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# New Mexico Register

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

**Volume XXVII - Issue 6 - March 31, 2016**

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# New Mexico Register

Volume XXVII, Issue 6

March 31, 2016

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Telephone: (505) 476-7942; Fax: (505) 476-7910; E-mail: [staterules@state.nm.us](mailto:staterules@state.nm.us).

The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

## Notices of Rulemaking and Proposed Rules

### GAME AND FISH, DEPARTMENT OF

#### Commission Meeting and Rule Making Notice

On Thursday, April 14, 2016, beginning at 9:00 a.m., at the New Mexico Farm and Ranch Heritage Museum, located at 4100 Dripping Springs Road, Las Cruces, NM, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: Revocations, Gaining Access Into Nature (GAIN) Proposed Rule Revision (19.34.3 NMAC), Review of the Commission's Appeal Process, Pecos Wilderness Designation Expansion, Update on Governor's Special Banquet Auction, Grider Shooting Preserve Application, Proposed Migratory Bird Rule for 2016-2017 Hunting Seasons, Director's Initiation of Biennial Review of State Listed and Threatened or Endangered Species (17-2-40 NMSA 1978), Volunteer Rule Development, Update on Development of Shooting Ranges in New Mexico, Presentation of the Department's Statewide Fisheries Management Plan, Update on the Revision of the Statewide Wildlife Action Plan (SWAP), Closed Executive Session, and Property Acquisition.

Obtain a copy of the agenda from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504, or from the Department's website. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us) for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

### HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing to amend a rule that is part of the New Mexico Administrative Code (NMAC): 8.308.10 *Care Coordination*. The Department is standardizing the Health Risk Assessment tool across all Managed Care Organizations (MCOs). In addition, on April 1, 2016, the Department is implementing a Health Home initiative that includes additional care coordination requirements for Health Home members. The Department will outline specific care coordination requirements in the Centennial Care Policy Manual. The register and the proposed amendments to this rule will be available March 31, 2016 on the HSD website: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and at <http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD in Santa Fe at 505-827-6252.

#### Section 9 Care Coordination:

Subsections B through K proposed language has been removed and will be defined in the Centennial Care Policy Manual.

A public hearing to receive testimony on this proposed rule will be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico May 2, 2016 from 10 a.m. to 11 a.m., Mountain Standard Time (MST).

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 505-827-6252. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 505-827-3184. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Interested persons may address written comments 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. MST on May 2, 2016. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

### RACING COMMISSION

#### Notice of Rulemaking and Public Hearing

#### NOTICE IS HEREBY GIVEN

that the New Mexico Racing Commission will hold a Regular Meeting and Rule Hearing on April 21, 2016. The hearing will be held during the Commission's regular business meeting with public session beginning at 8:30 a.m. The meeting will be held in the Boardroom at 4900 Alameda Blvd. NE, Albuquerque, NM.

The purpose of the Rule Hearing is to consider adoption of the proposed amendments and additions to the following Rules Governing Horse Racing in New Mexico No. 15.2.1 NMAC, 15.2.2 NMAC, 15.2.3 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC & 16.47.1 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

Copies of the proposed rules may be obtained from the NMRC Executive Director, New Mexico Racing Commission, 4900 Alameda Blvd NE, Albuquerque, New Mexico 87113, (505) 222-0700. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

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

/Daniel Fick/  
Executive Director

Dated: March 16, 2016

## REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

### Notice to the Public - Regular Board Meeting

#### REGULAR BOARD MEETING – APRIL 21<sup>ST</sup> & 22<sup>ND</sup>, 2016

The New Mexico Board of Pharmacy will convene on April 21<sup>st</sup> & 22<sup>nd</sup>, 2016 at 9:00 a.m. and continue until finished in the Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting.

You may view and obtain copies of the agenda (tentative) starting April 11, 2016 through the board's website: [www.rld.state.nm.us/boards/pharmacy.aspx](http://www.rld.state.nm.us/boards/pharmacy.aspx).

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Executive Director, Ben Kesner, [ben.kesner@state.nm.us](mailto:ben.kesner@state.nm.us) no later than Monday, April 11, 2016, if in attendance must provide 12 copies of the documentation for distribution to board members. (*Board staff is not required to make copies.*)

The Board will address:

Rule Hearings:

16.19.2 NMAC EXAMINATIONS  
16.19.3 NMAC RECIPROCITY  
16.19.8 NMAC WHOLESALE  
PRESCRIPTION DRUG  
DISTRIBUTION  
16.19.22 NMAC SUPPORTIVE  
PERSONNEL

\*Executive Director's Report:

Any special needs accommodations for board meetings or hearings should contact

Debra Wilhite, Administrative Secretary, at (505) 222-9835 or e-mail [debra.wilhite@state.nm.us](mailto:debra.wilhite@state.nm.us) as soon as possible.

\* \* \* \* \*

### DISCIPLINARY HEARING – MAY 17<sup>TH</sup>, 2016

The disciplinary hearing scheduled for March 17<sup>th</sup>, 2016 has been VACATED and rescheduled for Tuesday, May 17<sup>th</sup>, 2016 at 9:00 a.m. and continue until finished in the Environmental Health Bureau conference room located at 113 W. Center, Tucumcari, NM 88401. A Hearing Officer for the board will be conducting the proceedings.

The matter to be heard: Disciplinary Hearing

\*Case #2013-053 & #2015-024:  
Bob's Budget Pharmacy -  
License No. PH2392  
Robert McClelland III - License  
No. RP4533

Any special needs accommodations for board meetings or hearings should contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or e-mail [debra.wilhite@state.nm.us](mailto:debra.wilhite@state.nm.us) as soon as possible.

\*The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

Published in the Albuquerque Journal  
March 11, 2016

## WORKERS' COMPENSATION ADMINISTRATION

### Notice of Public Hearing

The New Mexico Workers' Compensation Administration will conduct a public hearing on the adoption of new WCA Rules. The meeting will be held on Friday, April 8, 2016 at 1:30 p.m. at the Workers' Compensation Administration, 2410 Centre Avenue S.E., Albuquerque, NM 87106.

Copies of the proposed rule amendments will be available on March 21, 2016.

Written comments on the rule changes will be accepted until the close of business on April 20, 2016.

The WCA is proposing new rules regarding tests, testing and cutoff levels for intoxication or influence, as well as other miscellaneous revisions to Part 3.

Copy of the proposed changes may be found at the WCA website at: <http://www.workerscomp.state.nm.us/>. For a copy by e-mail, contact the WCA General Counsel Office at (505) 841-6083. For a copy by mail, please send a self-addressed, stamped envelope with your request.

Comments made in writing and at the public hearing will be taken into consideration.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aide or service to attend or participate in the hearing or meetings, please contact the General Counsel Office at (505) 841-6083. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331.

## End of Notices of Rulemaking and Proposed Rules



# Adopted Rules

## Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

### GAME AND FISH, DEPARTMENT OF

On January 14, 2016, the State Game Commission repealed its rule entitled Hunting and Fishing License Application, 19.31.3 NMAC (filed 01/17/2001), and replaced it with 19.31.3 NMAC, Hunting and Fishing Licenses and Application, effective 04/01/2016.

### GAME AND FISH, DEPARTMENT OF

**TITLE 19 NATURAL  
RESOURCES AND WILDLIFE  
CHAPTER 31 HUNTING AND  
FISHING REGULATIONS  
PART 3 HUNTING  
AND FISHING LICENSES AND  
APPLICATION**

**19.31.3.1 ISSUING AGENCY:**  
New Mexico Department of Game and Fish.  
[19.31.3.1 NMAC - Rp, 19.31.3.1 NMAC, 4-1-16]

**19.31.3.2 SCOPE:**  
Sportspersons interested in fishing, hunting and trapping and management of big game and furbearers in New Mexico. Additional requirements may be found in Chapter 17 NMSA and other Parts of Title 19, Chapter 31.  
[19.31.3.2 NMAC - Rp, 19.31.3.2 NMAC, 4-1-16]

**19.31.3.3 STATUTORY AUTHORITY:** 17-1-14, 17-1-26, 17-3-2, 17-3-5, 17-3-7, 17-3-13, 17-3-14, and 17-3-14.1 NMSA 1978, which pertain to the types of licenses and permits available and grant the state game commission authority to create regulations setting the license fees and application procedure.  
[19.31.3.3 NMAC - Rp, 19.31.3.3 NMAC, 4-1-16]

**19.31.3.4 DURATION:**  
Permanent.  
[19.31.3.4 NMAC - Rp, 19.31.3.4 NMAC, 4-1-16]

**19.31.3.5 EFFECTIVE DATE:**  
April 1, 2016, unless a later date is cited at the end of a section.  
[19.31.3.5 NMAC - Rp, 19.31.3.5 NMAC, 4-1-16]

**19.31.3.6 OBJECTIVE:** Basic regulation, rules and procedures governing the issuance of licenses, permits and stamps, as well as special permits and licenses issued by the department pertaining to deer, elk, pronghorn antelope, turkey, oryx, ibex, javelina, furbearer, and other species determined by the state game commission.  
[19.31.3.6 NMAC - Rp, 19.31.3.6 NMAC, 4-1-16]

**19.31.3.7 DEFINITIONS:**  
[RESERVED]

**19.31.3.8 PUBLIC LICENSES AND PERMITS - APPLICATION FOR:**

**A. Application form:**  
Application for all public licenses and permits shall be made on the standard application form provided by the department of game and fish.

**B. Application deadline(s):** Applications for all public licenses and permits, including population management hunts, turkey, pronghorn antelope, elk, bighorn sheep, bear, deer, oryx, javelina, and ibex hunts must be received by 5:00 p.m. on dates set by the state game commission.

**C. One applicant per application:** No more than one person may apply under each application number for bighorn sheep, bear, and GMU 5A private land deer.

**D. Two applicants per application:** No more than two persons may apply under the same application number for turkey, ibex and oryx.

**E. Four applicants per application:** No more than four persons may apply under the same application number for deer, elk, pronghorn antelope, Barbary sheep and javelina.

**F. Resident and non-resident application combination:** Any mixture or combination of residents and non-residents may make application for

special drawing providing the number of applicants does not exceed the restriction of this section (subsection D, E or F).

**G. Applications rejected:** Applications for licenses may be rejected by the department if an applicant did not:

- (1) apply on the proper form as designated by the director;
- (2) submit the correct or required information;
- (3) submit the correct license or application fee, and any other required fee;
- (4) meet the deadline date;
- (5) comply with a current statute or rule

**H. More applications than permits:** If more applications for public licenses or permits are received than there are licenses or permits available, the available licenses or permits shall be allotted by means of a public drawing.

**I. Increase in licenses or permits:** The number of licenses or permits available may be increased to accommodate corrections or errors by the department which results in the addition of names to the successful list.

**J. Additional choices:** Applicants for public licenses may designate additional choices for hunt periods.

**K. Application categories:** Applications for special drawing hunts will be placed into the appropriate categories, as specified in 17-3-16 NMSA 1978 by department personnel or their designee. Special drawings shall continue to draw applicants from the appropriate drawing pool progressively for each respective hunt code, starting with first choice applicants, then proceeding to second and subsequent choice applicants until the quota has been met or the pool of applicants has been exhausted.

**L. Resident and non-resident applications:**

- (1) To be placed in the separate pool designated for guided hunts, an applicant must have a valid registration number issued to a

New Mexico outfitter as prescribed in Paragraph H of Section 17-3-6 NMSA 1978, on their application.

(2) For an application to be successfully drawn, there must be a sufficient number of licenses or permits available for that hunt code to accommodate all applicants from their respective drawing pools.

(3) Any licenses left over from the appropriate drawing pool will be allocated as prescribed in Paragraph C of Section 17-3-16 NMSA 1978 Compilation.

**M. New Mexico department game and fish customer identification number:** All persons purchasing licenses, making application to the department for hunt drawings for public licenses and permits, and converting private landowner authorizations to licenses must have a "New Mexico department of game and fish (NMDGF) customer identification number."

(1) "NMDGF customer identification number" shall be obtained only from the department and must be obtained prior to the submission of any application or private landowner authorization.

(2) Each person making application for public drawing license, permit or private landowner authorization must use their own valid NMDGF customer identification number on his or her application.

(3) Any application received without a valid NMDGF customer identification number or false NMDGF customer number will be rejected.

**N. Trapper license restriction:** No nonresident who resides in a state that does not permit New Mexico residents to procure nonresident trapper licenses may purchase a New Mexico nonresident trapper license.

**O. Director's Authority to Adjust Licenses and Permits:** The director may adjust licenses or permit numbers for special drawings, by no more than one (1) per hunt code, to comply with Chapter 17 NMSA 1978 and its corresponding rules. [19.31.3.8 NMAC - Rp, 19.31.3.8 NMAC, 4-1-16]

**19.31.3.9 PRIVATE LAND - PRONGHORN ANTELOPE AND ELK LICENSES:**

**A.** Private land licenses for elk and pronghorn antelope will be issued without an application deadline.

**B.** The amount due for

a private land hunting license shall be composed of "landowner authorization certificate" fee, the appropriate "certificate of application" fee as defined in 19.30.9 NMAC and the appropriate license fee as defined in Section 17-3-13 NMSA 1978.

**C.** Licenses will be issued only up to the number of authorizations allotted for each ranch and only to persons who submit a properly completed form and the appropriate fees.

**D.** Authorizations for elk licenses may be issued to landowners in game management units where no core occupied elk range is designated and to landowners whose private property lies outside of the designated core occupied elk range pursuant to Subsection A of 19.30.5.11 NMAC.

[19.31.3.9 NMAC - Rp, 19.31.3.9 NMAC, 4-1-16]

**19.31.3.10 NEW MEXICO RESIDENT MILITARY AND VETERAN DISCOUNT**

**A.** A New Mexico resident, as defined in Section 17-3-4 NMSA 1978, who is active duty military or a veteran of the United States military as defined by the New Mexico department of veterans' services is eligible for a 50% discount on all licenses, permits and stamps as defined in 19.30.9 NMAC and in Section 17-3-13 NMSA 1978.

Exceptions: No discount shall apply to the resident, disabled veteran game hunting and fishing combination license, or to any administrative fee, including the "landowner authorization certificate" fee, the certificate of application fee, and the license vendor fee.

**B.** Nonresident military personnel stationed on Fort Bliss who qualify for resident prices on big-game hunts that occur on Fort Bliss are not eligible for the resident military and veteran discount.

**C.** The department shall conduct audits to determine eligibility for benefits as defined under 19.31.3.10 NMAC. Failure to provide requested documentation within the timeframe specified by the department shall result in the removal of the discount and suspension of any future discounts until such time as the requested documents are received and verified.

**D.** Any license, permit or stamp obtained by falsely claiming this discount is unlawful.

[19.31.3.10 NMAC - N, 4-1-16]

**19.31.3.11 RESTRICTIONS:**

**A. One license per big game species per year:** It shall be

unlawful for anyone to hold more than one permit or license for any one big game species during the current license year unless otherwise allowed by rule.

**B. Validity of license or permit:** All permits or licenses shall be valid only for the specified dates, eligibility requirements or restrictions, legal sporting arms, bag limit and area. Except that a permit or license will be valid on the contiguous deeded land of private property that extends into an adjacent GMU that is open to hunting for that species, when the license holder is in possession of current, valid written permission from the appropriate landowner. This exception shall only apply when the adjacent unit has the same restrictions as to weapon type, bag limit, season dates and license availability.

**C. Improper license and permit:** Any person who attempts to capture or shoot, hunts, kills, injures or takes, in any manner any game animal, fur-bearing animal, game bird or game fish other than in accordance with the specified hunt code or dates, legal sporting arm, bag limit allowance or area designated on a license or permit issued by the department to that person is deemed to be hunting, fishing or trapping without a proper license as required by 17-3-1 NMSA 1978 unless otherwise exempted by a valid commission rule.

**D. Transfer of permits or licenses:** The director may grant the transfer of a hunting license or permit once it has been determined that a licensee or their official representative provides written, verifiable information indicating the licensee has died, sustained an injury or life-threatening illness, or has been subject to deployment by the United States military that prohibits the licensee from hunting. When a transfer of a license results in a higher license fee due to differences between the original licensee and the new licensee (age, residency, etc.), the difference shall be paid prior to issuance of a license or permit.

**E. Refunds:** The director may grant the refund of a hunting license once it has been determined that a licensee or their official representative provides written, verifiable information indicating the licensee has died, sustained an injury or life-threatening illness, or has been subject to deployment by the United States military that prohibits the licensee from hunting.

**F. Donation of permits or licenses:** Upon written request from a licensee or their official representative, the director may grant the donation of a



hunting license for transfer to a youth 17 years of age or younger who has been qualified through an approved nonprofit organization that promotes youth hunting, fishing and trapping activities. The donor of the license shall not be eligible for a refund of license or application fees. When a transfer of a license results in a higher license fee due to differences between the original licensee and the new licensee (age, residency, etc.), the difference shall be paid prior to issuance of a license or permit. The state game commission must approve any nonprofit organizations prior to their participation in receiving, identifying or submitting recipients for donated licenses or permits. However, a once-in-a-lifetime licensee may be reinstated as eligible to participate in future drawings for the same species and hunt type if the licensee donated his or her license to an individual qualified by an approved nonprofit organization. Donation of a once-in-a-lifetime license will not prohibit the donor from applying for and receiving another license for the same species and restrictions in the future.

**G. More than one application:** It shall be unlawful to submit more than one application per species for any license issued through a special drawing, unless otherwise permitted by regulation.

**H. Handicapped fishing or handicapped game hunting license qualifications:** To hold a handicapped fishing or handicapped game hunting license, the individual must be a resident of New Mexico and must be able to show proof of having a severe physical or developmental disability that substantially limits one or more major life activities. Reasonable accommodation will be made, relating to these licenses, upon request.

**I. Mobility impaired (MI) deer, elk, oryx, or antelope license qualifications:** To hold a mobility impaired deer, elk, oryx, or antelope license, a person must submit verifiable documentation on the proper department form that is attested to by a certified medical physician that the individual has a mobility restriction which limits their activity to a walker, wheelchair, or two crutches, or severely restricts the movement in both arms or who has a combination of permanent disabilities which cause comparable substantial functional limitation and then obtain department approval for MI hunt eligibility. Every person qualified as MI shall have their card/eligibility expire 48 months from the department's approval date or issuance date, whichever is later, and must resubmit their application and

obtain department approval as required above prior to being eligible to apply for any MI hunt.

**J. Youth hunts:** Only applicants who have not reached their 18<sup>th</sup> birthday by the opening day of the hunt are eligible to apply for or participate in a youth only hunt. Applicants for firearm hunts must provide hunter education certificate number, or mentor youth number for appropriate species on application.

**K. Required information:** An individual making license application shall supply the department on the appropriate form with all required personal information including, but not limited to name, address, date-of-birth, last four digits of his/her social security number prior to an application form being processed or a license being awarded.

**L. Military only hunts:** Applicants must be full time active military and proof of military status must accompany application or, if applying online, must be forwarded to the department by the application deadline date.

**M. Penalty assessments:** When a person is issued a penalty assessment citation for fishing without a license or hunting small game without a license, the citation will serve as a special permit for that specific activity for 15 calendar days. The person must remit the prescribed penalty amount indicated on the face of the citation within 30 days of the date of citation issuance.

**N. Iraq/Afghanistan veteran oryx hunts:** Only New Mexico residents who served on active duty military during the Iraq or Afghanistan conflict are eligible to apply for Iraq/Afghanistan veteran oryx licenses. Proof of active duty military assignment in Iraq or Afghanistan must accompany application or, if applying online, must be forwarded to the department by the application deadline date.

**O. Youth encouragement hunts:** Only youth hunters as defined by 19.31.3.11 NMAC that successfully fulfilled all application requirements and responsibilities for draw hunts for deer, elk, antelope, ibex, oryx, or bighorn sheep in the current license year and were unsuccessful in drawing any licenses or permits for those species will be eligible to apply for licenses for these hunts for 14 days subsequent to the original posting of availability of these hunts on the department website. Licenses remaining after the first 14 days of availability shall be available to any

youth hunters as defined by 19.31.3.11 NMAC who are eligible to purchase an elk license.

**P. NMDGF customer identification number:** It shall be unlawful for an applicant to use another person's NMDGF customer identification number or to provide false information to obtain a NMDGF customer identification number.

**Q. Application fee:** Prior to the drawing, all applicants for special hunt drawings for public draw licenses shall pay the applicable species license fees including depredation damage stamp, the required game hunting license fee and the non-refundable application fee as defined by 19.30.9.9 NMAC. Disabled American veterans certified as holders of lifetime general hunting and fishing licenses are exempt from paying the application fee when applying for deer hunt drawings.

**R. Game hunting license fee refund:** Applicants for special hunt drawings for public draw licenses may elect to receive a refund of the game hunting license and appropriate fees if they are unsuccessful in the drawing for all of the species applied for, as long as an authorization number (pursuant to 17-3-5 NMSA 1978) has not been issued to the applicant by the department. [19.31.3.11 NMAC - Rp, 19.31.3.11 NMAC, 4-1-16]

#### **19.31.3.12 DENIAL OR REVOCATION:**

**A.** Any applicant for any license, permit, certificate or registration will be automatically rejected if their name and other identifying factors appears on the department's revocation list or a list of provided by the wildlife violator compact.

**B.** Any applicant automatically rejected shall be afforded a revocation hearing in accordance with 19.31.2 NMAC, unless a hearing has already been offered.

**C.** Any applicant automatically rejected must re-apply for any license; permit, certificate or registration if they are found to be eligible, providing applicant shall comply with all the conditions set forth by Chapter 17 and its implementing regulations. [19.31.3.12 NMAC - Rp, 19.31.3.12 NMAC, 4-1-16]

#### **History of 19.31.3 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 5/31/67;

Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;

Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;

Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;

Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;

Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;

Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;

Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;

Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;

Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;

Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;

Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;

Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;

Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;

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 6/9/71;

Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;

Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;

Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;

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 6/26/72;

Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;

Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;

Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;

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 5/31/73;

Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;

Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;

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 5/29/74;

Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;

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 3/24/75;

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 6/25/75;

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 2/23/76;

Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;

Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;

Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;

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 2/22/80;

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 2/17/81;

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 3/10/82;

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 3/9/83;

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 4/2/84;

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 4/18/85;

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 3/25/86;

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 2/12/87;

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 12/18/87;

Regulation No. 658, Establishing A System For Allocating Elk Licenses On Private And Public Lands Within Game Management Units, filed 6/1/88;

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 3/20/89;  
 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 11/21/89;  
 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 2/8/91;  
 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 3/4/92;  
 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 3/11/93.

**History of Repealed Material:**

19.31.3 NMAC, Hunting and Fishing License Applications, filed 1/17/01 - Repealed effective 12/30/04.  
 19.31.3 NMAC, Hunting and Fishing License Applications, filed 12/30/04 – Repealed effective 4/1/16.

**HUMAN SERVICES  
 DEPARTMENT**

**MEDICAL ASSISTANCE DIVISION**

**TITLE 8 SOCIAL SERVICES  
 CHAPTER 310 HEALTH CARE  
 PROFESSIONAL SERVICES  
 PART 10 HEALTH HOME  
 SERVICES**

**8.310.10.1 ISSUING AGENCY:**  
 New Mexico Human Services Department (HSD).  
 [8.310.10.1 NMAC - N, 04/01/16]

**8.310.10.2 SCOPE:** The rule applies to the general public.  
 [8.310.10.2 NMAC - N, 04/01/16]

**8.310.10.3 STATUTORY AUTHORITY:** The New Mexico medicaid program and other health care programs are administered pursuant to

regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See Sections 27-2-12 et seq. NMSA 1978.  
 [8.310.10.3 NMAC - N, 04/01/16]

**8.310.10.4 DURATION:**  
 Permanent.  
 [8.310.10.4 NMAC - N, 04/01/16]

**8.310.10.5 EFFECTIVE DATE:**  
 April 1, 2016, unless a later date is cited at the end of a section.  
 [8.310.10.5 NMAC - N, 04/01/16]

**8.310.10.6 OBJECTIVE:**  
 The objective of this rule is to provide instructions for the service portion of the New Mexico medical assistance programs (MAP).  
 [8.310.10.6 NMAC - N, 04/01/16]

**8.310.10.7 DEFINITIONS:**  
**[RESERVED]**

**8.310.10.8 MISSION STATEMENT:** To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.  
 [8.310.10.8 NMAC - N, 04/01/16]

**8.310.10.9 HEALTH HOMES:** CareLink NM is a set of services authorized by Section 2703 of the Affordable Care Act (ACA). CareLink NM health home (CareLink NM) services are delivered through a designated provider agency. In addition to being enrolled as a provider, a provider agency must complete a CareLink NM application and successfully complete a readiness assessment by the department prior to becoming a designated health home. CareLink NM services enhance the integration and the coordination of primary, acute, behavioral health, and long-term services and supports. The CareLink NM provider agency assists an eligible recipient by engaging him or her in a comprehensive needs assessment which is then utilized to develop his or her integrated service plan and individual treatment plan, increasing his or her access to health education and promotion activities, monitoring the eligible recipient’s treatment outcomes and utilization of resources, coordinating appointments with the eligible recipient’s primary care and specialty practitioners, sharing information among his or her physical and behavioral practitioners to reduce the duplication of services,

actively managing the eligible recipient’s transitions between services, and participating as appropriate in the development of the eligible recipient’s hospital discharge.  
 [8.310.10.9 NMAC - N, 04/01/16]

**8.310.10.10 ELIGIBLE PROVIDERS AND PRACTITIONERS:**

**A.** Health care to eligible recipients in a health home is furnished by a variety of providers and provider groups. The reimbursement and billing for these services is administered by medical assistance division (MAD). Upon approval of a New Mexico provider participation agreement (PPA) by MAD or its designee, licensed practitioners, facilities and other providers of services that meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider agency must be enrolled before submitting a claim for payment to the MAD claims processing contractors or the HSD contracted managed care organizations (MCOs). MAD makes available on the HSD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review (UR) instructions, supplements, policy, and other pertinent materials. When enrolled, a provider agency and a practitioner receive instruction on how to access these documents. It is the provider agency’s and practitioner’s responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider agency must contact HSD or its authorized agents to obtain answers to questions related to the material. To be eligible for reimbursement, a provider agency and practitioner must adhere to the provisions of the MAD PPA and all applicable statutes, regulations, and executive orders. MAD, its selected claims processing contractor or the MCO, issues payments to a provider agency using electronic funds transfer (EFT) only. To be eligible to receive a CareLink NM health home designation, a provider agency must hold a comprehensive community support service (CCSS) certification from the department of health (DOH) to service eligible recipients 21 years and older or the children, youth and families department (CYFD) to service eligible recipients under 21 years.

**B.** A provider agency must follow CareLink NM staffing



requirements found in this rule and further detailed in the CareLink NM policy manual. The provider agency must agree to fulfill other responsibilities as listed in Subsection B of 8.310.10 MAC. The following individuals and practitioners must be contracted or employed by the provider agency as part of its CareLink NM service delivery:

(1) A director specifically assigned to CareLink NM service oversight and administrative responsibilities.

(2) A health promotion coordinator with a bachelor's-level degree in a human or health services field and experience in developing curriculum and curriculum instruction. The health promotion coordinator manages health promotion services and resources appropriate for an eligible recipient such as interventions related to substance use prevention and cessation, nutritional counseling, or health weight management.

(3) A care coordinator who develops and oversees an eligible recipient's comprehensive care management, including the planning and coordination of all physical, behavioral, and support services. The number of care coordinators is based upon ratio in Paragraph (5) of Subsection D of 8.310.10.11 NMAC. The care coordinator:

(a) is a regulation and licensing department (RLD) licensed behavioral health practitioner; or

(b) holds a bachelor's level degree and has four years of relevant healthcare experience; or

(c) holds a master's-level degree and has two years of relevant healthcare experience.

(4) A community liaison who speaks a language that is utilized by a majority of non-fluent English-speaking eligible recipients, and who is experienced with the resources in the eligible recipient's local community. The community liaison identifies, connects, and engages with community services, resources, and providers. The community liaison works with an eligible recipient's care coordinator in appropriately connecting and integrating the eligible recipient to needed community services, resources, and practitioners.

(5) A supervisor of the care coordinator, community liaison, and the physical health and psychiatric consultants, who is an independently licensed behavioral health

practitioner as described in 8.321.2 NMAC. The supervisor must have direct service experience in working with both adult and child populations.

(6) A certified peer support worker (CPSW) who holds a certification by the New Mexico credentialing board for behavioral health professionals as a certified peer support worker. The CPSW has successfully remediated his or her own behavioral health disorder, and is willing to assist his or her peers in their recovery processes.

(7) A physical health consultant who is a physician licensed to practice medicine (MD) or osteopathy (DO), a licensed certified nurse practitioner (CNP), or a licensed certified nurse specialist (CNS) as described in 8.310.3 NMAC.

(8) A psychiatric consultant who is a physician (MD or DO) licensed by the board of medical examiners or board of osteopathy and is board-eligible or board-certified in psychiatry as described in 8.321.2 NMAC. [8.310.10.10 NMAC - N, 04/01/16]

#### **8.310.10.11 PROVIDER RESPONSIBILITIES:**

A. A provider agency who furnishes MAD services to an eligible recipient must comply with all federal and state laws, rules, regulations, and executive orders relevant to the provision of services as specified in the MAD PPA. A provider agency also must comply with all appropriate New Mexico administrative code (NMAC) rules, billing instructions, supplements, and policy, as updated. A provider agency is also responsible for following coding manual guidelines and centers for medicare and medicaid services (CMS) national correct coding initiatives (NCCI), including not improperly unbundling or upcoding services.

B. A provider agency must verify that a recipient is eligible for a specific health care program administered by HSD and its authorized agents, and must verify the recipient's enrollment status at the time services are furnished. A provider agency must determine if an eligible recipient has other health insurance and notify the department. A provider agency must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an eligible recipient.

C. When services are billed to and paid by a MAD fee-for-service coordinated services contractor authorized by HSD, under an administrative services contract,

the provider agency must also enroll as a provider with the coordinated services contractor and follow that contractor's instructions for billing and for authorization of services; see 8.302.1 NMAC.

D. The provider agency must:

(1) demonstrate the ability to meet all data and quality reporting requirements as detailed in the CareLink NM policy manual;

(2) be approved through an HSD application and readiness process as described in the CareLink NM policy manual;

(3) have the ability to provide primary care services for all ages of eligible recipients, or have a memorandum of agreement with at least one primary care practice in the area that serves eligible recipients under 21 years of age, and one that serves eligible recipients 21 years of age and older;

(4) have established eligible recipient referral protocols with the area hospitals and residential treatment facilities;

(5) maintain the following range of care coordinator staff ratios for CareLink NM eligible recipients as described in the CareLink NM policy manual:

(a) 1:50 for care coordination level 3; and

(b) 1:100 for care coordination level 2.

E. For the provider agency that renders physical health and behavioral health services, additional staff may be included; see CareLink NM policy manual for detailed descriptions. [8.310.10.11 NMAC - N, 04/01/16]

#### **8.310.10.12 IDENTIFIED POPULATION:**

A. An eligible recipient: (1) is 21 years of age and older who meets the HSD criteria for serious mental illness (SMI); or

(2) is under 21 years of age who meets the HSD criteria for serious emotional disturbance (SED).

B. In order for an eligible recipient to access CareLink NM services, there must be a designated health home provider agency in his or her county of residence; see the CareLink NM policy manual.

[8.310.10.12 NMAC - N, 04/01/16]

**8.310.10.13 COVERED SERVICES:** Health home services through CareLink NM are coordinated

with the eligible recipient and his or her family and a CareLink NM provider agency as appropriate. CareLink NM services identify available community-based resources and actively manage appropriate referrals and access to care, engagement with other community and social supports, and follow-up post engagement. Common linkages include continuation of the eligible recipient's MAP category of eligibility, and his or her other disability benefits, housing assistance, legal services, educational and employment supports, and other personal needs consistent with his or her recovery goals and treatment plan. CareLink NM staff make and follow-up on referrals to community services, link an eligible recipient with natural supports, and assure that these connections are solid and effective. CareLink NM services are comprised of five unique categories (and further defined in the CareLink NM policy manual):

- A. comprehensive care management;
  - B. care coordination and health promotion;
  - C. comprehensive transitional care;
  - D. individual eligible recipient and family support services;
  - E. referrals for the eligible recipient to community and social support services; and
  - F. use of health information technology to link services.
- [8.310.10.13 NMAC - N, 04/01/16]

**8.310.10.14 GENERAL NON-COVERED SERVICES:** Non-covered CareLink NM services are subject to the limitations and coverage restrictions that exist for other MAD services. See 8.310.2 and 8.321.2 NMAC for general non-covered services. Specific to CareLink NM services, the following apply:

- A. CareLink NM services rendered during an eligible recipient's stay in an acute care or freestanding psychiatric hospital and a residential treatment facility (not to include foster care and treatment foster care placements), except when part of the eligible recipient's transition plan, are not covered services.
  - B. Services which duplicate other MAD services, including care coordination activities that the MCO has not delegated to the provider agency, are not covered services.
- [8.310.10.14 NMAC - N, 04/01/16]

**8.310.10.15 PRIOR AUTHORIZATION (PA) AND UTILIZATION REVIEW (UR):** All

MAD services are subject to utilization review (UR) for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished, before payment is made, or after payment is made. The provider agency must contact HSD or its authorized agents to request UR instructions. It is the provider agency's responsibility to access these instructions or ask for hard copies to be provided, to understand the information provided, to comply with the requirements, and to obtain answers to questions not covered by these materials. When services are billed to and paid by a coordinated services contractor authorized by HSD, the provider agency and practitioner must follow that contractor's instructions for authorization of services. A provider agency and practitioner rendering services to a member must comply with that MCO's prior authorization requirements.

**A. Prior authorization:** CareLink NM services do not require prior authorization, but are provided as approved by the CareLink provider agency. However, other procedures or services may require a prior authorization from MAD or its designee. Services for which a prior authorization is required remain subject to UR at any point in the payment process, including after payment has been made. It is the provider agency's responsibility to contact MAD or its designee and review documents and instructions available from MAD or its designee to determine when a prior authorization is necessary.

**B. Timing of UR:** A UR may be performed at any time during the service, payment, or post payment processes. In signing the MAD PPA, a provider agency agrees to cooperate fully with MAD or its designee in its performance of any review and agrees to comply with all review requirements. The following are examples of the reviews that may be performed:

- (1) prior authorization review (review occurs before the service is furnished);
- (2) concurrent review (review occurs while service is being furnished);
- (3) pre-payment review (claims review occurring after service is furnished but before payment);
- (4) retrospective review (review occurs after payment is made); and
- (5) one or more reviews may be used by MAD to assess the medical necessity and program

compliance of any service.

**C. Denial of payment:** If a service or procedure is not medically necessary or not a covered MAD service, MAD may deny a provider agency's claim for payment. If MAD determines that a service is not medically necessary before the claim payment, the claim is denied. If this determination is made after payment, the payment amount is subject to recoupment or repayment.

**D. Review of decisions:** A provider agency that disagrees with a prior authorization request denial or another review decision may request reconsideration from MAD or the MAD designee that performed the initial review and issued the initial decision; see 8.350.2 NMAC. A provider agency that is not satisfied with the reconsideration determination may request a HSD provider administrative hearing; see 8.352.3 NMAC. A provider agency that disagrees with the member's MCO decision is to follow the process detailed in 8.308.15 NMAC.

[8.310.10.15 NMAC - N, 04/01/16]

#### **8.310.10.16 PAYMENT FOR SERVICES AND BILLING INSTRUCTION:**

CareLink NM services are reimbursed through a per-member-per-month (PMPM) payment to the provider agency. CareLink NM dedicated services are those outlined in 8.310.10.13 NMAC. MAD covered services provided to an eligible recipient including behavioral and physical health services, are billed and reimbursed independent of the PMPM payment to the provider agency. The PMPM reimbursement is paid for CareLink NM services regardless of whether the eligible recipient is a MCO member or enrolled in fee-for-service (FFS). The CareLink NM provider agency is responsible for verifying that the eligible recipient has affirmatively agreed to participate in CareLink NM services, documentation of which should be in a signed statement in the eligible recipient's file, in order to receive reimbursement. PMPM codes will be used to document various CareLink NM services provided to an eligible recipient, and trigger the PMPM reimbursement. To receive reimbursement, the provider agency must fully execute at least one CareLink NM service in a given month, meaning direct contact and interaction with an eligible recipient to deliver comprehensive care management, care coordination and health promotion, comprehensive transitional care, individual and family support services, or referral to community and support services. A non-exhaustive list

of actions by a CareLink NM provider agency that fail to meet full execution of a CareLink NM service includes attempting to call or visit an eligible member. For referral to community and support services that may not include direct contact with an eligible recipient, the provider agency must, at a minimum, include a service referral and a follow-up with the service provider after the eligible recipient engagement, in order to receive reimbursement.

**A. Fee-for-service (FFS) reimbursement:** For an eligible recipient who is utilizing FFS benefits, the provider agency will submit a PMPM health home code through the fiscal agent's claims system when a CareLink NM service is provided to an eligible recipient, which will then result in a PMPM payment. The requirement for the provider agency to submit a claim for payment allows HSD to ensure that the eligible recipient receives the CareLink NM service before payment is made. If a CareLink NM service is not provided to an eligible recipient in a given month, the provider agency will not receive a PMPM payment. The claims submission also provides data to HSD on CareLink NM services rendered and the date of service for monitoring and evaluation purposes including outcome and quality studies.

**B. Managed care reimbursement:** For an eligible recipient who is a member of a MCO, the provider agency and the MCO shall negotiate reimbursement at an amount no less than the established PMPM rate for a health home.

[8.310.10.16 NMAC - N, 04/01/16]

**HISTORY OF 8.310.10 NMAC:  
[RESERVED]**

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**Continued On The  
Following Page**



**HUMAN SERVICES DEPARTMENT**  
**MEDICAL ASSISTANCE DIVISION**

This is an emergency amendment to 8.200.520 NMAC, Section 8, 11, and 21, effective April 1, 2016.

**8.200.520.8** [~~MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.~~] **[RESERVED]**  
 [8.200.520.8 NMAC - Rp, 8.200.520.8 NMAC, 8-28-15; Repealed/E, 04-01-16]

**8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:**

**A.** 100% federal poverty limits (FPL):

Size of budget group	FPL per month
1	[\$981*] \$990*
2	[\$1,328*] \$1,335*
3	[\$1,675] \$1,680
4	[\$2,021] \$2,025
5	[\$2,368] \$2,370
6	\$2,715
7	\$3,061
8	\$3,408

Add \$347 for each additional person in the budget group.

\*Use only these two standards for the qualified medicare beneficiary (QMB) program.

**B.** 120% 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 [\$981] \$990 per month but no more than [\$1,177] \$1,188 per month.
2. Couple	At least [\$1,328] \$1,335 per month but no more than [\$1,593] \$1,602 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.** 133% FPL:

Size of budget group	FPL per month
1	[\$1,305] \$1,317
2	[\$1,766] \$1,776
3	[\$2,227] \$2,235
4	[\$2,688] \$2,694
5	[\$3,149] \$3,153
6	[\$3,610] \$3,611
7	\$4,071
8	\$4,532

Add \$461 for each additional person in the budget group.

**D.** 135% FPL: This income level is used only in the determination of the maximum income limit for a qualified individual 1 (Q11) 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 [\$1,177] \$1,188 per month but no more than [\$1,325] \$1,337 per month.
2. Couple	At least [\$1,593] \$1,602 per month but no more than [\$1,793] \$1,803 per month.

**E.** 185% FPL:

Size of budget group	FPL per month
1	[\$1,815] \$1,832
2	[\$2,456] \$2,470
3	[\$3,098] \$3,108
4	[\$3,739] \$3,747
5	[\$4,380] \$4,385
6	[\$5,022] \$5,023
7	\$5,663
8	\$6,304

Add \$641 for each additional person in the budget group.

**F.** 200% FPL:

Size of budget group	FPL per month
1	[\$1,962] \$1,980

2	[\$2,655]	\$2,670
3	[\$3,349]	\$3,360
4	[\$4,042]	\$4,050
5	[\$4,735]	\$4,740
6	[\$5,429]	\$5,430
7		\$6,122
8		\$6,815

Add \$693 for each additional person in the budget group.

**G.** 235% FPL:

Size of budget group	FPL per month	
1	[\$2,305]	\$2,327
2	[\$3,120]	\$3,138
3	[\$3,935]	\$3,948
4	[\$4,749]	\$4,759
5	[\$5,564]	\$5,570
6	[\$6,379]	\$6,381
7		\$7,193
8		\$8,008

Add \$815 for each additional person in the budget group.

**H.** 250% FPL:

Size of budget group	FPL per month	
1	[\$2,453]	\$2,475
2	[\$3,319]	\$3,338
3	[\$4,186]	\$4,200
4	[\$5,053]	\$5,063
5	[\$5,919]	\$5,925
6	[\$6,786]	\$6,788
7		\$7,653
8		\$8,519

Add \$866 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp, 8.200.520.11 NMAC, 8-28-15; A/E, 04-01-16]

**8.200.520.21 STANDARD OF NEED (SON):**

Budget group size	Gross income test		Net income test	
	[85% Federal poverty limit]- (FPL) 185% Standard of need	[AFDC July 16, 1996 185% Standard of need]	Standard of need	
	[072 JUL and] 049/059 Refugee	[030 Pregnant women]	[072 JUL and] 049/059 Refugee	[AFDC July 16, 1996 030 Pregnant woman]
1	\$791	[\$427]	\$266	[\$231]
2	\$1,072	[\$574]	\$357	[\$310]
3	\$1,352	[\$720]	\$447	[\$389]
4	\$1,633	[\$868]	\$539	[\$469]
5	\$1,913	[\$1,014]	\$630	[\$548]
6	\$2,194	[\$1,160]	\$721	[\$627]
7	\$2,474	[\$1,306]	\$812	[\$706]
8	\$2,755	[\$1,452]	\$922	[\$785]
+1	+ \$281	[+ \$147]	+ \$91	[+ \$79]

[8.200.520.21 NMAC - Rp, 8.200.520.21 NMAC, 8-28-15; A/E, 04-01-16]

**HUMAN SERVICES DEPARTMENT  
MEDICAL ASSISTANCE DIVISION**

This is an emergency amendment to 8.291.430 NMAC, Sections 8 and 10, effective April 1, 2016.

**8.291.430.8** [MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.] [RESERVED]

[8.291.430.8 NMAC - Rp, 8.291.430.8 NMAC, 11-16-15; A/E, 4-1-16]

**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	[\$981] \$990	[\$1,305] \$1,317	[\$1,354] \$1,367	[\$1,864] \$1,881	[\$2,354] \$2,376	[\$2,453] \$2,475	[\$2,943] \$2,970
2	[\$1,328] \$1,335	[\$1,766] \$1,776	[\$1,832] \$1,843	[\$2,523] \$2,537	[\$3,186] \$3,204	[\$3,319] \$3,338	[\$3,989] \$4,005
3	[\$1,675] \$1,680	[\$2,227] \$2,235	[\$2,311] \$2,319	[\$3,181] \$3,192	[\$4,019] \$4,032	[\$4,186] \$4,200	[\$5,023] \$5,040
4	[\$2,021] \$2,025	[\$2,688] \$2,694	[\$2,789] \$2,795	[\$3,840] \$3,848	[\$4,850] \$4,860	[\$5,053] \$5,063	[\$6,063] \$6,075
5	[\$2,368] \$2,370	[\$3,149] \$3,153	[\$3,268] \$3,271	[\$4,499] \$4,503	[\$5,682] \$5,688	[\$5,919] \$5,925	[\$7,103] \$7,110
6	\$2,715	[\$3,610] \$3,611	[\$3,746] \$3,747	[\$5,157] \$5,159	[\$6,515] \$6,516	[\$6,786] \$6,788	[\$8,143] \$8,145
7	\$3,061	\$4,071	\$4,224	\$5,816	\$7,346	\$7,653	\$9,183
8	\$3,408	\$4,532	\$4,703	\$6,475	\$8,178	\$8,519	\$10,223
+1	\$347	\$461	\$479	\$659	\$832	\$866	\$1,040

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11-16-15; A/E, 4-1-16]

**PUBLIC EDUCATION DEPARTMENT**

The Public Education Department repeals its rule 11.2.31 NMAC, Apprenticeship Assistance, following a 2/3/2016 public hearing conducted by the New Mexico Department of Workforce Solutions, effective 3/31/2016. Pursuant to Laws 2014, Chapter 51, Section 10, effective 7/1/2014, all functions for administration or oversight of provisions of the Apprenticeship Assistance Act were transferred from the Instructional Support and Vocational Education Division of the Public Education Department to the Workforce Solutions Department.

**REGULATION AND LICENSING DEPARTMENT  
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES BOARD**

This is an amendment to 16.26.1 NMAC, Section 7, effective April 6, 2016.

**16.26.1.7 DEFINITIONS:**

**A.** “AAA” refers to the American academy of audiology, a national professional association of audiologists concerned with professional qualifications, standards of practice, ethics, scientific progress and continuing education.

**B.** “ABA” refers to the American board of audiology, which offers board certification in the discipline of audiology and is affiliated with the American academy of audiology.

**C.** “Act” means the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act (Sections 61-14B-1 to 61-14B-25 NMSA 1978) as it may be amended.

**[C:] D.** “Apprentice” means a person working towards full licensure in speech-language pathology and who meets the requirements for licensure as an apprentice in speech and language pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

**[D:] E.** “ASHA” refers to the American speech-language and hearing association, a national professional association of speech-language pathologists and audiologists recognized by the secretary of the United States (U.S.) department of education for the accrediting of university graduate degree programs in audiology and speech-language pathology. ASHA also maintains a professional membership of speech-language pathologists and audiologists concerned with professional qualifications, standards of practice, ethics, scientific progress and continuing education.

**[E:] F.** “Audiologist” means a person who engages in the practice of audiology, who may or may not dispense hearing aids, and who meets

the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

**[F:] G.** “Certified” means a notarized statement of authenticity of a true copy.

**[G:] H.** “CFY plan” (clinical fellowship year plan) means a written plan submitted to the board outlining the duration of the CFY (up to a maximum of three years), the CFY plan must designate a CFY supervisor and outline the amount and type of supervision.

**[H:] I.** “Direct supervision” means on-site, in-view observation and guidance while a clinical activity is performed by the supervisee. This can include [supervising the speech-language pathologist (SLP)] viewing and [communication] communicating with the supervisee via telecommunication technology so long as the [SLP] supervisor or qualified sponsor is able to provide ongoing immediate feedback. Direct supervision does not [include] include reviewing a taped session at a later time.

**[I:] J.** “Electronic signature” means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

**K.** “IHS” refers to the international hearing society, an international membership association that represents hearing healthcare professionals engaged in the practice

of testing human hearing and selecting fitting and dispensing hearing instruments and counseling patients. IHS conducts programs in competency accreditation, education and training and encourages specialty-level certification for its members.

**L.** **“ILE”** refers to the international licensing examination for hearing healthcare professionals administered by IHS on behalf of the board for the purposes of licensing hearing aid dispensers.

**[H:] M.** **“Indirect supervision”** means supervision that does not require the SLP to be physically present or available via telecommunication in real time while the supervisee is providing services. Indirect supervisory activities [my] may include demonstration tapes, record review, review and evaluation of audio or videotaped sessions, or supervisory conferences that may be conducted by telephone or live, secure webcam via the internet.

**[K:] N.** **“Jurisprudence examination”** means the evaluation of knowledge of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and these regulations, given as a requirement for licensure to all applicants.

**[E:] Q.** **“License”** means a document identifying a legal privilege and authorization to practice within one of the categories established by the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act. A license under this act is not transferable.

**[M:] P.** **“Licensing year”** means the period from January 31, of any year through January 30 of the next year; initial, renewed and reinstated licenses may be issued at any time set herein but shall expire on January 30 of the following year except as otherwise provided in these rules.

**[N:] Q.** **“NBC-HIS”** means national board for certification in hearing instruments sciences.

**[O.]** **“IHS”** refers to the international hearing society, an international organization of persons in the hearing aid industry concerned with professional qualifications, standards of practice, ethics, scientific progress, and continuing education. **R.** **“Qualified Sponsor”** means a person who currently holds an audiology or hearing aid dispenser license in good standing with the board and who voluntarily accepts the responsibility of supervising, training or overseeing an individual interested in obtaining an endorsement or license to fit

and dispense hearing aids.

**[P:] S.** **“Referral”** means the process of directing or redirecting a customer or patient to a specialist, hearing aid dispenser, therapist or clinician for services or diagnosis.

**[Q:] T.** **“Student”** means any person who is a full or part time student enrolled in an accredited college or university program in speech-language pathology, audiology or communication disorders.

**[R:] U.** **“Temporary paraprofessional license”** means a license issued to a person working towards full licensure as a speech-language pathologist and who provides adjunct speech-language pathology services under the supervision of a speech-language pathologist who is licensed under this act.

**[S:] V.** **“Temporary trainee permit”** means a permit issued by the board to a person authorized to fit and dispense hearing aids only under the supervision of a qualified sponsor as defined by these regulations. Temporary trainee permits will be issued for a one-year period and are non-renewable. [12/21/71; 2/5/80; 8/1/81; 8/4/81; 3/18/82; 10/21/91; 11/09/96; 11/7/98; 11/27/99; 16.26.1.7 NMAC - Rn & A, 16 NMAC 26.1.7, 2/3/06; A, 1/29/15; A, 4/6/16]

## REGULATION AND LICENSING DEPARTMENT SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES BOARD

This is an amendment to 16.26.2 NMAC, Sections 10-15 and adding Section 19, effective April 6, 2016.

**16.26.2.10 [APPLICATIONS FOR LICENSURE:** Application shall be made on forms prescribed by the board office:

**A.** All applications for licensure must be accompanied by a check or money order payable to the board in the amount of the application and initial licensing fee. The licensing and renewal fee are set by the board and are non-refundable.

**B.** All initial applications must be signed by the applicant.

**C.** All applications must be accurate.

**D.** All applications must be complete before they will be accepted by the board office.] **REQUIREMENTS FOR ALL APPLICANTS:** An applicant

for a license to practice under the Speech-Language Pathology, Audiology, and Hearing Aid Dispensing Practices Act must submit the following:

**A.** a complete and signed application on a form prescribed by the board;

**B.** a check or money order payable to the board for the applicable fee(s) outlined in 16.26.6.8 NMAC;

**C.** documentation relevant to the license sought under 16.26.2 NMAC;

**D.** certify that the applicant is not guilty of any activities listed in Section 61-14B-21 NMSA 1978. [16.26.2.10 NMAC - Rp, 16 NMAC 26.3.8, 2/3/06; A, 11/29/08; A, 4/6/16]

### 16.26.2.11 QUALIFICATIONS AND APPLICATION FOR LICENSURE AS A SPEECH-LANGUAGE PATHOLOGIST:

An application for licensure as a speech-language pathologist must be accompanied by the following documents:

**A.** official transcripts verifying at least a master’s degree in speech-language pathology, speech-language and hearing science, communication disorders or equivalent degree regardless of degree name; or

**B.** a certification bearing an official seal and attesting to completion of degree requirements from the registrar, mailed directly to the board from the conferring institution; and

**C.** a certified copy of a certificate of clinical competency from a board recognized national speech-language association or proof of completion of the clinical fellowship year or equivalent; and

**D.** proof of having passed a nationally recognized standard examination in speech-language pathology;

**E.** [passing] proof of having passed the jurisprudence examination with a grade of no less than [70%] seventy percent; and

**F.** if currently or previously licensed in another state a verification of licensure must be sent directly to the board by the issuing jurisdiction.

[16.26.2.11 NMAC - Rp, 16 NMAC 26.2.11, 2/3/06; A, 11/29/08; A, 4/6/16]

### 16.26.2.12 QUALIFICATIONS AND APPLICATION FOR LICENSURE AS AN AUDIOLOGIST:

Application for licensure as an audiologist must be accompanied by the following

documents:

A. [official transcripts verifying at least a master's degree in audiology, or communication disorders or equivalent degree in audiology or communication disorders awarded prior to January 1, 2007; or a doctoral degree in audiology or equivalent degree regardless of degree name; or

B. a certification bearing an official seal and attesting to completion of degree requirements from the registrar, mailed directly to the board from the conferring institution; and

C. a certified copy of a certificate of clinical competency from a board recognized national speech-language association or proof of completion of the clinical fellowship year or equivalent; and

D. proof of having passed a nationally recognized standard examination in audiology;

E. passing the jurisprudence examination with a grade of no less than 70%; and

F. if currently or previously licensed in another state a verification of licensure must be sent directly to the board by the issuing jurisdiction;

G. physicians eligible for certification or certified by the American board of otolaryngology head and neck surgery, who wish to be licensed as a hearing aid dispenser, must provide the following documents:

(1) a certified copy of current New Mexico medical license; and

(2) a notarized letter from a qualified sponsor as specified in the act verifying work experience of at least six months in the fitting of the hearing aids, the initial three hundred twenty (320) hours of which must be under direct supervision of the sponsor;] official transcripts or certification from the registrar verifying the following:

(1) a master's degree in audiology, communication disorders or equivalent degree in audiology or communication disorders awarded prior to January 1, 2007; or

(2) a doctoral degree in audiology or equivalent degree regardless of degree name.

B. proof of having earned certification in audiology from the American speech-language and hearing association (ASHA) or the American board of audiology (ABA);

C. proof of having passed a nationally recognized standard examination in audiology;

D. proof of having passed the jurisprudence examination with a grade of no less than seventy percent;

E. if the applicant was awarded a master's degree in audiology or communication disorders or equivalent degree in audiology or communication disorders prior to January 1, 2007, the applicant must also provide proof of at least six months' experience in the dispensing of hearing aids or other evidence as determined by the board in either a graduate training program or in a work training experience;

F. if currently or previously licensed in another state, a verification of the applicant's licensure must be sent directly to the board by the issuing jurisdiction.

[16.26.2.12 NMAC - Rp, 16 NMAC 26.3.9, 2/3/06; A, 11/29/08; A, 6/7/10; A, 1/29/15; A, 4/6/16]

#### 16.26.2.13 QUALIFICATIONS AND APPLICATION FOR ENDORSEMENT TO DISPENSE HEARING AIDS ~~[BY AUDIOLOGIST OR]~~ AS AN OTOLARYNGOLOGIST:

[A licensed audiologist or otolaryngologist may apply for hearing aid dispensing endorsement by providing evidence satisfactory to the board of:

A. six months experience in the dispensing of hearing aids through practical examination, a notarized letter from an employer, graduate training program, or a clinical fellow supervisor verifying the required six months;

B. maintains or occupies in New Mexico a business location, hospital, clinical medical practice or other facility where hearing aids are regularly dispensed and records may be examined;

C. passes the jurisprudence examination, with a grade of no less than 70%; and

D. certifies that the applicant is not guilty of any activities listed in Section 61-14B-21 NMSA 1978.].

The board shall grant an endorsement to dispense hearing aids to a physician certified, or eligible for certification, by the American board of otolaryngology, upon submission of the following:

A. verification that the applicant maintains or occupies a business location, hospital, clinical medical practice or other facility in New Mexico where hearing aids are regularly dispensed;

B. a license verification from the New Mexico medical board;

C. proof of six months' experience in the dispensing of hearing aids as evidenced by a notarized letter

from an employer, a graduate training program supervisor or a clinical fellow supervisor, the 320 hours of which must be under the direct supervision of a person licensed to dispense hearing aids; and

D. proof of having passed the jurisprudence examination, with a grade of no less than seventy percent. [16.26.2.13 NMAC - Rp, 16 NMAC 26.3.10, 2/3/06; A, 11/29/08; A, 4/6/16]

#### 16.26.2.14 QUALIFICATIONS AND APPLICATION FOR LICENSURE FOR A HEARING AID DISPENSER:

A. An application for licensure as a hearing aid dispenser must be accompanied by documentation of the following:

(1) applicant is [eighteen] 18 years of age or older;

(2) has a high school education or the equivalent; and

(3) has a business location in New Mexico and can provide satisfactory evidence of the following:

(a) a notarized letter from an employer verifying completion of the training requirements as outlined for the temporary hearing aid dispensing trainee permit;

(b) written examination: the board will require each candidate to pass the [HHS] international hearing society (HIS), or the national board for certification in hearing instruments sciences (NBC-HIS) hearing aid written examination, or a nationally recognized hearing aid dispensers examination approved by the board; the examination must have occurred within [forty-eight] 48 months prior to the application;

(c) practical examination: the board will require each candidate to pass the hearing aid practical examination or other exams approved by the board with an overall score of no less than [70%] seventy percent; and

(d) [passing] proof of having passed the jurisprudence examination with an overall score of no less than [70%] seventy percent;

(4) any applicant who fails any portion of the licensing examination two [(2)] times may not reapply until he/she has waited six [(6)] months and repeated the training and application requirements; at that time the entire exam must be repeated.

B. If currently or previously licensed in another state a



verification of licensure must be sent directly to the board by the issuing jurisdiction.

~~(C)~~—A physician certified by the American board of otolaryngology head and neck surgery, applying for a hearing aid dispenser license, must provide the following documents to the board:

- ~~(1)~~ a certified copy of the physician's current New Mexico medical license; and
- ~~(2)~~ a notarized letter from a qualified sponsor as specified in the act verifying work experience of at least six (6) months in the fitting of the hearing aids, the initial three hundred twenty 320 hours of which must be under direct supervision of the sponsor; [16.26.2.14 NMAC - Rp, 16 NMAC 26.3.11, 2/3/06; A, 6/7/10; A, 1/29/15; A, 4/6/16]

**16.26.2.15 QUALIFICATION AND APPLICATION FOR TEMPORARY HEARING AID DISPENSING TRAINEE PERMIT:**

Individuals who meet all requirements for a hearing aid dispenser's license but do not have the required practical experience in dispensing of hearing aids shall apply for a temporary hearing aid dispensing permit.

- A. A trainee permit may be issued at any time and will be valid for one [(+)] year.
- B. Upon expiration, another training permit may not be issued for one calendar year following expiration of the previous permit or if the applicant has failed the examination twice within a five year period.
- C. The trainee must identify a qualified sponsor as specified in the act.
- D. Each trainee shall receive intensive training working under the direct supervision of his/her sponsor for a minimum of [~~three hundred twenty~~] 320 hours within a three [(3)] month period.
- E. Following completion of 320 hours, an additional five [(5)] continuous months of full time work is required. All activities of the trainee during this time must be reviewed and approved by the sponsor and may include dispensing hearing aids, making adjustments in fitting and modifying and repairing hearing aids and earmolds. All sales receipts must have some evidence of the sponsor's approval of the sale.
- F. [~~Passing~~] Proof of having passed the jurisprudence examination with a grade of no less than

[70%] seventy percent.  
[16.26.2.15 NMAC - Rp, 16 NMAC 26.3.12, 2/3/06; A, 6/7/10; A, 4/6/16]

**16.26.2.19 BILINGUAL MULTICULTURAL ENDORSEMENT:**

A. Prerequisites for an endorsement: Any person applying for bilingual-multicultural endorsement shall:

- (1) file a completed application;
- (2) pay the fees required under 16.26.6 NMAC;
- (3) submit required documentation as outlined in Subsections B through D below; and
- (4) certify that the applicant is not guilty of any of the any of the activities listed in Section 61-14B-21 NMSA 1978.

B. Eligibility of non-licensed speech language pathology applicants: A speech-language pathology applicant who applies for a bilingual-multicultural endorsement must submit the following documentation:

- (1) a copy of a board-approved application for a license to practice as a New Mexico speech language pathologist; and
- (2) proof of language(s) proficiency and experience as evidenced by:

(a) an official transcript from a university's bilingual or multicultural speech-language pathology certificate program with a minimum eighty percent score in courses taken, and proof that the applicant has passed a board-approved language proficiency assessment; or

(b) if a university transcript and a language proficiency assessment are not available, a letter of verification from a university, tribe or other recognized official entity documenting successful completion of a language proficiency rubric with a minimum of seventy percent in all domains/areas that apply to the specified language, and proof of five years of experience; or

(c) in the event that an applicant cannot provide the documentation required in Subparagraphs (a) or (b) of Paragraph (2) of Subsection B of 16.26.2.19 NMAC, the board may consider other evidence of proficiency and experience on a case-by-case basis.

C. Eligibility of currently licensed New Mexico speech-language pathology applicants: A New Mexico licensed speech-language pathologist who applies for a bilingual-multicultural

endorsement must submit the following documentation:

(1) proof that the applicant has a New Mexico license to practice as a speech-language pathologist that is in good standing; and

(2) proof that the applicant is proficient in the specified language(s) as evidenced by:

(a) having passed a board-approved language proficiency assessment; or

(b) a letter of verification from a university, tribe or other recognized official entity documenting successful completion of a language proficiency rubric with a minimum of seventy percent in all domains/areas that apply to the specified language; or

(c) in the event that an applicant cannot provide the documentation required in Subparagraphs (a) or (b) of Paragraph (2) of Subsection C of 16.26.2.19 NMAC, the board may consider other evidence of proficiency on a case-by-case basis; and

(3) proof that the applicant has a current bilingual endorsement from the New Mexico public education department; or

(4) proof that the applicant has a minimum of five years practicing with clients who utilize a language other than English as evidenced by a sworn and notarized affidavit from the applicant.

D. Eligibility of licensees from other jurisdictions: A speech-language pathologist licensed by another jurisdiction who applies for a bilingual-multicultural endorsement must submit the following:

(1) proof that the applicant has a license to practice as a speech-language pathologist in good standing in another jurisdiction;

(2) a copy of a board-approved application for a license to practice as a New Mexico speech language pathologist;

(3) proof that the applicant has a minimum of five years practicing with clients who utilize a language other than English as evidenced by a sworn and notarized affidavit from the applicant; and

(4) proof that the applicant is proficient in the specified language(s) as evidenced by:

(a) a current bilingual endorsement issued by a state public education department; or

(b) having passed a board-approved language



proficiency assessment; or  
(c)  
a letter of verification from a university, tribe or other recognized official entity documenting successful completion of a language proficiency rubric with a minimum of seventy percent in all domains/areas that apply to the specified language; or

(d)  
in the event that an applicant cannot provide the documentation required in Subparagraphs (a), (b) or (c) of Paragraph (4) of Subsection D of 16.26.2.19 NMAC, the board may consider other evidence of proficiency on a case-by-case basis.  
 [16.26.2.19 NMAC - N, 4/6/16]

**WORKFORCE SOLUTIONS, DEPARTMENT OF**

**TITLE 11 LABOR AND WORKERS' COMPENSATION  
 CHAPTER 2 JOB TRAINING  
 PART 31 APPRENTICESHIP ASSISTANCE**

**11.2.31.1 ISSUING AGENCY:**  
 Department of Workforce Solutions.  
 [11.2.31.1 NMAC - Rp, 11.2.31.1 NMAC, 3/31/2016]

**11.2.31.2 SCOPE:** All New Mexico registered apprenticeship programs that develop skilled craftsmen in occupations recognized by the department of workforce solutions.  
 [11.2.31.2 NMAC - Rp, 11.2.31.2 NMAC, 3/31/2016]

**11.2.31.3 STATUTORY AUTHORITY:** 22-2-1, 22-2-2, 21-19A-6 NMSA 1978.  
 [11.2.31.3 NMAC - Rp, 11.2.31.3 NMAC, 3/31/2016]

**11.2.31.4 DURATION:** Permanent.  
 [11.2.31.4 NMAC - Rp, 11.2.31.4 NMAC, 3/31/2016]

**11.2.31.5 EFFECTIVE DATE:** March 31, 2016, unless a later date is cited at the end of a section.  
 [11.2.31.5 NMAC - Rp, 11.2.31.5 NMAC, 3/31/2016]

**11.2.31.6 OBJECTIVE:** To set forth requirements and processes by which an apprenticeship program shall receive assistance through the department of workforce solutions relating to 21-19A-

2 et seq NMSA 1978.  
 [11.2.31.6 NMAC - Rp, 11.2.31.6 NMAC, 3/31/2016]

**11.2.31.7 DEFINITIONS:**

**A. "Advisory committee"** means the apprenticeship and training advisory committee to the division.

**B. "Applicant"** means an entity desiring to file for Apprenticeship Assistance Act funding.

**C. "Apprentice"** means a person at least 16 years old who is approved by the department of workforce solutions and is covered by a written apprenticeship agreement with a registered apprenticeship program in any trade or occupation.

**D. "Apprenticeable trades or occupations"** mean those trades or occupations officially recognized by the department of workforce solutions.

**E. "Apprenticeship"** means a formal educational method for training a person in a skilled trade or occupation that combines supervised employment with related instruction.

**F. "Apprenticeship agreement"** means a written agreement between an apprentice and a registered apprenticeship program, which agreement contains the terms and conditions of the employment and training of the apprentice identified in 21-19A-5.C NMSA 1978.

**G. "Apprenticeship committee"** means the sponsoring committee of each apprenticeable craft or occupation that is responsible for that particular apprenticeship program.

**H. "Apprenticeship standards"** means those standards that are registered and approved by the department of workforce solutions or the United States department of labor, office of apprenticeship.

**I. "Chair"** means the director for apprenticeship of the department of workforce solutions who shall chair the apprenticeship training and advisory committee (ATAC) meetings.

**J. "Department"** means the department of workforce solutions.

**K. "Director"** means the director for apprenticeship of the department of workforce solutions.

**L. "Division"** means the labor relations division of the department of workforce solutions.

**M. "Journeyworker"** means an individual who has documented sufficient skills and knowledge of a trade, craft or occupation, either through formal apprenticeship or through practical on-the-job experience, and formal training. This

individual is recognized by the state or his/her employer, as being fully qualified to perform the work of the trade, craft or occupation.

**N. "Procedures manual"** means the manual maintained by the department of workforce solutions that contains the administrative procedures, forms formulas, reports and other requirements necessary for approval and distribution of funds provided by the Apprenticeship Assistance Act.

**O. "Office of apprenticeship"** means the office designated by the employment and training administration, United States department of labor to administer the national apprenticeship system or its successor organization.

**P. "Registered apprenticeship program"** means a program registered by the department of workforce solutions or the office of apprenticeship.

**Q. "Related instruction"** means the organized, off-the-job instruction in theoretical or technical subjects required for the completion of an apprenticeship for a particular apprenticeable trade or occupation.

**R. "Reserved funds"** mean funds not obligated on March 1 of the current fiscal year.

**S. "Secretary"** means the secretary of the department of workforce solutions.

**T. "Supplementary instruction"** means new or upgraded skill training for those already employed as journeyworkers.  
 [11.2.31.7 NMAC - Rp, 11.2.31.7 NMAC, 3/31/2016]

**11.2.31.8 APPRENTICESHIP AND TRAINING ADVISORY COMMITTEE:**

The apprenticeship and training advisory committee shall provide input to the director for apprenticeship of the department of workforce solutions regarding:

**A.** The administration of funds provided by the Apprenticeship Assistance Act to assist apprenticeship programs.

**B.** Recommend request for legislative appropriation of state funds for apprenticeship training.

**C.** Modifications to the application process and procedures manual.

**D.** Funding formulas for distributing available funds that shall be uniformly applied to all registered apprenticeship programs based on data contained in the apprenticeship-related

instruction cost study required by Section 21-19A-10 NMSA 1978.

**E.** Development of a program and fiscal year calendar. [11.2.31.8 NMAC - N, 3/31/2016]

**11.2.31.9 THE DEPARTMENT OF WORKFORCE SOLUTIONS:**

The department of workforce solutions shall have sole control over the disbursement of funds appropriated under the Apprenticeship Assistance Act and shall:

**A.** Receive input from the apprenticeship and training advisory committee regarding the administration of funds provided by the Apprenticeship Assistance Act to assist apprenticeship programs.

**B.** Annually develop and publish a procedures manual that shall include;

(1) a current calendar with the dates for apprenticeship meetings, quarterly reports, regulatory deadlines and any other significant items;

(2) an application form for requesting Apprenticeship Assistance Act funds;

(3) the date for the public meeting to be held no later than February 28th for approving the procedures and application process;

(4) the date for the public meeting to be held no later than March 30th to conduct the mandatory technical assistance workshop for prospective applicants; and

(5) the date for the public meeting to be held no later than May 30th to approve applicants for receipt of Apprenticeship Assistance Act funds.

**C.** Develop uniform formulas for the distribution of available funds to registered apprenticeship programs.

**D.** Evaluate allocated funds throughout the fiscal year for possible redistribution to all participating programs as provided in the Apprenticeship Assistance Act.

**E.** Review reimbursement claims for accuracy and to ensure that all funded programs have sufficient records to allow for audits in accordance with the Apprenticeship Assistance Act.

**F.** Finalize grant agreements with all funded programs. [11.2.31.9 NMAC - N, 3/31/2016]

**11.2.31.10 APPLICATION:**

The department of workforce solutions shall develop an application that shall:

**A.** Comply with criteria

for apprenticeship programs as outlined in the Apprenticeship Assistance Act.

**B.** Require any program applicant to have a minimum of a one year's registration with the department of workforce solutions office of apprenticeship and at least one apprentice at the time the application is submitted.

**C.** Provide that requested funding shall be calculated based on the number of total related instruction contact hours multiplied by the approved hourly rate, not to exceed two hundred twenty hours per participant per year.

**D.** Require any program applicant to maintain a certificate of registration from the New Mexico taxation and revenue department and be licensed to do business in New Mexico.

**E.** Provide that requested funding shall be calculated using only those apprentices registered and in training at the time of application; the number of approved apprentices being applied for must be equal to or less than the total number of apprentices registered and in training at the time of application.

**F.** Provide that all programs have a structured component for related instruction with a minimum of four hours of direct in person contact with an instructor per month.

**G.** Require a representative from any program applicant to appear in person at the mandatory technical assistance workshop for prospective applicants and at the mandatory application approval meeting.

**H.** Contain sections requesting information for funding request, a funding survey and an acknowledgment of the department of workforce solutions' policies and procedures.

**I.** Provide that no funds shall be distributed to an apprenticeship program until the program has timely filed all reports required by the Apprenticeship Assistance Act and the department of workforce solutions.

**J.** Require any program applicant to respond to request for additional information that the department of workforce solutions regards as necessary to clarify issues identified in the application or expenditure of Apprenticeship Assistance Act funds. [11.2.31.10 NMAC - N, 3/31/2016]

**11.2.31.11 PROCESS FOR APPLICATION AND EXPENDITURE OF FUNDS:**

**A.** To increase transparency and expedite the transmission of necessary information the

department of workforce solutions will publish and maintain on the department of workforce solutions' website the current calendar, application form for Apprenticeship Assistance Act funds and a procedures manual that contains all the required forms developed by the department of workforce solutions.

**B.** Program applicants to be eligible for consideration for Apprenticeship Assistance Act funds in the fiscal year shall submit their applications to the director by the deadline specified in the department of workforce solutions' procedures manual.

**C.** A representative from the program applicant must appear in person at the mandatory technical assistance workshop for prospective applicants and at the mandatory application approval meeting to be eligible for consideration for funding in the fiscal year.

**D.** If the director of apprenticeship for the department of workforce solutions denies an application or approves the application with conditions, the director shall:

(1) state the reasons for the denial or imposition of conditions in writing within three (3) days of the meeting at which the application was denied or conditions imposed;

(2) a program applicant whose application was denied or approved with conditions that are unacceptable to the program applicant may appeal the decision to the secretary within three (3) days of the receipt of the notice of the denial or imposition of conditions;

(3) within three (3) days of receipt of the notice of appeal, the secretary shall meet with the program applicant and review the director of apprenticeship's decision that denied the application or approved it with conditions;

(4) the secretary may affirm the decision of the director of apprenticeship or reverse the decision with or without the imposition of conditions; and

(5) the secretary's decision shall be final and binding on the program applicant.

**E.** All approved program applicants shall comply with the following requirements by the dates specified in the department of workforce solutions' procedures manual:

(1) complete and sign a grant agreement;

(2) submit quarterly claims for reimbursement;

(3) submit a

mid-year survey; and

(4) comply with all other requirements of the procedures manual.

F. Participation in any apprenticeship assistance act meeting of the department of workforce solutions by means of a conference telephone or other communications equipment when it is otherwise difficult or impossible for the participant to attend the meeting in person shall be allowed, provided that each person participating by conference telephone or other communications equipment can be identified when speaking, all participants are able to hear each other and members of the public attending the meeting are able to hear any person speaking; except that a representative from any program applicant shall appear in person at the mandatory technical assistance workshop for prospective applicants and at the mandatory application approval meeting. [11.2.31.11 NMAC - N, 3/31/2016]

**HISTORY OF 11.2.31 NMAC:**

**History of Repealed Material:**

11.2.31 NMAC, Apprenticeship Assistance, filed 12/31/09 - repealed 3/31/16 by the Public Education Department, refiled by the Department of Workforce Solutions effective 3/31/16.

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**End of Adopted Rules**

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## Submittal Deadlines and Publication Dates

### Volume XXVII, Issues 1-24

Volume XXVII	Submittal Deadline	Publication Date
Issue 1	January 4	January 15
Issue 2	January 19	January 29
Issue 3	February 1	February 12
Issue 4	February 15	February 29
Issue 5	March 1	March 15
Issue 6	March 16	March 31
Issue 7	April 1	April 15
Issue 8	April 18	April 30
Issue 9	May 2	May 13
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Issue 19	October 3	October 14
Issue 20	October 17	October 31
Issue 21	November 1	November 15
Issue 22	November 16	November 30
Issue 24	December 16	December 30

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