN WHICH PROVIDES LESS COVERAGE THAN WOULD BE AVAILABLE TO A SUBJECT WORKER UNDER THE NEW MEXICO WORKERS COMPENSATION LAWS. THE MONTHLY PREMIUM FOR THIS PLAN IS [$XX]. [CARRIER] OFFERED APPLICANT A CHART SHOWING THE DIFFERENCES BETWEEN THIS PLAN AND THE FULL COVERAGE PLAN AND OFFERED TO EXPLAIN THOSE DIFFERENCES.

I ATTEST THAT THE STATEMENT ABOVE IS TRUE AND CORRECT:

____

[APPLICANT NAME]

DATE

E. Notice to Workers' Compensation Administration. Upon the sale of any non-subject worker plan, the carrier shall file a disclosure notice with the New Mexico Workers' Compensation Administration Employer Compliance Bureau. The notice shall contain the following information:

(1) name of covered person;

(2) covered person's occupation;

(3) name, address, and telephone number of any group sponsor of the plan; and

(4) effective dates of the plan.

[13.10.34.16 NMAC - Rp, 13.10.34.16 NMAC, 07/01/2023]

13.10.34.17 FORM AND RATE FILING AND APPROVAL REQUIRED:

A. Prior approval of forms required. A carrier shall not issue, deliver or use a form associated with a plan, unless and until such form has been filed with and approved by the superintendent.

B. Prior approval of rates required. A carrier shall not use rates or modified rates for an individual or group plan unless and until such rates are filed with and approved by the superintendent, except for rates for a plan issued to eligible members of an out-of-state group policyholder defined by Paragraph (1) of Subsection A of Section 59A-23-3 NMSA 1978. A carrier shall not offer a group coverage plan to New Mexico residents that are members of a group not defined in Paragraph (1) of Subsection A of Section 59A-23-3 NMSA 1978 under a plan issued to an out-of-state group policyholder unless the plan complies with Subsections D and G of this Section. Projected loss ratios for new plans or products shall be filed prior to sales and be based on credible data.

C. Rate filing requirements. The superintendent shall post on its website requirements for filing actuarial memorandums and rates for rate filing requests.

D. Minimum loss ratios for group plans. A group product subject to this rule shall be subject to the following actual minimum loss ratios, adjusted for low or high average premium forms:

(1) **Definitions of renewal clause.** The following definitions shall be applied to the table:

Type of Coverage:	OR	CR	GR	NC
Medical Expense	65%	60%	60%	55%
Loss of Income and Other	65%	60%	55%	50%

(a) **OR- Optionally Renewable:** renewal is at the option of the insurance company;
(b) **CR- Conditionally Renewable:** renewal can be declined by class; by geographic area or for stated reasons other than deterioration of health;
(c) **GR- Guaranteed Renewable:** renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis;
(d) **NC- Non-Cancelable:** renewal cannot be declined nor can rates be revised by the insurance company.

(2) **Low average premium forms.** For a plan form, including riders and endorsements, under which the actual average annual premium per certificate is low (as defined below), the appropriate ratio from the table above should be adjusted downward by the following formula:

$$RN = R \times \frac{(I \times 500) + X}{(I \times 750)}$$

where: R is the table ratio;
RN is the resulting guideline ratio;
I is the consumer price index factor; and
X is the average annual premium, up to a maximum of I x 250.

The factor I is determined as follows:

$$I = \frac{\text{CPI-U, Year (N-1)}}{(1982)} = \frac{\text{CPI-U, Year (N-1)}}{97.9} \text{ CPI-U,}$$

where:

(a) (N-1) is the calendar year immediately preceding the calendar year (N) in which the rate filing is submitted in the state;
(b) CPI-U is the consumer price index for all urban consumers, for all items, and for all regions of the U.S. combined, as determined by the U.S. Department of labor, bureau of labor statistics based on the 1982=100 basis;
(c) the CPI-U for any year (N-1) is taken as the value of September. For 1982, this value was 97.9;
(d) hence, for rate filings submitted during calendar year 1983, the value of I is 1.00.
(e) Low average annual premium is defined as average annual premium less than or equal to I x 250.
(f) High average annual premium is defined as average annual premium more than or equal to I x 1500.

(3) **High average premium forms**. For a plan form, including riders and endorsements, under which the actual average annual premium per certificate is high (as defined above), the appropriate ratio from the table above should be adjusted upward by the following formula:

$$RN = R \times \frac{(I \times 4000) + X}{(I \times 5500)}$$

where: R is the table ratio
RN is the resulting guideline ratio
I is the consumer price index factor (as defined in Paragraph (2) above)
X is the average annual premium, not less than I x 1500.

In no event, however, shall RN exceed the lesser of:
(a) R + 5 percentage points, or (b) 68%.

(4) Determination of average premium. A carrier shall determine the average annual premium per form based on the distribution of business by all significant criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all certificates (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation).

E. Individual plan minimum loss ratio. An individual plan subject to this rule shall be subject to the following actual minimum loss ratios, adjusted for low or high average premium forms:

Type of Coverage:	OR	CR	GR	NC
Medical Expense	60%	55%	55%	50%
Loss of Income and Other	60%	55%	50%	45%

(1) Definitions of renewal clause. The following definitions shall be applied to the table:

(a) OR- Optionally Renewable: renewal is at the option of the insurance company;

(b) CR- Conditionally Renewable: renewal can be declined by class, by geographic area or for stated reasons other than deterioration of health;

(c) GR- Guaranteed Renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis;

(d) NC- Non-cancelable: renewal cannot be declined nor can rates be revised by the insurance company.

(2) Low average premium forms. For a plan form, including riders and endorsements, under which the actual average annual premium per certificate is low (as defined below), the appropriate ratio for the table above should be adjusted downward by the following formula:

$$RN = R \times \frac{(I \times 500) + X}{(I \times 750)}$$

where: R is the table ratio;
RN is the resulting guideline ratio;
I is the consumer price index factor; and
X is the average annual premium, up to a maximum of I x 250.

The factor I is determined as follows:

$$I = \frac{\text{CPI-U, Year (N-1)}}{(1982)} = \frac{\text{CPI-U, Year (N-1)}}{97.9} \text{ CPI-U,}$$

where:

(a) (N-1) is the calendar year immediately preceding the calendar year (N) in which the rate filing is submitted in the state;

(b) CPI-U is the consumer price index for all urban consumers, for all items, and for all regions of the U.S. combined, as determined by the U.S. Department of labor, bureau of labor statistics, based on the 1982=100 basis;

(c) the CPI-U for any year (N-1) is taken as the value of September. For 1982, this value was 97.9;

(d) hence, for rate filings submitted during calendar year 1983, the value of I is 1.00.

(3) High average premium forms. For a plan form, including riders and endorsements, under which the actual average annual premium per certificate is high (as defined above), the appropriate ratio from the table above should be adjusted upward by the following formula:

$$RN = R \times \underline{(I \times 4000) + X}$$

where: R is the table ratio
RN is the resulting guideline ratio
I is the consumer price index factor (as defined in Paragraph (2) above)
X is the average annual premium, not less than I x 1500.

In no event, however, shall RN exceed the lesser of:

(α) R + 5 percentage points, or

(β) 63%.

(4) Determination of average premium. A carrier shall determine the annual premium per form based on an anticipated distribution of business by all significant criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all certificates (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation). The value of X should be determined on the basis of rates being filed. Thus, where this adjustment is applicable to a rate revision under Paragraph G, rather than to a new form, X should be determined on the basis of anticipated average size premium immediately after the revised rates have fully taken effect.

F. Rate revisions. The following requirements shall apply to rate revision requests:

(1) With respect to filing rate revisions for a previously approved form, or a group of previously approved forms combined for experience, benefits shall be deemed reasonable in relation to premiums provided the revised rates meet the most current standards applicable to rate filings; and

(2) Carriers are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid non-compliance with this rule.

G. Annual rate certification filing procedures. Carriers not filing new or updated premium rates in any given plan year shall file an actuarial memorandum demonstrating that minimum loss ratios have been met for all products.

(1) General requirement. Carriers shall meet the minimum loss ratio ("MLR") established, and in the manner calculated, under this section of the rule.

(2) Aggregation. Loss ratios shall be calculated on a consolidated level across policies with the same product type and benefit design.

(3) Measurement period. Compliance with the minimum loss ratio shall be measured over all years of issue combined and for each calendar year of experience utilized in the rate determination process (but never less than the last three years). A filing for a new pool shall be based on credible data from generally recognized industry sources. Separate filings shall be made for separate rating pools.

(4) Frequency. Actual loss ratios shall be calculated annually by carriers that issue excepted benefits products specified in this rule, beginning in 2023.

(5) Timeline. The evidence of compliance with the minimum loss ratio requirements shall be filed with the superintendent on the anniversary date when the product or the product's most recent rate filing was approved.

(6) Methodology. Actual loss ratios shall be calculated using company claim data including an estimate for claims incurred but not reported. The claims will be reported for all years of issue combined and for each calendar year of experience utilized in the rate determination process (but never less than the last three years after the third year of experience is available). The actual accumulated loss ratio over the measurement period (A) will be compared to original pricing accumulated loss ratios over the measurement period (E) as a method of justifying the minimum loss ratio is being met or showing the need for remedial action if (A)/(E) is below the threshold specified in Paragraph (8) of this subsection.

(7) Waiver. For noncredible blocks of business on a nationwide basis, the company may request a waiver of the requirement. The request shall be made annually and must be accompanied by a letter indicating the nature of the filing, the type of product, and the reason for the request.

(8) Compliance with minimum loss ratios. Each carrier shall submit to the superintendent an exhibit showing the calculation of the applicable loss ratios and:

(a) a statement signed by a qualified actuary that the minimum loss ratio requirements have been met; or

(b) a rate filing to justify the rates, revise rates, modify benefits through a benefit endorsement or to return excess premium, if the actual accumulated loss ratio divided by the expected accumulated loss ratio (A/E) over the measurement period is below eighty-five percent.

(9) The superintendent may require a plan to return excess premiums or increase benefits proportionately if the ratio of the actual accumulated experience to the expected accumulated experience (A/E) is below eighty percent.

(10) A carrier shall not return excess premiums per the above guidelines, until the carrier files a refund plan and calculation with and obtains approval of the plan by the superintendent.

H. Disapproval of forms and rates. The superintendent shall disapprove a form:

(1) if the benefit provided therein is unreasonable in relation to the premium charged; or

(2) that misrepresents the benefits, advantages, conditions or terms of any plan or that unfairly characterizes the plan as more favorable to the covered person than the actual terms of the plan, such as naming coverage for specific diseases whose primary forms of treatment are then listed as exclusions;

(3) that uses any false or misleading statements;

(4) that uses any name or title of any plan or class of plans misrepresenting the true nature thereof, including misrepresenting the plan as major medical coverage; or

(5) that is contrary to law, discriminatory, deceptive, unfair, impractical, unnecessary or unreasonable.

I. Variable MLR. A carrier shall not offer a plan subject to this rule to any person unless each possible plan design selectable by that person meets the MLR requirements as reflected in an approved rate filing. For variable forms, a carrier cannot satisfy MLR requirements with average premiums for the form as a whole. The carrier must base MLR calculations on the average premium for each possible combination of benefits and levels offered by demographics used for underwriting. The superintendent reserves the right to reject a plan that has no meaningful difference from another plan offered by the same carrier. The requirements of this rule do not apply to a non-contributory plan.

J. Premium increases. A carrier shall not increase a covered person's premium under any plan, other than a disability income plan, during the first two years that the covered person's coverage is in force except in cases where one or more persons are added to the policy as covered persons during this two year period. The new premium resulting from the addition of a covered person(s) shall not change for the first two years the policy with the added lives is in force.
[13.10.34.17 NMAC - Rp, 13.10.34.15 NMAC, 07/01/2023]

13.10.34.18 REQUIRED DISCLOSURES AND NOTICES:

A. General notice requirement. An application for an individual plan or plan sold through an association or group described in Paragraphs (2) or (4) of Subsection A of 59A-23-3 NMSA 1978, other than a disability income plan, shall contain in bold, 14-point type, directly above the applicant signature line the following notice:

NOTICE TO BUYER: PLEASE REVIEW THIS PLAN CAREFULLY. IT ONLY PROVIDES LIMITED BENEFITS, AND IT DOES NOT ON ITS OWN OR IN COMBINATION WITH OTHER LIMITED BENEFITS POLICIES CONSTITUTE MAJOR MEDICAL INSURANCE. BENEFITS PROVIDED ARE SUPPLEMENTAL AND ARE NOT INTENDED TO COVER ALL MEDICAL EXPENSES.

TO LEARN IF YOU ARE ELIGIBLE FOR A MAJOR MEDICAL PLAN, PLEASE VISIT [WWW.BEWELLNM.COM] OR CALL [1-833-862-3935]. PREMIUM DISCOUNTS, FINANCIAL ASSISTANCE, OR OTHER MAJOR MEDICAL COVERAGE OPTIONS MAY BE AVAILABLE.

B. Renewal provision. A plan shall include a renewal, continuation or nonrenewal provision. The language or specification of the provision shall be consistent with the type of plan to be issued. The provision shall be appropriately captioned, shall appear on the first page of the plan, and shall clearly state the duration of coverage and renewal terms.

C. Riders. A rider, endorsement, or supplement added to a plan after its effective date that reduces or eliminates benefits or coverage shall not be effective unless signed by the covered person. Signature may include electronic signature or voice signature, however, this signature must be recorded by the carrier and time-stamped. This signature requirement does not apply to certificates issued to covered persons in a group plan. A signature shall not be required if the rider, endorsement or supplement reflects a change to the plan that is required by law.

D. Additional premium for riders, endorsements or supplement. If an additional premium is charged for benefits specified in a rider, endorsement or supplement, the plan or certificate shall specify the premium.

E. Preexisting conditions. If a plan includes any preexisting condition exclusion or limitation, the plan or certificate shall include a separate section labeled "Preexisting Conditions, Exclusions and Limitations."

F. Right of return/ Free look. A plan shall include a prominent notice, printed on or attached to the first page of the plan, stating that the covered person has the right to return the plan, and cancel any associated voluntary group membership enrolled in contemporaneous with the plan enrollment, within 30 days of its delivery, and to have the premium and membership fees refunded in full if the covered person is not satisfied for any reason.

G. Age factors. If age is a factor that reduces aggregate benefits, that factor shall be prominently set forth in the outline of coverage.

H. Conversion privilege. If a plan includes a conversion privilege, the provision shall be captioned, "Conversion Privilege." The provision shall specify who is eligible for conversion and the circumstances that govern conversion, or may state that the conversion coverage will be as provided in an approved plan form used by the carrier for that purpose.

I. Medicare supplement notice.

(1) The outline of coverage delivered with an accident-only, specified disease, hospital indemnity, supplemental or non-subject plan shall contain the following notice in bold 14-point type:

THIS IS NOT A MEDICARE SUPPLEMENT PLAN. IF YOU ARE ELIGIBLE FOR MEDICARE, ASK FOR INFORMATION ABOUT MEDICARE SUPPLEMENT POLICIES.

(2) A carrier shall deliver to persons eligible for Medicare any notice required under 13.10.25 NMAC.

J. Outline of coverage requirements. Each subject plan and certificate shall include the outline of coverage that provides a basic overview of the plan's purpose, benefits, coverage minimums and maximums.

(1) The outline of coverage shall include the following notice, printed in bold 14-point type:

READ YOUR PLAN CAREFULLY – THIS OUTLINE OF COVERAGE PROVIDES A VERY BRIEF DESCRIPTION OF THE IMPORTANT FEATURES OF YOUR COVERAGE. THIS IS NOT THE INSURANCE CONTRACT AND ONLY THE ACTUAL PLAN PROVISIONS WILL DETERMINE THE TERMS OF COVERAGE. THE PLAN ITSELF SETS FORTH IN DETAIL THE RIGHTS AND OBLIGATIONS OF BOTH YOU AND YOUR INSURANCE COMPANY. IT IS, THEREFORE, IMPORTANT THAT YOU READ YOUR PLAN CAREFULLY!

(2) The outline of coverage shall provide contact information for the OSI consumer assistance bureau.

K. Delivery of plan documents. A carrier shall not bind coverage for any subject plan without delivering all plan documents to a prospective insured and allowing the prospective insured 30 calendar days to review those materials. Nothing in this subsection precludes a carrier from making coverage retroactive to the date that the plan documents were delivered to the prospective insured. The carrier shall maintain proof of compliance with this requirement for each sale for five years from the coverage effective date. For a group plan, either the carrier or the group master policyholder may satisfy the delivery requirement, but the carrier shall remain responsible for any failure to do so by the master policyholder. In the case where the group master policyholder delivers the plan documents to the prospective policyholders, the carrier shall require the group master policyholder to attest to the compliance with the requirements of this section and to provide documents that clearly support the attestation. The carrier shall not bind coverage until it has received the master policyholder's attestation.

[13.10.34.18 NMAC - Rp, 13.10.34.16 NMAC, 07/01/2023]

13.10.34.19 REQUIREMENTS FOR REPLACEMENT OF INDIVIDUAL PLAN COVERAGE:

A. Required questions. An application for an individual plan or a plan sold through an association or group described in Paragraphs (2) or (4) of Subsection A of 59A-23-3 NMSA 1978 shall ask whether the insurance requested will replace any other plan subject to this rule.

B. Notice requirement. Upon determining that a sale will involve replacement of a plan, a carrier, other than a direct response carrier, or its agent, shall furnish the applicant, prior to issuance or delivery of the plan, the notice described in Subsection C below. A direct response carrier shall deliver to the applicant, upon issuance of the plan, the notice described in Subsection D below. No notice is required for the solicitation of accident-only or single premium nonrenewal policies. The carrier shall retain proof of notice for five years from the coverage effective date.

C. Non-direct response carrier notice:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF LIMITED BENEFIT HEALTH INSURANCE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing insurance and replace it with a plan to be issued by [insert company name] Insurance company. For your own information and protection, you should be aware of and seriously consider certain factors that may affect the insurance protection available to you under the new plan.

(1) Health conditions that you may presently have, (preexisting conditions) may not be immediately or fully covered under the new plan. This could result in denial or delay of a claim for benefits under the new plan, whereas a similar claim might have been payable under your present plan.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present plan. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to terminate your present plan and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your plan had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

____
(Date)

____
(Applicant's Signature)

D. Direct response carrier notice:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF LIMITED BENEFIT HEALTH INSURANCE

According to [your application] [information you have furnished] you intend to lapse or otherwise terminate existing insurance and replace it with

the plan delivered herewith and issued by [insert company name] Insurance company. Your new plan provides 30 days within which you may decide without cost whether you desire to keep the plan. For your own information and protection, you should be aware of and seriously consider certain factors that may affect the insurance protection available to you under the new plan.

(1) Health conditions that you may presently have, (preexisting conditions) may not be immediately or fully covered under the new plan. This could result in denial or delay of a claim for benefits under the new plan, whereas a similar claim might have been payable under your present plan.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present plan. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) [To be included only if the application is attached to the plan]. If, after due consideration, you still wish to terminate your present plan and replace it with new coverage, read the copy of the application attached to your new plan and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [insert company name and address] within 10 days if any information is not correct and complete, or if any past medical history has been left out of the application.

[COMPANY NAME]

[13.10.34.19 NMAC - Rp, 13.10.34.17 NMAC, 07/01/2023]

13.10.34.20 COORDINATION OF BENEFITS, BUNDLING AND VARIABILITY:

A. Noncoordination of benefits. Benefits under a plan shall:

(1) be provided under a separate plan, certificate, or contract of insurance;

(2) have no coordination with the benefits offered under a health plan; and

(3) pay benefits regardless of any benefits provided under a health plan.

B. No bundling. No carrier, directly or through an affiliated producer, shall market or sell a bundled combination of accident-only, specified disease, hospital indemnity and non-subject worker plans. An application that is used in connection with more than one type of plan subject to this rule shall include a conspicuous notice that the applicant cannot purchase more than one type of plan from the carrier using the same application. This provision does not preclude the same carrier from selling more than one product type to a single purchaser as long as each policy is available at its own stated premium rate, independent of the other product types.

A carrier shall not offer or provide memberships or discounts relating to health care services or products. The provisions of this subsection shall not apply to a plan sold through a group identified in Paragraphs (1) or (3) of Subsection A of 59A-23-3 NMSA 1978, or to a bona fide association.

C. Major medical coverage requirement. Accident-only, specified disease, hospital indemnity and non-subject worker plans, excluding blanket coverage compliant with Section 59A-23-2 NMSA 1978 and group plans described in Paragraph (1) of Subsection A of 59A-23-3 NMSA 1978, shall only be issued to persons who acknowledge that the plan is not major medical or comprehensive health insurance. For purposes of this requirement, short-term, limited-duration insurance shall not be considered major medical coverage.

(1) An application or enrollment form for a plan subject to this subsection shall include an attestation by the applicant affirming that the applicant understands that the individual is not purchasing major medical insurance at the time of application. An application for a hospital indemnity plan, or plan offering other fixed indemnity benefits, shall also include any disclosure required by federal law. The attestation shall be in writing and signed by the applicant before coverage becomes effective. The carrier may retroactively apply coverage to the date of application.

(2) A sale of a plan subject to this subsection is unauthorized if an applicant fails to sign or deliver the attestation described in this rule.

(3) A carrier shall retain a copy of the attestation for at least five years.

(4) If a carrier of a plan subject to this subsection learns, directly or through an agent, that a covered person's major medical coverage has lapsed or was canceled, the carrier shall send the person the following notice:

YOUR MAJOR MEDICAL COVERAGE MAY HAVE RECENTLY LAPSED. YOUR POLICY WITH [IDENTIFY COMPANY] IS NOT MAJOR MEDICAL HEALTH INSURANCE. THE BENEFITS PROVIDED BY [IDENTIFY COMPANY] DO NOT COVER ALL MEDICAL EXPENSES.

TO LEARN IF YOU ARE ELIGIBLE FOR A MAJOR MEDICAL PLAN, PLEASE VISIT WWW.BEWELLNM.COM. OR CALL 1-833-862-3935. PREMIUM DISCOUNTS, FINANCIAL ASSISTANCE, MEDICAID OR OTHER MAJOR MEDICAL COVERAGE OPTIONS MAY BE AVAILABLE.

D. Matrix forms. The coverages governed by this rule are subject to prohibitions on matrix forms as otherwise specified in New Mexico law.

[13.10.34.20 NMAC - Rp, 13.10.34.18 NMAC, 07/01/2023]

13.10.34.21 PENALTIES: The sale of any plan that does not comply with this rule is unlawful. In addition to any applicable suspension, revocation or refusal to continue any certificate of authority or license under the New Mexico Insurance Code, a penalty for any material violation of this rule may be imposed against a health care insurance carrier or insurance producer by the superintendent. The actions of any producer or third-party administrator relating to the sale of a plan subject to this rule, or a claim under any such plan, shall be deemed the actions of the plan issuer.
[13.10.34.21 NMAC - Rp, 13.10.34.19 NMAC, 07/01/2023]

13.10.34.22 SEVERABILITY: If any section of this rule, or the applicability of any section to any person or circumstance, is for any reason held invalid by a court of competent jurisdiction, the remainder of the rule, or the applicability of such provisions to other persons or circumstances, shall not be affected.
[13.10.34.22 NMAC - Rp, 13.10.34.20 NMAC, 07/01/2023]

History of 13.10.34 NMAC:
13.10.34 NMAC - Standards For Accident Only, Specified Disease Or Illness, Hospital Indemnity, And Related Excepted Benefits, filed 10/01/2020 was repealed and replaced by 13.10.34 NMAC - Standards For Accident-Only, Specified Disease, Hospital Indemnity, Disability Income, Supplemental, And Non-Subject Worker Excepted Benefits, effective 07/01/2023.

SUPERINTENDENT OF INSURANCE, OFFICE OF THE

This is an amendment to 13.10.36 NMAC, amending Sections 7, 8, 10 and 11, effective 9/1/2022

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~~] **C. "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**~~] **D. "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**~~] **E. "Income criteria"** means parameters to establish eligibility for marketplace affordability programs.

[~~**H**~~] **F. "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.~~] means modified adjusted gross income as defined in 42 CFR § 435.60.

[~~**I**~~] **G. "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**~~] **H. "OOP"** means out-of-pocket.

[~~**K**~~] **I. "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**~~] **J. "Plan year"** means the year for which a participating health insurance issuer underwrites qualifying health insurance coverage.

[~~**M**~~] **K. "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**~~] **L. "QHP"** means a qualified health plan.

[~~**O**~~] **M.** [~~**"Reinsurance payment"** means an amount paid to a participating health insurance issuer under the small group reinsurance program.~~] **"Small business health insurance premium relief initiative"** means a program to reduce premiums for small businesses that purchase QHPs in the small group health insurance market.

[~~**P**~~] **N.** [~~**"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.~~] **"Small group QHP purchaser"** means an employer who purchases one or more QHPs for any of its employees or owners through the small business health options program or directly from a health insurance issuer selling QHPs in the small group health insurance market.

[~~**Q**~~] **O. "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**~~] **P.** **"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; E/A, 6/1/2022; A, 9/1/2022]

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 marketplace 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~~] three hundred percent of the FPL;

(2) for the small business [~~affordability program~~] health insurance premium relief initiative, 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; A/E, 6/1/2022, A, 9/1/2022]

13.10.36.10 MINIMIZING COVERAGE DISRUPTIONS AFTER THE FEDERAL MEDICAID CONTINUOUS COVERAGE REQUIREMENT EXPIRES: This rule governs the agency's efforts to ensure a smooth transition into a QHP offered on the New Mexico health insurance exchange for individuals who no longer qualify for medicaid after the expiration continuous coverage requirement in the federal "families first coronavirus response act".

A. Temporary medicaid transition premium relief program. The superintendent may issue a bulletin establishing a program that fully covers the cost of the first month's premium for any QHP sold on the individual health insurance exchange for eligible individuals and families. The premium relief will be available to all members of a household that meet the eligibility requirements in Paragraph B of this section. The payment may be used to effectuate coverage.

B. Eligibility for medicaid transition premium relief program. To qualify, a person must:

(1) be a resident of the state of New Mexico who is eligible to purchase a QHP on the New Mexico health insurance exchange;

(2) have lost medicaid coverage or expect to lose medicaid coverage within 60 days of submitting an application to the New Mexico health insurance exchange;

(3) no longer be enrolled in medicaid at the time their QHP coverage begins;

(4) be eligible for federal premium tax credits; and

(5) have an expected household income below four hundred percent of the federal poverty level during the plan year in which the federal coronavirus disease (COVID-19) public health emergency ends.

C. Duration. The program shall be available on January 1, 2023, or on the day the COVID-19 public health emergency ends, whichever is later. The program shall continue in accordance with legislative appropriations.

[13.10.36.10 NMAC – N/E, 6/1/2022, A, 9/1/2022]

13.10.36.11 SMALL BUSINESS HEALTH INSURANCE PREMIUM RELIEF INITIATIVE: This rule governs the agency's small business health insurance premium relief initiative, which applies to QHPs sold through the small business health options program or purchased directly from a health insurance issuer selling QHPs in the small group health insurance market.

A. Premium reduction percentage bulletin. Annually, based on available funding, the superintendent will issue a bulletin establishing a premium reduction percentage that will apply to all QHPs sold in the small group health insurance market. Health insurance issuers participating in the market shall discount charges to small group QHP purchasers by the percentage established by the superintendent and show the amount of the discount in all invoices to the purchaser. The superintendent may allow issuers to apply the discount directly or through a credit on the following month's premium. The bulletin will establish the percentage reduction, reporting requirements, timetable and process for issuer reimbursement, and other requirements. The superintendent may issue additional guidance, if needed.

B. Reporting requirements and annual verification of accurate payments. Health insurance issuers selling QHPs in the small group health insurance market must report data related to enrollment, premiums, and reimbursement from the health care affordability fund to the office of superintendent of insurance on a regular basis, based on the requirements of the bulletin. Following each calendar year, on a date established by the superintendent, issuers must report annualized data requested by the agency to verify the accuracy of payments made from the fund. The superintendent will require issuers to replenish the fund if it is determined that any overpayment has been issued.

C. Payments to participating issuers. On a regular basis, as established in the bulletin, the office of superintendent of insurance will make payments from

the health care affordability fund to issuers for the remainder of the gross premium that that would otherwise by owed by small group QHP purchasers if the small business health insurance premium relief initiative were not in effect. The data received by OSI pursuant to Paragraph B of Section 10 of this rule serves as the basis for OSI's regular payments to issuers from the health care affordability fund. Issuers must invoice the agency according to the bulletin's instructions in order to receive payment.

D. Notification of small group QHP purchasers. The superintendent will specify a date before the initiative goes into effect by which health insurance issuers must notify their small group QHP purchasers about the premium reductions provided by the initiative. Issuers subject to the rule should reflect the premium reduction amount in all invoices.

E. Treatment as third-party payment. For the purposes of the federal risk adjustment program and federal medical loss ratio requirements, the state payment under this section should be considered a third-party payment that is part of the gross premium.

[13.10.36.11 NMAC – N/E, 6/1/2022, A, 9/1/2022]

End of Adopted Rules

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Other Material Related to Administrative Law

ENVIRONMENT DEPARTMENT
AIR QUALITY DIVISION

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

MEDICAL BOARD

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The New Mexico Medical Board, gives Notice of a Minor, Nonsubstantive Correction to 16.10.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

The Rule effective date on the Transmittal Form, amendment sentence, and on all the history notes, were corrected to “7/12/2022” to conform to statutory requirement that rule effective date is after publication in the New Mexico Register.

A copy of this Notification will be filed with the official version of each of the above rules.

End of Other Material Related to Administrative Law

2022 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXIII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 11
Issue 2	January 13	January 25
Issue 3	January 27	February 8
Issue 4	February 10	February 22
Issue 5	February 24	March 8
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
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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
Issue 24	December 15	December 27

The ***New Mexico Register*** is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the ***New Mexico Register*** twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at:http://www.srca.nm.gov/new-mexico-register/. For further information, call 505-476-7941.