

## NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules 8.285.400, *Emergency Medical Services for Aliens (EMSA)*, *Recipient Requirements*, 8.285.600, *EMSA, Benefit Description* and 8.325.10, *Specialty Services, EMSA*. These rules are being amended to align to 42 CFR 440.255 and to make other revisions and clarifications.

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

Notice Date: January 28, 2020

Hearing Date: February 26, 2020

Adoption Date: Proposed as April 1, 2020

Technical Citations: 42 CFR 440.255

**The Department is proposing to amend the rules as follows:**

**8.285.400 NMAC:**

Section 8 is amended to replace the outdated mission statement with the current one.

Section 9 is amended to remove obsolete Medicaid program categories and add descriptions for current Medicaid categories allowed for EMSA.

Section 10 is amended to delete the reference to the Medicaid utilization review contractor and definition of an emergency medical condition and refer to the program rules at 8.325.10.13 NMAC.

Section 12 is amended to replace the term “alien” with “non-citizen” to be consistent with immigration rules. The reference to a dummy number was deleted.

Section 13 is amended to align with language found at 42 CFR 440.255(c) regarding citizenship.

Section 14 is amended to refer to general provisions for residence found at 8.200.410.14 and 8.291.410.15 NMAC.

**8.285.600 NMAC:**

Section 8 is amended to add the current mission statement.

Section 10 is amended to delete outdated language that the client has to inform the provider of the status of the application.

Section 11 is amended to add language to indicate a Notice of Case Action (NOCA) form will be sent to the client. A Decision for EMSA Application (MAD 778) form will be sent to the provider. References to outdated forms were deleted.

**8.325.10 NMAC:**

Section 8 is amended to replace the outdated mission statement with the current one.

Section 9 is amended to replace the term “alien” with “non-citizen” to be consistent with immigration rules. This change has been made throughout these rules. Minor language changes were also made.

Section 11 is amended with minor wording changes.

Section 12 is amended to remove language that the recipient is responsible for notifying the provider of approval or denial of EMSA. New language was added that the provider will be notified via a Decision for EMSA Application (MAD 778) form. Other minor language changes were made.

Section 13 is amended to clarify the definition of an emergency and comport with language found at 42 CFR 440.255. New language was added to clarify that labor and delivery services provided by an out of state border hospital and/or emergency transfers from an in state acute hospital to a border acute care hospital are covered. The out of state border provider must be enrolled with the NM Medicaid program.

Section 14 is amended to refer to general provisions for residence found at 8.200.410.14 and 8.291.410.15 NMAC.

Section 16 is amended with minor language changes. New language was added to clarify how a provider and recipient can request a reconsideration. The new language clarifies that reconsideration requests must be in writing and received by MAD, its utilization review contractor, or a MAD designee within 30 calendar days after the date on the initial notice of action.

The register for the proposed amendments to these rules will be available January 28, 2020 on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective April 1, 2020. A public hearing to receive testimony on these proposed rules will be held in the Seminar Room, Public Employees Retirement Association (PERA), 33 Plaza La Prensa, Santa Fe, NM 87507 on February 26, 2020 at 9:00 a.m., Mountain Time (MT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATTN: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [madrules@state.nm.us](mailto:madrules@state.nm.us). Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on February 27, 2020. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

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

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