

This is an emergency amendment to 8.249.400 NMAC, Sections 6, 8, 10, 23, and 24, effective 5/1/2025.

8.249.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual 8.200 NMAC, *Medicaid Eligibility - General Recipients Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions policy manual 8.100 NMAC, *General Provisions for Public Assistance Programs*. Refugee medical assistance (RMA): The RMA offers health coverage for a refugee ~~within the first twelve months~~ for a period established yearly by the office of refugee resettlement (ORR) based on appropriated funds for the fiscal year from their date of entry to the United States (U.S.) when they do not qualify for other medicaid eligibility categories. An RMA eligible refugee has access to a benefit package that parallels the full medicaid services. This program is not funded by medicaid; funds are provided through a grant under Title IV of the Immigration and Nationality Act. The purpose of this grant is to provide for the effective resettlement of a refugee and to assist him or her to achieve economic self-sufficiency as quickly as possible.
[8.249.400.6 NMAC - Rp, 8.249.400.6 NMAC, 1/1/2014; A, 1/1/2023; A/E, 5/1/2025]

8.249.400.8 MISSION: ~~[To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.]~~ We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.
[8.249.400.8 NMAC - N, 1/1/2014; A, 1/1/2022; A/E, 5/1/2025]

8.249.400.10 BASIS FOR DEFINING GROUP: At the time of application, an applicant or an eligible recipient and ~~[HSD]~~ HCA shall identify everyone who is to be considered for inclusion in the assistance unit and budget group. Each member of the assistance unit and budget group, including each unborn child, is counted as one in the household size.
[8.249.400.10 NMAC - Rp, 8.249.400.10 NMAC, 1/1/2014; A/E, 5/1/2025]

8.249.400.23 BUDGET GROUP: The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for an supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

- (1) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and
- (2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

- (1) an SSI recipient to the assistance unit;
- (2) a father of the unborn child who is not married to the pregnant woman;
- (3) a stepparent to a stepchild;
- (4) a grandparent to a grandchild;
- (5) a legal guardian or a conservator of a child;
- (6) a non-citizen sponsor to the assistance unit; and
- (7) a sibling to a sibling.

C. Budget group earned income disregards and ~~[child care]~~ childcare deductions vary based on the age group of the child. Refer to 8.232.500 NMAC.

[8.249.400.23 NMAC - N, 1/1/2014; A, 1/1/2022; A/E, 5/1/2025]

8.249.400.24 LIVING IN THE HOME

A. To be included in the assistance unit and budget group, an individual must be living, or considered to be living, in the budget group's home.

B. A child considered to be living in the home: A child is considered to be part of the budget group as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

- (1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; or
- (2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. Extended living in the home: An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

- (1) Extended living in the home includes:
 - (a) when an individual is attending college or boarding school; or
 - (b) when an individual is receiving treatment in a Title XIX medicaid facility, including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.
- (2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as ~~[long-term]~~ long-term care medicaid, should be evaluated; until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. Temporary absence such as extended living in the home: An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

- (1) an individual not living in the home due to an emergency, who is expected to return to the household within 60 calendar days, continues to be a member of the household;
 - (2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or
 - (3) a child residing in a detention center:
 - (a) continues to be a member of the household if they reside fewer than 60 calendar days, regardless of adjudication as an inmate of a public institution; or
 - (b) is not eligible for medicaid enrollment if they reside 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.
- [8.249.400.13 NMAC - N, 1/1/2014; A/E, 5/1/2025]