

New Mexico Register

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

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New Mexico Register

Volume XXXVI, Issue 12

June 24, 2025

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Notices of Rulemaking and Proposed Rules

AGING AND LONG-TERM SERVICES DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Notice: The Aging and Long-Term Services Department (Department) will hold a public hearing on July 25, 2025, at 9:00 a.m. The meeting will be held in person in the Willie Ortiz Auditorium, 2600 Cerrillos Road, Santa Fe, NM 87505.

Purpose of Rule Hearing: The purpose of the public hearing is to receive public input on a proposed new rule, 9.2.25 NMAC - Kinship Caregiver Support Pilot Program.
Statutory Authority: Aging and Long-Term Services Department Act, Section 9-23-15 NMSA 1978.

Purpose of the Proposed New Rule: The purpose of this new rule, 9.2.25 NMAC, is to establish the requirements for the administration of the Kinship Caregiver Support Pilot Program created by H.B. 252, 57th Leg., 1st Sess. (N.M. 2025). The purpose of the program is to assist kinship caregivers in learning about, finding and using programs and services to meet the needs of the children they are raising and their own needs, and promote effective partnerships among public and private agencies to ensure kinship caregiver families are served. Program navigators will provide information and referrals, including legal assistance and monthly economic support through program partners. The pilot program will be offered in five to seven counties, serving 50 participants per county.

Summary of Proposed Rule: The proposed rule lays out how the program will be administered by the Department. In administering the program, the Department will provide for navigators, and the tasks assigned to navigators are listed in the rule. The proposed rule includes the requirements for participant eligibility, the selection

of participating counties, the agreement between participants and the Department for participation in the program, continued eligibility in the program, termination from the program, program limits, notices issued by the Department to participants, and suspension of the program.

How to Comment on the Proposed Rules: Public comment addressing the proposed rule can be submitted in writing to the Aging and Long-Term Services Department, Office of the Secretary, ATT: Kinship Caregiver Support Pilot Program Comments, 2550 Cerrillos Rd., Santa Fe, New Mexico 87505. Interested persons may also send written comments via email to craig.hay@altsd.nm.gov by 5:00 p.m., email comments must include the subject line, "Proposed Rule 9.2.25 NMAC," and the commenter's name and contact information. All written comments must be received no later than 5:00 p.m. on Thursday, July 24, 2025. All written comments will be posted on the Department's website within (3) three days of receipt.

Copies of Proposed Rules: Copies of the proposed rules are available for download on the Aging and Long-Term Services website at aging.nm.gov/kcs-rulemaking. A copy of the proposed rules may also be requested by contacting Craig Hay by phone at (505)603-9431 or by email craig.hay@altsd.nm.gov.

Special Needs: Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Craig Hay at (505)603-9431 as soon as possible to allow adequate time to provide the requested accommodation(s).

AGRICULTURE, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.34.7. NMAC, EGG INSPECTION FEES.

PURPOSE AND SUMMARY OF THE PROPOSED RULES:

Primary proposed amendments to the current Egg Inspection Fees rule language updates the outdated fee that supports egg inspections and licensing activities.

The departments obligation to the citizens of New Mexico is to assure that eggs sold in the state are fit for human consumption and labeled properly. The current inspection fees set in rule for a case of shell eggs are collected by the department to fulfill these statutory obligations.

Proposed rule change will follow the repeal and replacement process rather than the amendment process for fees on eggs sold in New Mexico to the retailer or the consumer per case of 30 dozen (Subsection A of 21.34.7.9 NMAC). These adjustments are necessary to help offset the increased cost of services, licensing, and inspections for inflation and mandatory adjustments to staff salaries.

STATUTORY AUTHORITY:

Granted to the Board of Regents of New Mexico State University under the Egg Grading Act, Chapter 25, Article 6, Sections 1 through 16, New Mexico Statutes Annotated, 1978 Compilation.

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

Tuesday, July 29 2025 at 9am
NMDA will host a public video/
telephonic and in-person hearing at
Gerald Thomas Hall Auditorium (Rm
194), New Mexico State University,
located at 940 College Drive in Las
Cruces, NM, 88003.

Join via Video for Tuesday, July 29,
2025, 9am hearing:
Meeting URL: <https://nmsu.zoom.us/j/83992662632>

Meeting ID: 777 178 7960
Passcode: 328151

Or

Join via Phone for Tuesday, July 29,
2025, 9am hearing:
+1 669 900 6833 or +1 719 359 4580
Meeting ID: 777 178 7960
Passcode: 328151

Thursday, July 31 2025 at 9am
NMDA will host a public in-person
hearing at the CNM workforce
Training Center located at 5600 Eagle
Rock Ave, NE in Albuquerque, NM,
87113.

Oral comments will be accepted at the
hearing from members of the public
and any interested parties. Written
comments will be accepted until
5:00pm on July 31, 2025. Comments
may be submitted via email to
comments@nmda.nmsu.edu or may
be filed by sending original copies to:

New Mexico Department of
Agriculture, Office of Director
MSC 3189, PO Box 30005,
1050 Stewart Street, Las
Cruces, NM 88003-8005

Only signed statements, proposals
or comments will be accepted.
Scanned or electronic signatures
conforming to federal and state court
requirements will be accepted with
the understanding that if there is
any dispute regarding a signature,
NMDA reserves the right to require
that original signatures be provided
to verify the electronic or facsimile
signature.

SPECIAL NEEDS: If you are an
individual with a disability who needs
a reader, amplifier, qualified sign

language interpreter, or any other
form of auxiliary aid or service to
attend or participate in the hearing
or meeting, please contact NMDA
at (575) 646-3702 at least one week
prior to the meeting or as soon as
possible.

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

AGRICULTURE, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN
that the New Mexico Department of
Agriculture (NMDA), proposes to
repeal and replace 21.17.50 NMAC,
PEST, DISEASE AND WEED
CONTROL.

PURPOSE AND SUMMARY OF THE PROPOSED RULES:

Primary proposed amendments to
the current Pesticide rule language
removes unwarranted definitions;
amends licensing and registration
expiration dates to ease the re-
registration efforts during the winter
holiday season; and updates outdated
fee schedules that support pesticide
related services and statute mandated
licensing and pesticide registration
activities.

The current Pesticide rule does
not comply with current style and
formatting requirements and is
therefore required to follow the repeal
and replacement process rather than
the amendment process. Subsection
C of 1.24.11.9 NMAC states "When
an agency amends a part that was not
filed in the current style and format, it
shall reformat the entire part (or use
the reformatting done by the records
center) and officially adopt the current
style and formatting requirements in
conjunction with the amendment."
Style and formatting changes to

the Pesticide rule in its entirety are
included in the proposed amendments.

Principal proposed rule amendments
remove three unwarranted definitions
(Subsections C, E and Y of 21.17.50.7
NMAC); revises expiration dates for
pesticide registration and pesticide
applicator licenses from December
31 to January 31 (Subsections A et.
seq. of 21.17.50.9 NMAC); updates
15-year old annual licensing fees for
pesticide dealers, pest management
consultants, commercial applicators,
non-commercial applicators,
pesticide operators and private
applicators (Subsection B through G
of 21.17.50.25 NMAC); and updates
the 2010 pesticide registration, and
examination fees (Subsection A and I
of 21.17.50.25 NMAC).

STATUTORY AUTHORITY:

Granted to the Board of Regents
of New Mexico State University
under the New Mexico Pesticide
Control Act, Chapter 76, Article 4,
Sections 1 through 39, NMSA 1978
Compilation.

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

Tuesday, July 29 2025 at 11am
NMDA will host a public video/
telephonic and in-person hearing at
Gerald Thomas Hall Auditorium (Rm
194), New Mexico State University,
located at 940 College Drive in Las
Cruces, NM, 88003.

Join via Video for Tuesday, July 29,
2025, 11am hearing:

Meeting URL: <https://nmsu.zoom.us/j/83992662632>

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Passcode: 328151

Or

Join via Phone for Tuesday, July 29,
2025, 11am hearing:
+1 669 900 6833 or +1 719 359 4580

Meeting ID: 777 178 7960
Passcode: 328151

Thursday, July 31 2025 at 11am
NMDA will host a public in-person hearing at the CNM workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM, 87113.

Oral comments will be accepted at the hearing from members of the public and any interested parties. Written comments will be accepted until 5:00pm on July 31, 2025. Comments may be submitted via email to comments@nmda.nmsu.edu or may be filed by sending original copies to:

New Mexico Department of Agriculture, Office of Director
MSC 3189, PO Box 30005, 1050 Stewart Street, Las Cruces, NM 88003-8005

Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, NMDA reserves the right to require that original signatures be provided to verify the electronic or facsimile signature.

SPECIAL NEEDS: If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact NMDA at (575) 646-3702 at least one week prior to the meeting or as soon as possible.

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

AGRICULTURE, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.18.4.1 et. seq. NMAC, SEED STANDARDS AND CLASSIFICATIONS.

PURPOSE AND SUMMARY OF THE PROPOSED RULES:

Primary proposed amendments to the current Seed Standards and Classifications rule language updates the fee schedule for testing seeds that support the state seed laboratory for analyzing samples submitted by constituents. The amendments update seed name and scientific names in the prohibited and restricted noxious weed seeds. Lastly, the rule amendments update the germination standards for vegetable seed and methods of sampling, inspecting, analyzing, testing and examination of seed by referencing the Federal Seed act 7 CFR part 201.

The departments obligation to the citizens of New Mexico is to assure that seeds sold in the state are labeled properly and meet the standards placed upon the label. The current fee schedule set in rule for seed testing by the department to recoup costs of testing and examine samples requested by outside persons or entities from the department.

Proposed rule changes will follow the repeal and replacement process rather than the amendment process for seed standards and classifications. These adjustments are necessary to help offset the increased cost seed testing and analysis for inflation and mandatory adjustments to staff salaries. The proposed changes also clean up the prohibited and noxious weed names and species as well as adopt the Federal Seed Act 7 CFR part 201 for methods of sampling and testing as well as germination standards which clean up the rule.

STATUTORY AUTHORITY:

Granted to the Board of Regents of New Mexico State University under the New Mexico Seed Law, Chapter 76, Article 10, Sections 11 through 22, New Mexico Statutes Annotated, 1978 Compilation.

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

Tuesday, July 29 2025 at 10am
NMDA will host a public video/ telephonic and in-person hearing at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM, 88003.

Join via Video for Tuesday, July 29, 2025, 10am hearing:

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New Mexico Department of Agriculture, Office of Director
MSC 3189, PO Box 30005, 1050 Stewart Street, Las Cruces, NM 88003-8005

Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, NMDA reserves the right to require that original signatures be provided to verify the electronic or facsimile signature.

SPECIAL NEEDS: If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact NMDA at (575) 646-3702 at least one week prior to the meeting or as soon as possible.

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

**ALBUQUERQUE-
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

**ALBUQUERQUE-BERNALILLO
COUNTY AIR QUALITY
CONTROL BOARD
NOTICE OF RULEMAKING
HEARING TO CONSIDER
REPEAL AND REPLACE OF
EXISTING RULE 20.11.20 NMAC-
FUGITIVE DUST CONTROL**

The Albuquerque-Bernalillo County Air Quality Control Board (AQCB) will hold a public hearing on August 13, 2025 at 5:30 p.m. to consider AQCB Petition No. 2025-2, filed by the City of Albuquerque Environmental Health Department (EHD). The hearing is expected to last no more than one hour, with the Board making a decision immediately following the hearing. The hearing will be held in-person (with a remote option) at the Plaza del Sol Building, Basement Hearing Room, 600 Second Street NW, Albuquerque, NM 87102.

Final details will be posted online no later than August 8, 2025.

Contact Information – to learn more, receive updates, or submit comments. Websites: www.cabq.gov/airquality/air-quality-control-board and www.cabq.gov/airquality/regulation-development/public-notices-and-comment-opportunities. Phone: Hearing Clerk, at (505)-768-1915.

Email: airboard@cabq.gov. In-Person Address: EHD, One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, NM 87102 (8 am - 5 pm). Postal Mail Address: EHD/AQP, PO Box 1293, Albuquerque, NM 87103.

Hearing Details. The proposed regulatory change would repeal and replace existing rule 20.11.20 NMAC- *Fugitive Dust Control*, to add language clarifying that asbestos inspectors must be accredited. The proposed changes are limited to sections 20.11.20.7 NMAC and 20.11.20.22 NMAC only.

The docket, including copies of the proposed regulatory change, is accessible at www.cabq.gov/airquality/air-quality-control-board. A link to the record can also be found under the heading “Rulemaking Procedures” on the AQCB’s website. The proposed text is identified as Exhibit B to EHD’s petition. Copies may also be obtained by contacting the AQCB Hearing Clerk. EHD charges fifty (50) cents per page for paper copies.

The hearing will be conducted in accordance with the Air Quality Control Act, NMSA 1978, Section 74-2-6; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Section 9-5-1-6; Bernalillo County Code, Article II, Section 30-35; 20.11.82 NMAC, Rulemaking Procedures-AQCB; and other applicable procedures, including any pre-hearing orders. Pre-hearing orders will be included in the docket.

Public Participation. AQCB hearings

are open to the public. All interested persons are encouraged to participate and will be given a reasonable opportunity to submit relevant data, views or arguments, orally or in writing, and to examine witnesses by filing a notice of intent to present technical testimony (“NOI”), filing an entry of appearance, or participating as a member of the general public.

Technical Testimony. Persons intending to present technical testimony must file a written NOI at least fifteen (15) days before the hearing. In addition to any requirements in a pre-hearing order, an NOI shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness and state the qualifications of that witness, including a description of their education and work background; (3) include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony; (4) include the text of any recommended modifications to the proposed regulatory change; (5) list and attach an original copy of all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules; and (6) be served pursuant to 20.11.82.16 NMAC and pre-hearing orders, including served on EHD. Unless otherwise provided for in a pre-hearing order, a NOI filing shall be accomplished by delivering the document to the AQCB Hearing Clerk via the email, in-person address, or postal mail address listed in the Contact Information.

Entry of Appearance. Any person who is or may be affected by the proposed regulatory change may file, and serve upon all parties, an entry of appearance at least fifteen (15) days prior to the hearing date and shall be a party. A timely NOI shall be considered an entry of appearance.

Non-Technical Testimony/Public Comment. Any member of the general public may present non-technical testimony and/or offer non-technical exhibits. No prior

notification is required. A member of the general public, who wishes to submit a non-technical written statement for the record instead of oral testimony, shall file the written statement prior to the hearing or submit it at the hearing. Unless otherwise provided for in a pre-hearing order, written statements submitted prior to the hearing shall be delivered to the AQCB Hearing Clerk in the same manner described above for filing a NOI. The public comment period will begin on June 25, 2025 and conclude on July 25, 2025.

Notice to Persons with Disabilities or Special Needs. If you have a disability or require special assistance to participate, including interpretation or an auxiliary aid, please contact the AQCB Hearing Clerk as soon as possible but no later than seventy-two (72) hours before the hearing. Those in need of hearing assistance can call 711.

Nondiscrimination Notice. The AQCB does not discriminate on the basis of race, color, national origin, sex, age or disability. If you believe you have been discriminated against, you may submit a complaint at www.cabq.gov/airquality/non-employee-discrimination-complaints.

Nếu bạn muốn thông báo này được dịch sang tiếng Việt, vui lòng truy cập www.cabq.gov/airquality/regulation-development/public-notice-and-comment-opportunities và sử dụng tính năng Dịch ở đầu trang.

**AVISO DE AUDIENCIA
DE REGLAMENTACIÓN
PARA CONSIDERAR LA
DEROGACIÓN Y SUSTITUCIÓN
A LA NORMATIVA VIGENTE
20.11.20 NMAC- CONTROL DE
POLVO FUGITIVO POR PARTE
DE LA JUNTA DE CALIDAD
DEL AIRE DEL CONDADO DE
ALBUQUERQUE-BERNALILLO**

La Junta de Calidad del Aire del Condado de Albuquerque-Bernalillo (AQCB, por sus siglas en inglés) llevará a cabo una audiencia el 13

de agosto de 2025, a las 5:30 pm, para considerar la Petición No. 2025-2 de la AQCB, presentada por el Departamento de Salud Ambiental de la Ciudad de Albuquerque (EHD, por sus siglas en inglés). La audiencia durará aproximadamente una hora, con deliberaciones inmediatamente después. La audiencia presencial (con participación a través del internet) se realizará en el edificio Plaza del Sol, en la sala de audiencias del sótano, 600 Second St. NW, Albuquerque, NM 87102. Los detalles finales serán publicados en línea a más tardar el 8 de agosto de 2025.

Información de contacto - para saber más, recibir actualizaciones, o enviar comentarios.

Páginas web: www.cabq.gov/airquality/air-quality-control-board and www.cabq.gov/airquality/regulation-development/public-notice-and-comment-opportunities.
Teléfono: Secretaria de audiencia de la AQCB, al (505) 768-1915.
Correo electrónico: airboard@cabq.gov.

Dirección en persona: EHD, One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, NM 87102 (8 am – 5 pm).

Dirección de correo postal: EHD, PO Box 1293, Albuquerque, NM 87103.

Detalles de la Audiencia. El cambio normativo propuesto derogaría y sustituiría la normativa vigente 20.11.20 del Código Administrativo de Nuevo México (NMAC, por sus siglas en inglés)- *Control de Polvo Fugitivo*, para incorporar texto que clarifique que los inspectores para amianto deben de ser acreditados. El alcance de este cambio se limita a las secciones 20.11.20.7 NMAC y 20.11.20.22 NMAC solamente.

Se puede acceder al expediente normativo, incluyendo copias del cambio normativo propuesto, en <https://www.cabq.gov/airquality/air-quality-control-board>. También se puede encontrar un enlace al registro normativo bajo el encabezado “Rulemaking Procedures” (Procedimientos de Normativas)

en la página de la AQCB. El texto propuesto de se identifica como Anexo B a la petición del EHD. Se puede obtener copias comunicándose con la Secretaria de Audiencias de la AQCB. El EHD cobra cincuenta (50) centavos por página.

La audiencia se llevará a cabo de acuerdo al Acta de Control de Calidad del Aire de los Estatutos Anotados de Nuevo México (NMSA, por sus siglas en inglés), 1978, Sección 74-2-6; Ordenanza de la Junta de Calidad del Aire, Ordenanzas Revisadas de Albuquerque 1994, Sección 9-5-1-6; Código del Condado de Bernalillo, Artículo II, Sección 30-35; 20.11.82 NMAC, Procedimientos de Normativas-AQCB; y otros procedimientos aplicables, incluyendo todas las órdenes previas a la audiencia. Las órdenes previas a la audiencia se incluirán en el expediente normativo.

Participación pública. Las audiencias de la AQCB están abiertas al público. Todas las personas interesadas se les alienta a participar y se otorgará una oportunidad razonable para presentar datos relevantes, opiniones o argumentos, de forma oral o escrita, e interrogar a testigos luego de completar un aviso de intención de presentar testimonio técnico (NOI, por sus siglas en inglés), una actuación de comparecencia, o al participar como miembro del público general.

Testimonio técnico. Las personas que pretenden presentar testimonio técnico deberán completar un NOI escrita al menos quince (15) días antes de la audiencia. Además de todos los requisitos que una orden previa a la audiencia debe tener, un NOI deberá: (1) identificar a la persona en favor de la cual testificará el testigo; (2) identificar a cada testigo técnico e indicar las calificaciones de ese testigo, incluyendo una descripción de sus antecedentes de educación y de trabajo; (3) incluir una copia del testimonio directo de cada testigo técnico e indicar la duración estimada del testimonio; (4) incluir

el texto de todas modificaciones recomendadas al cambio normativo propuesto; (5) enumerar y adjuntar una copia original de todas las pruebas que se espera que esa persona ofrezca en la audiencia, incluyendo todas las declaraciones de las razones propuestas para la adopción de las normativas; y (6) ser notificado de conformidad a 20.11.82.16 NMAC y a las órdenes previas a la audiencia, incluidas las del EHD. Salvo que se proporcionen en una orden previa a la audiencia, un NOI se debe completar y enviar a la Secretaría de Audiencia de la AQCB por medio de correo electrónico, la dirección en persona o correo postal que se detalla en la información de contacto.

Actuación de comparecencia.

Cualquier persona que se vea o pueda verse afectada por el cambio normativo propuesto puede completar y presentar una personación a todas las partes al menos quince (15) días antes de la fecha de la audiencia y queda constituido como parte. Un NOI oportuno será considerado una actuación de comparecencia.

Testimonio no técnico/opinión pública.

Cualquier miembro del público general puede presentar un testimonio no técnico y/o presentar pruebas no técnicas. No se necesita notificación previa. Un miembro del público general que desee entregar una declaración por escrito para el registro en lugar de testimonio oral deberá presentarlo antes o durante la audiencia. A menos que se entreguen en una orden previa a la audiencia, las declaraciones por escrito presentadas antes de la audiencia deberán entregarse a la secretaria de audiencia de la AQCB, de la misma forma en la que se debe enviar un NOI. El período de comentario público comenzará el 25 de junio de 2025 y se acabará el 25 de julio de 2025.

Aviso para personas con discapacidades o necesidades especiales.

Si usted tiene una discapacidad o requiere de asistencia especial para participar, incluyendo interpretación o una asistencia auxiliar, comuníquese con la

secretaría de audiencia de AQCB lo antes posible, pero no después de setenta y dos (72) horas antes de la audiencia. Aquellos que necesiten asistencia auditiva pueden llamar al 711.

Aviso de no discriminación. La AQCB no discrimina por motivos de raza, color, nacionalidad de origen, sexo, edad o discapacidad. Si usted cree que se lo ha discriminado, puede enviar una queja a www.cabq.gov/airquality/non-employee-discrimination-complaints.

EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT

NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Early Childhood Education and Care Department (ECECD) hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE LICENSING REQUIREMENTS GOVERNING THE CHILD CARE FACILITY LOAN ACT as authorized by Subsection (E) of Section 9-29-6 NMSA 1978;

8.9.9 NMAC - REQUIREMENTS GOVERNING THE CHILD CARE FACILITY LOAN ACT

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: ECECD is promulgating these rules to provide for its own agency regulations as well as to align to the New Mexico Finance Authority (NMFA) standard. NMFA changes were put in place to streamline the loan application process and to facilitate ease of access to the administration and implementation of the Child Care Facility Loan Act.

Summary of Proposed Rules:

In summary, the proposed rule amendment to 8.9.9 NMAC will update regulations to align with amendments made to the Child Care Facility Loan Act, NMSA 1978 § 24-24-1 to -4, and to align regulations with NMFA procedures. These rules establish eligibility guidelines for applicants and projects, application requirements, and evaluation procedures for loans made to child care providers. Changes made include the addition of loans for the expansion and creation of new facilities as eligible projects; the addition of contracts for services as an eligible use of the fund and eligibility criteria for providers to qualify for contracts for services; additional prioritization categories for loan applications; the addition of persons, entities, or employers as eligible providers; rules for provisional loan licenses for the purposes of eligibility; and updated definitions.

As part of the amendment process, ECECD will hold a public rule hearing for the proposed amendments on July 24, 2025, from 9:00 a.m. to 10:00 a.m.

Copies of the proposed amended rules may also be found at ECECD's website at www.nmececd.org/regulation-changes/ 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on July 24, 2025, from 9:00 a.m. to 10:00 a.m. for proposed rule update for 8.9.9 NMAC. The hearing will be held in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502 and via virtual web platform (Zoom), email, and telephonic means. The public hearing will be conducted in a fair and equitable manner by an ECECD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided with a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or

arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact ECECD at ECECD-ECS-PublicComment@ECECD.NM.Gov or call 505-670-8993. ECECD will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public may be submitted via email to ECECD-ECS-PublicComment@ECECD.NM.Gov with the subject line “8.9.9 NMAC Public Comment” or via first class mail to PO. Drawer 5619, Santa Fe, New Mexico 87502-5619. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on July 24, 2025, from 9:00 a.m. to 10:00 a.m. The deadline to submit comments is at the end of the public hearing on July 24, 2025.

Any interested member of the public may attend the hearing in person, or via the virtual web platform or telephone, and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-253-205-0468, Meeting ID: 820 4248 9230. You will be able to hear the full hearing, and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://nmececdorg.zoom.us/j/82042489230> and follow the instructions indicated on the screen – Meeting ID: 820 4248 9230. This will be a live stream of the hearing. You may also provide comment via chat during the live streaming.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT ENERGY CONSERVATION AND MANAGEMENT DIVISION

NOTICE OF PUBLIC HEARING AND RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) hereby gives notice of the following proposed rulemaking. The proposed rulemaking aims to repeal and replace existing regulations for both personal and corporate income tax credits.
3.3.32 NMAC Geothermal Ground Coupled Heat Pump Personal Income Tax Credit, 7-2A-24 NMSA
3.4.19 NMAC, Geothermal Ground Coupled Heat Pump Corporate Income Tax Credit, 7-2-18.24 NMSA

Purpose of Rule.

The Geothermal Ground-Coupled Heat Pump Income Tax Credit was enacted in 2024 to encourage New Mexico taxpayers to install high-efficiency ground-coupled heat pumps in their residences, businesses, or agricultural enterprises. EMNRD aims to repeal the existing rule and replace it with a new version that aligns with recent legislative amendments. This process ensures that the rule remains compliant with updated policies and simplifies the application requirements for both applicants and EMNRD.

The objective of Geothermal Ground Coupled Heat Pump Income Tax Credit, 3.3.32 NMAC, and 3.4.19 NMAC, is to establish procedures for administering the certification program for the geothermal ground-coupled heat pump income tax credit, including proposing application requirements meant to simplify and streamline the process for both applicants and EMNRD.

Legal Authority: EMNRD proposes the rules under the authority of the Income Tax Act, NMSA 1978, Section

7-2A-24 and Corporate Income Tax Act, Section 7-2-18.24

The full text of the proposed rule is available from the EMNRD, Energy Conservation and Management Division at the website: <https://www.emnrd.nm.gov/ecmd/ecmd-public-notices/>, or by contacting Claudette Montoya at ClaudetteR.Montoya1@emnrd.nm.gov or emailing EMNRD. taxcredits@emnrd.nm.gov.

Public Hearing and Comment.

EMNRD will hold an in-person / virtual public hearing on the proposed rules scheduled at 10:00am on August 12, 2025, where stakeholders can provide feedback on the proposed changes. If you're interested in attending or submitting comments the public may attend in person at the EMNRD Wendell Chino Building, Pecos Hall, 1220 S. Saint Francis Drive, Santa Fe, NM 87505. The public may also join the hearing virtually through Microsoft Teams using one of the following:

Geothermal Ground Coupled Heat Pump Income Tax Credit, 2025 rule hearing

Event Link: to join the meeting:
https://teams.microsoft.com/l/meetup-join/19%3ameeting_NWMxMmEwODItMzRkMS00MG10LTNmMDEtMDVmY2RkYT15ZjUz%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%227a2869ad-e8e9-4114-99d7-c4dafba0a50c%22%7d

Meeting ID: 219 564 370 995 7
Passcode: FZ3ae2QW

Comments made online or in person will be accepted.

Those wishing to comment on the proposed rule may make oral comments or submit written comments at the hearing, or may submit written comments by August 11, 2025, by 5:00 p.m. by mail or e-mail. Please mail written comments to Claudette Montoya, EMNRD – ECAM, 1220 S. Saint Francis Drive, Santa Fe, NM 87505 or submit them

by e-mail to ClaudetteR.Montoya1@emnrd.nm.gov.

**ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
FORESTRY DIVISION**

**NOTICE OF PROPOSED
RULEMAKING**

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division hereby give notice of the following proposed rulemaking. EMNRD proposes to amend their rule, 19.1.3 NMAC, Natural Heritage Conservation Act.

Purpose of Amendment. EMNRD propose the amendments to (1) amend definition of in-kind to include mineral remoteness reports, baseline documentation reports, stewardship funding, and staff time for due diligence in the list of transaction costs; (2) amend the evaluation criteria and matrix of factors in Subsection B and C of 19.1.3.12 NMAC; (3) add Subsection E of 19.1.3.12 NMAC for any changes to project scope, budget or expected outcomes are to be reported to the department; (4) add the baseline documentation report to list of documents to be provided the department; (5) remove the requirement that a baseline documentation report to be recorded with applicable county clerk; (6) add mineral remoteness reports, baseline documentation reports, reasonable contributions to restricted stewardship funds or documented labor costs to qualify as transactional costs; (7) revise language to allow to increase the percentage of project value from three to thirty percent that can be awarded for transaction costs; (8) remove the requirement that transaction cost awards not exceed ten percent of the grant or \$45,000, whichever is less; and (9) remove references to in-kind contribution as it

relates to state tax incentive or credit.

Legal Authority. EMNRD proposes the rule amendments under the authority of Sections 9-1-5 and 68-2-16 NMSA 1978.

The full text of the proposed rule amendments is available from Carmen Austin at (505) 617-0119 or carmelitam.austin@emnrd.nm.gov or can be viewed on the EMNRD, Forestry Division's website at <https://www.emnrd.nm.gov/sfd/public-meetings-hearings/> or at the Forestry Division's office at 1220 South St. Francis Drive, Santa Fe, NM 87505 or at its offices in Chama, Cimarron, Las Vegas, Rio Rancho, Socorro, Capitan, and Silver City.

Public Hearing and Comment. EMNRD will hold a public hearing on the proposed rule amendments at 11:30 a.m. on July 30, 2025, at the Wendell Chino Building, Office of the Secretary Conference Room, 3rd Floor, 1220 South St. Francis Drive, Santa Fe, NM 87505. Those wishing to attend and participate virtually may join through using one of the following:

Join Teams Meeting

Meeting ID: 239 988 137 870 9
Passcode: wL9TK7eH

Dial in by phone
+1 505-312-4308,,318398884#
United States, Albuquerque
Phone conference ID: 318 398 884#

Find your local number

Those wishing to comment on the proposed rule amendments may make oral comments or submit information at the hearing or may submit written comments by July 30, 2025, by 1:30 p.m. by mail or email. Please mail written comments to Carmen Austin, EMNRD, Forestry Division, 1220 South St. Francis Drive, Santa Fe, NM 87505 or submit comments by email to carmelitam.austin@emnrd.nm.gov.

Technical Information that served as a basis for the proposed rule amendments includes:

Article 10 Natural Heritage Conservation Act, Sections 75-10-1 to 75-10-9 NMSA 1978.

Copies of the technical information can be obtained from Carmen Austin at (505) 617-0119 or carmelitam.austin@emnrd.nm.gov or can be viewed on the EMNRD, Forestry Division's website at <https://www.emnrd.nm.gov/sfd/public-meetings-hearings/>.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Carmen Austin at (505) 617-0119 or through the New Mexico Relay Network at 1-800-659-1779 two weeks prior to the hearing. Public documents can be provided in various accessible formats. Please contact Carmen Austin at (505) 617-0119 or by email at carmelitam.austin@emnrd.nm.gov if a summary or other type of accessible format is needed.

**ENVIRONMENT,
DEPARTMENT OF**

**NEW MEXICO
ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF RULEMAKING
HEARING TO CONSIDER
ADOPTION OF
PROPOSED NEW RULE
20.2.92 NMAC - CLEAN
TRANSPORTATION FUEL
PROGRAM
(EIB 25-23(R))**

The New Mexico Environmental Improvement Board ("EIB") will hold a public hearing beginning on September 22, 2025, at 9:00 am through October 3, 2025, resuming at 9:00 am on November 17, 2025 and continuing as long as required to hear all testimony, evidence, and

public comment, to consider EIB 25-23(R): In the Matter of Proposed Adoption of 20.2.92 NMAC – Clean Transportation Fuel Program (“Petition”) to adopt Proposed New Rule 20.2.92 NMAC Clean Transportation Fuel Program, Exhibit B to the Petition (“Proposed New Rule 20.2.92 NMAC”) as supported by the technical information set forth in the Statement of Reasons, Exhibit A to the Petition (“Statement of Reasons”). The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person hearing will be held at the Willie Ortiz Building, Willie Ortiz Auditorium, 2600 Cerrillos Road, Santa Fe, New Mexico 87505. The EIB may make a final decision on Proposed New Rule 20.2.92 NMAC at the conclusion of the hearing or may convene a later meeting for that purpose. The hearing will be conducted in accordance with 20.1.1 NMAC, Rulemaking Procedures – Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; and other applicable procedures, including pursuant to any orders from the EIB and appointed hearing officer.

Detailed information concerning the hearing, including the meeting room location, additional hearing details and access details such as times and how to participate or attend the hearing remotely, can be found on the New Mexico Environment Department (“NMED”) calendar (<https://www.env.nm.gov/events-calendar/>) under the calendar entry corresponding to the hearing start date. For more information, please contact the EIB Administrator at (505) 660-4305 or pamela.jones@env.nm.gov.

Additionally, the NMED Office of Public Facilitation maintains NMED’s docketed matters website, which includes the Petition, Statement of Reasons, and Proposed New Rule 20.2.92 NMAC, as well as any orders from the EIB and appointed hearing officer governing the conduct of the

hearing. The docket for EIB 25-23(R) may be accessed by visiting the website (<https://www.env.nm.gov/opf/docketed-matters/>), navigating to the ‘Environmental Improvement Board’ dropdown menu, and then accessing the files under the ‘EIB 25-23: In the Matter of Proposed Adoption of 20.2.92 NMAC – Clean Transportation Fuel Program’ dropdown menu. Paper copies of the Petition, Statement of Reasons, and Proposed New Rule 20.2.92 NMAC are available at all of NMED’s offices statewide. The Petition, Statement of Reasons, and Proposed New Rule 20.2.92 NMAC are available electronically at (<https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2025/05/2025-05-16-EIB-25-23-petition-to-Adopt-20.2.92-NMAC-CTFP-pj.pdf>).

The purpose of the hearing is for the EIB to consider and take possible action on the Petition by NMED requesting the EIB to adopt the Proposed New Rule 20.2.92 NMAC. The purpose of Proposed New Rule 20.2.92 NMAC is to establish the Clean Transportation Fuel Program (“CTFP”), a market-based program, that sets the statewide, technology-neutral Clean Transportation Fuel Standard (“CTFS”) to reduce the carbon intensity of transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico by a minimum of 20% below 2018 carbon intensity levels by 2030 and by a minimum of 30% below 2018 carbon intensity levels by 2040, as set by the New Mexico Legislature in the Environmental Improvement Act, NMSA 1978, Section 74-1-18. The EIB is authorized to adopt rules regarding the carbon intensity of transportation fuel pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-5, 74-1-8(A)(15), and 74-1-18. Environmental Improvement Act, NMSA 1978, Section 74-1-18 requires the EIB to promulgate rules to initiate the CTFP no later than July 1, 2026. Proposed New Rule 20.2.92 NMAC is also part of a broader state effort

to reduce greenhouse gas emissions in keeping with Governor Lujan Grisham’s Executive Order 2019-003 On Addressing Climate Change and Energy Waste Prevention (https://www.governor.state.nm.us/wp-content/uploads/2019/01/EO_2019-003.pdf).

Proposed New Rule 20.2.92 NMAC assigns a carbon intensity to a transportation fuel based on the fuel’s greenhouse gas lifecycle analysis. The carbon intensity of a transportation fuel measures all greenhouse gas emissions from that fuel’s “well-to-wheel” lifecycle, including production, blending, distribution, and use. Proposed New Rule 20.2.92 NMAC applies to “transportation fuel,” which means “electricity or a liquid, gaseous or blended fuel, including gasoline, diesel, liquefied petroleum gas, natural gas and hydrogen, sold, supplied, used or offered for sale to power vehicles or equipment for the purposes of transportation.” Proposed New Rule 20.2.92 NMAC sets conditions for how the CTFP assesses the carbon intensity of a transportation fuel against an applicable 2018 baseline and allows any regulated party producing, importing, or dispensing fuel with a carbon intensity below the standard, including innovative gasoline, diesel, and jet fuel variations, to earn credits. A regulated party producing, importing, or dispensing a transportation fuel with a carbon intensity above the standard generates deficits, which they must offset by purchasing enough credits from a credit generator to meet the current year’s carbon intensity standard. Additional information is available on NMED’s CTFP webpage (<https://www.env.nm.gov/climate-change-bureau/clean-fuel-program/>).

PUBLIC PARTICIPATION: The EIB’s hearings and meetings are open to the public, and the general public is encouraged to participate. All interested persons will be given a reasonable opportunity to participate by filing a notice of intent to present technical testimony, filing an entry

of appearance, or participating as a member of the general public. "Technical testimony" means scientific, engineering, economic or other specialized testimony, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing. "General public" includes any person attending a hearing who has not submitted a notice of intent to present technical testimony.

Any member of the general public may testify at the hearing. Any person who provides testimony at the hearing is subject to cross-examination on the subject matter of his or her direct testimony and matters affecting his or her credibility. Any person attending the hearing is entitled to conduct such cross-examination as may be required for a full and true disclosure of matters at issue in the hearing. All testimony will be taken under oath or affirmation which may be accomplished in mass or individually.

No person may discuss ex parte the merits of the proceeding with any EIB member or the appointed hearing officer.

TECHNICAL TESTIMONY:

Any person who intends to present technical testimony at the hearing shall file a notice of intent to present technical testimony with the EIB Administrator at least 20 days prior to the hearing date or in accordance with an order from the EIB or appointed hearing officer and shall be a party. In addition to any requirements a pre-hearing order may have, the notice of intent to present technical testimony shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative

form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules; and (7) serve a copy on NMED.

ENTRY OF APPEARANCE:

Any person may file an entry of appearance as a party. The entry of appearance shall be filed with the EIB Administrator no later than 20 days before the date of the hearing or in accordance with an order from the EIB or appointed hearing officer.

PUBLIC COMMENT: The general public may testify with a written public comment or orally at the hearing. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing. Those wishing to submit a written public comment prior to the hearing may submit the written public comment to the EIB Administrator: <https://nmed.commentinput.com?id=Q7EpmKPeC;pamela.jones@env.nm.gov>, or EIB Administrator, New Mexico Environment Department- Harold Runnels Building, P.O. Box 5469, Santa Fe, NM 87502. Additionally, there will be an opportunity each day of the hearing for oral testimony from members of the general public. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibits are not unduly repetitious of the testimony and comply with 20.1.1.402 NMAC. The appointed hearing officer shall determine the process and times for the general public to testify during the hearing.

ACCESSIBILITY: If any person requires assistance, an interpreter, or an auxiliary aid to participate in this process, please contact the EIB

Administrator at least 14 days prior to the hearing date at 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502, telephone (505) 660-4305, or email pamela.jones@env.nm.gov (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

NOTICE OF

NONDISCRIMINATION: NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, 505-827-2855, nd.coordinator@env.nm.gov. If you believe that you have been discriminated against with respect to an NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.

ENVIRONMENT DEPARTMENT

JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO

AVISO DE AUDIENCIA DE REGLAMENTACIÓN PARA CONSIDERAR LA ADOPCIÓN DE LA NUEVA NORMA PROPUESTA 20.2.92

**NMAC - PROGRAMA DE
COMBUSTIBLES LIMPIOS
PARA EL TRANSPORTE (EIB
25-23(R))**

La Junta de Mejora Ambiental de Nuevo México ("EIB" por sus siglas en inglés) llevará a cabo una audiencia pública que comenzará el 22 de septiembre de 2025 a las 9:00 a. m. hasta el 3 de octubre de 2025, reanudando el 17 de Noviembre de 2025 a las 9:00 a. m. y continuando mientras sea necesario para escuchar todos los testimonios, evidencias y comentarios públicos para considerar la EIB 25-23(R): En el Asunto de la Adopción Propuesta de 20.2.92 NMAC - Programa de Combustibles Limpios para el Transporte ("Petición") para adoptar la Nueva Norma Propuesta 20.2.92 NMAC Programa de Combustibles Limpios para el Transporte, Anexo B de la Petición ("Nueva Norma Propuesta 20.2.92 NMAC") según lo respaldado por la información técnica establecida en la Declaración de Motivos, Anexo A de la Petición ("Declaración de Motivos"). La audiencia se llevará a cabo en un formato híbrido para permitir la participación tanto en persona como virtual. La audiencia presencial se llevará a cabo en el Edificio Willie Ortiz, Auditorio Willie Ortiz, 2600 Cerrillos Road, Santa Fe, Nuevo México 87505. La EIB podrá tomar una decisión final sobre la Nueva Norma Propuesta 20.2.92 NMAC al concluir la audiencia o podrá convocar una reunión posterior para ese propósito. La audiencia se llevará a cabo de conformidad con 20.1.1 NMAC, Procedimientos de Reglamentación - Junta de Mejora Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; y otros procedimientos aplicables, incluidas las órdenes de la EIB y el funcionario de audiencias designado.

La información detallada sobre la audiencia, incluidos la ubicación de la sala de reuniones, detalles adicionales sobre la audiencia y el acceso, como los horarios y cómo participar o asistir a la audiencia de

forma remota, se puede encontrar en el calendario del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) (<https://www.env.nm.gov/events-calendar/>) bajo la entrada del calendario correspondiente a la fecha de inicio de la audiencia. Para obtener más información, comuníquese con la administradora de la EIB llamando al (505) 660-4305 o en pamela.jones@env.nm.gov.

Además, la Oficina de Facilitación Pública del NMED mantiene el sitio web de asuntos archivados del NMED, que incluye la Petición, la Declaración de Motivos y la Nueva Norma Propuesta 20.2.92 NMAC, así como cualquier orden de la EIB y del funcionario de audiencias designado que rige la celebración de la audiencia. Se puede acceder al expediente de la EIB 25-23(R) visitando el sitio web (<https://www.env.nm.gov/opf/docketed-matters/>), navegando al menú desplegable de "Junta de Mejora Ambiental" y luego accediendo a los archivos bajo el menú desplegable de "EIB 25-23: En el Asunto de la Propuesta de Adopción de 20.2.92 NMAC - Programa de Combustibles Limpios para el Transporte". Hay disponibles copias impresas de la Petición, la Declaración de Motivos y la Nueva Norma Propuesta 20.2.92 NMAC en todas las oficinas del NMED en todo el estado. La petición, la Declaración de Motivos y la Nueva Norma Propuesta 20.2.92 NMAC están disponibles electrónicamente en (<https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2025/05/2025-05-16-EIB-25-23-petition-to-Adopt-20.2.92-NMAC-CTFP-pj.pdf>).

El propósito de la audiencia es que la EIB considere y tome las medidas necesarias respecto a la Petición del NMED, en la que se solicita a la EIB la adopción de la Nueva Norma Propuesta 20.2.92 NMAC. El propósito de la Nueva Norma Propuesta 20.2.92 NMAC es establecer el Programa de Combustibles Limpios para el

Transporte ("CTFP" por sus siglas en inglés), un programa basado en un mercado que establece el Estándar de Combustibles Limpios para el Transporte ("CTFS" por sus siglas en inglés) estatal, tecnológicamente neutro, para reducir la intensidad de carbono del combustible para el transporte producido en Nuevo México, importado a Nuevo México o dispensado para su uso en Nuevo México en un mínimo del 20 % por debajo de los niveles de intensidad de carbono de 2018 para 2030 y en un mínimo del 30 % por debajo de los niveles de intensidad de carbono de 2018 para 2040, según lo establecido por la Legislatura de Nuevo México en la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-18. La EIB está autorizada a adoptar normas sobre la intensidad de carbono del combustible para el transporte de conformidad con la Ley de Mejora Ambiental, NMSA 1978, Secciones 74-1-5, 74-1-8(A)(15) y 74-1-18. La Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-18, exige que la EIB promulgue normas para iniciar el CTFP a más tardar el 1 de julio de 2026. La Nueva Norma Propuesta 20.2.92 NMAC también forma parte de un esfuerzo estatal más amplio para reducir las emisiones de gases de efecto invernadero, de conformidad con la Orden Ejecutiva 2019-003 de la gobernadora Lujan Grisham sobre el Cambio Climático y la Prevención del Desperdicio de Energía (https://www.governor.state.nm.us/wp-content/uploads/2019/01/EO_2019-003.pdf).

La Nueva Norma Propuesta 20.2.92 NMAC asigna una intensidad de carbono a un combustible para el transporte con base en el análisis del ciclo de vida de los gases de efecto invernadero del combustible. La intensidad de carbono de un combustible para el transporte mide todas las emisiones de gases de efecto invernadero del ciclo de vida "del pozo a la rueda" de ese combustible, que incluye la producción, mezcla, distribución y uso. La Nueva Norma Propuesta 20.2.92 NMAC se aplica al "combustible para el transporte",

que significa “electricidad o un combustible líquido, gaseoso o mezclado, incluidos la gasolina, el diésel, el gas licuado de petróleo, el gas natural y el hidrógeno, vendido, suministrado, usado u ofrecido para la venta para impulsar vehículos o equipos con fines de transporte”. La Nueva Norma Propuesta 20.2.92 NMAC establece condiciones sobre como el CTFP evalúa la intensidad de carbono de un combustible para el transporte en comparación con una línea base aplicable de 2018 y permite que cualquier parte regulada que produzca, importe o dispense combustible con una intensidad de carbono por debajo del estándar, incluidas las variaciones innovadoras de gasolina, diésel y combustible para aviones, obtenga créditos. Una entidad regulada que produzca, importe o dispense un combustible de transporte con una intensidad de carbono superior al estándar genera déficits, lo cual debe compensarse mediante la compra de créditos suficientes a un generador de créditos para cumplir con el estándar de intensidad de carbono del año en curso. Puede encontrar más información en la página web del CTFP de NMED (<https://www.env.nm.gov/climate-change-bureau/clean-fuel-program/>).

PARTICIPACIÓN PÚBLICA: Las audiencias y reuniones de la EIB están abiertas al público y se anima al público en general a participar. Todas las personas interesadas tendrán una oportunidad razonable de participar presentando un aviso de intención de presentar testimonio técnico, presentando un registro de comparecencia o participando como miembros del público. “Testimonio técnico” se refiere a testimonios científicos, de ingeniería, económicos o especializados, pero no incluye argumentos legales, comentarios generales o declaraciones de política o posición sobre los asuntos tratados en la audiencia. “Público en general” incluye a cualquier persona que asista a una audiencia y no haya presentado un aviso de intención de presentar testimonio técnico.

Cualquier miembro del público podrá testificar en la audiencia. Toda persona que preste testimonio en la audiencia estará sujeta a contrainterrogatorio sobre el tema de su testimonio directo y sobre cuestiones que afecten su credibilidad. Toda persona que asista a la audiencia tendrá derecho a realizar el contrainterrogatorio que sea necesario para una divulgación completa y veraz de los asuntos tratados en la audiencia. Todos los testimonios se tomarán bajo juramento o afirmación, que podrá realizarse en masa o de forma individual.

Ninguna persona podrá discutir *ex parte* los méritos del procedimiento con ningún miembro de la EIB ni con el oficial de audiencia designado.

TESTIMONIO TÉCNICO: Toda persona que pretenda presentar testimonio técnico en la audiencia deberá presentar un aviso de intención de presentarlo a la administradora de la EIB al menos 20 días antes de la fecha de la audiencia o de conformidad con una orden de la EIB o del funcionario de audiencias designado, y será parte. Además de los requisitos que pueda exigir una orden previa a la audiencia, el aviso de intención de presentar testimonio técnico deberá: (1) identificar a la persona a la que el/los testigo(s) declarará(n); (2) identificar a cada testigo técnico que la persona pretenda presentar e indicar sus cualificaciones, incluidas la descripción de su historial académico y profesional; (3) si la audiencia se va a llevar a cabo en varias ubicaciones, indicar la ubicación o ubicaciones en las que estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y (6) enumerar y adjuntar todos los documentos que se prevé que dicha persona presente en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de las normas; y (7) entregar una copia al NMED.

REGISTRO DE

COMPARECENCIA: Cualquier persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de la EIB a más tardar 20 días antes de la fecha de la audiencia o de conformidad con la orden de la EIB o del funcionario de audiencias designado.

COMENTARIOS PÚBLICOS: El público en general podrá testificar mediante comentarios públicos por escrito o de forma oral en la audiencia. Quienes deseen presentar una declaración por escrito para que conste en actas, en lugar de prestar testimonio oral en la audiencia, deberán presentarla antes de la audiencia o durante la misma. Quienes deseen presentar comentarios públicos por escrito antes de la audiencia pueden hacerlo a la administradora de la EIB: <https://nmed.commentinput.com?id=Q7EpmKPeC; pamela.jones@env.nm.gov>, o por correo postal a: Administradora de la EIB, Departamento de Medio Ambiente de Nuevo México, Harold Runnels Building, P.O. Box 5469, Santa Fe, NM 87502. Además, cada día de la audiencia se proporcionará oportunidad para que el público general preste testimonio oral. No se requiere aviso previo para presentar testimonio no técnico en la audiencia. Dichos miembros también podrán presentar pruebas instrumentales no técnicas en relación con su testimonio, siempre que estas no sean repetitivas y cumplan con la sección 20.1.1.402 NMAC. El funcionario de audiencias designado determinará el proceso y los horarios para que el público general preste testimonio durante la audiencia.

ACCESIBILIDAD: Si alguna persona requiere asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso, comuníquese con la administradora de la EIB al menos 14 días antes de la fecha de la audiencia en 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502; por teléfono llamando

al teléfono (505) 660-4305; por correo electrónico en pamela.jones@env.nm.gov (los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

AVISO DE NO

DISCRIMINACIÓN: El NMED no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y regulaciones aplicables. El NMED es responsable de coordinar los esfuerzos de cumplimiento y recibir consultas sobre los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, en su forma enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas a la Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, 505-827-2855, nd.coordinator@env.nm.gov. Si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede comunicarse con la coordinadora de no discriminación identificada anteriormente.

FINANCE AND ADMINISTRATION, DEPARTMENT OF LOCAL GOVERNMENT DIVISION

NOTICE OF EXTENSION OF COMMENT PERIOD

The Department of Finance and Administration's ("DFA") Infrastructure Planning and Development Division (the Division) is proposing to repeal and replace the New Mexico Administrative Code (NMAC) rule 2.110.2 NMAC, *Procedures for Applying for a Small Cities Community Development Block Grant* to address liability associated with non-compliance by grant recipients and align with updated requirements set out in federal regulations.

Section 9-6-21, NMSA 1978, as amended, requires Infrastructure Planning and Development Division to provide assistance to local governments, councils of governments, and tribal governments in administering funding to complete capital projects.

Adoption Date: Proposed as July 1, 2025

Technical Citations: 2.110.2 NMAC

The DFA held a public rule hearing on the above-referenced rule on May 28, 2025, at 9:00 am, via Microsoft Teams and in-person at Mabry Hall, New Mexico Public Education Department. Due to technical difficulties with the Microsoft Teams link, some members of the public were unable to join virtually.

To ensure full and fair opportunity for public participation, the DFA is extending the comment period by one additional week.

Written Comments will now be accepted through June 4, 2025, at 12:00 p.m. MT

Comments may be submitted via:

Email: dfalegal@dfa.nm.gov
Mail: 407 Galisteo St, Santa Fe, NM 87501
Phone: (505) 827-4985

All comments received by the extended deadline will be considered prior to finalizing the proposed rule.

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

For questions, please contact the Hearing Officer, Rudy Anaya, at rudy.anaya@dfa.nm.gov.

These proposed rule changes will be contained in 2.110.2 NMAC. The register and the proposed rule are available on the Division website at: <https://www.nmdfa.state.nm.us/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting DFA Office of General Counsel at dfalegal@dfa.nm.gov and (505) 827-4985.

The IPDD proposes to implement this rule effective July 1, 2025.

Recorded comments may be left at (505) 827-4985. Interested persons may also address comments via electronic mail to: dfalegal@dfa.nm.gov. Written mail, electronic mail and recorded comments must be received no later than 12:00 p.m. MT on June 4, 2025. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the DFA website at <https://www.nmdfa.state.nm.us/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

GENERAL SERVICES DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

The New Mexico General Services Department, Transportation Services Division, ("GSD" or "Department" or "TSD") hereby gives notice that

the Department will conduct a public hearing as indicated to obtain input on the following rule revisions:

Amending 1.5.3.1 NMAC - **ADMINISTRATION AND USE OF STATE VEHICLES** current rule and replacing it with the following rule: (updated rule).

SUMMARY AND PURPOSE OF THE PROPOSED RULE:
Clarifying and updating the Rule on the administration and use of state vehicles and updating and amending provisions including provisions on GPS usage and documentation and utilization.

PUBLICATION: The proposed rule is posted at the GSD website, and, on the Sunshine Portal.

A public hearing regarding the rules will be held on July 29, 2025, at 10:00 A.M., in the conference room of the Facilities Management (FMD) T-187 Building, 2542 Cerrillos Rd., Santa Fe, New Mexico 87505.

HOW TO COMMENT ON THE PROPOSED RULE: Interested individuals may testify regarding the proposed rulemaking relating to Administration and Use of State Vehicles, 1.5.3.1 NMAC. Written comments may also be submitted no later than the date of the public hearing to: Joe Vigil, PIO, Office of the Secretary, New Mexico General Services Department, Room 1004, 1100 St. Francis Drive, Santa Fe, New Mexico 87505 or Joe.Vigil@gsd.nm.gov. All written comments will be posted on the agency website within 3 days of receipt.

PROPOSED RULE COPIES: The public hearing agenda and the full text of the proposed rule may be accessed on the General Services Department website <http://www.generalservices.gsd.nm.gov> or obtained from the Office of the Secretary, New Mexico General Services Department, Room 1004, 1100 St. Francis Drive, Santa Fe, New Mexico 87505 or by calling the

main number at the General Services Department: 505-827-2000.

SPECIAL NEEDS: Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact the main number at the office of the General Services Department (contact information provided above). The Department requests at least seven days of advance notice (i.e., by close of business, 5:00 P.M., Tuesday, July 8, 2025) for all requests regarding special accommodation for the public.

STATUTORY AUTHORITY: Section 9-17-5 NMSA 1978, and Section 15-8-1, et seq., NMSA 1978.

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

NOTICE OF EMERGENCY RULEMAKING

The Health Care Authority (HCA) Income Support Division (ISD) implemented a temporary emergency rule which was effective May 1, 2025, this does not permanently amend or repeal the existing rule and will only remain in effect until this permanent rule takes effect under the normal rule making process.

On March 21, 2025, a Federal Register was issued by Health and Human Services (HHS) notice of change of Eligibility Period for Refugee Cash and Medical Assistance. The eligibility period is being changed from 12 months to four months for participants who become eligible for Office of Refugee Resettlement (ORR) benefits 45 days after publication. ORR determined that it must shorten the RCA and RMA eligibility period to four months to avoid a significant budget shortfall. The language update will mirror the language in 45 CFR 400.211 <https://www.ecfr.gov/current/title-45/section-400.211>. This

rule is necessary to ensure HCA is in compliance with federal regulations.

The proposed rule changes to the New Mexico Administration Code (NMAC) will be to 8.119.100 NMAC, 8.119.410 NMAC.

This action is authorized under Chapter 9, Article 8, NMSA 1978 (Repl. 1983), which grants the Department Secretary the authority to establish rules and regulations necessary for the Department and its divisions. Regulations issued pursuant to the act are contained in 45 CFR Parts 400. Administration of the Health Care Authority (HCA), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

The register and rule language is available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/income-support-division-registers-2/>. If you do not have internet access, a copy of the final register and rules may be requested by contacting HCA Office of the Secretary at (505) 827-7750.

PUBLIC HEARING:

A hybrid public hearing to receive testimony on this proposed rule will be held, pursuant to Section 14-4-5.6 NMSA 1978, on Friday July 25, 2025, at 10:00 a.m.,–11:00 a.m. You may join in person, virtually, or by phone. You may join in person at: HCA Income Support Division Office at 4363 Jager Dr NE, Rio Rancho, NM 87144.

You may join virtually from your computer, tablet or smartphone: Microsoft Teams Need help? Meeting ID: 281 929 251 602 8 Passcode: Qa7SJ9gt Dial in by phone +1 505-312-4308,,783673944# United States, Albuquerque (888) 506-1357,,783673944# United States (Toll-free) Find a local number Phone conference ID: 783 673 944# For organizers: Meeting options | Reset dial-in PIN Get the app now and be ready when your first meeting starts: Join the meeting now.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at Office-505-709-5468, Fax-505-827-6286 or through the New Mexico Relay system, toll free at #711. The Authority requests at least a 10-day advance notice to provide the requested alternative formats and special accommodations.

Written comment may be dropped off during the scheduled hearing time at the HCA Income Support Division Office at 4363 Jager Dr NE, Rio Rancho NM 87144. All written comments will be posted on the agency website within 3 days of receipt.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling (505) 819-8118.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, July 25, 2025. Please send comments to:
Income Support Division P.O. Box 2348, Santa Fe, NM 87504-2348

Recorded comments may be left at (505) 819-8118. You may send comments electronically to: HCA-isdrules@hca.nm.gov. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The New Mexico Health Care Authority (HCA), through the Medical Assistance Division

(MAD), is proposing New Mexico Administrative Code (NMAC) rule 8.321.12, Specialized Behavioral Health Services, Certified Community Behavioral Health Clinics (CCBHC). CCBHC is a new Medicaid program, effective January 1, 2025. This is a new section of the NMAC to establish rules for the CCBHC program in New Mexico.

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

Notice Date: June 24, 2025

Hearing Date: July 25, 2025

Adoption Date: Proposed as December 1, 2025

Technical Citations: Section 223 of the Protecting Access to Medicare Act of 2014, Public Law 113-93, as amended by the Section 11001 of the Bipartisan Safer Communities Act of 2022, Public Law 117-159

Background

These rules establish the CCBHC program, define the criteria and process that the HCA and the Children, Youth and Families Department shall use to recognize and verify CCBHCs and provides instruction for service provision under the New Mexico medical assistance program (MAP). These rules specify the standards for the CCBHC application, certification, payment and oversight process.

I. RULE

This register and the proposed rule are available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/comment-period-open-2025/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

II. EFFECTIVE DATE

The HCA proposes implementing this rule effective December 1, 2025.

III. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held on July 25, 2025, at 9:30 a.m. Mountain Time. The hearing will be held at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Microsoft Teams.

Join Teams Meeting

Meeting ID: 296 881 845 003

Passcode: N3Yy3xz6

Dial in by phone

+1 505-312-4308, United States, Albuquerque

Phone conference ID: 203 861 540#

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

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

IV. ADDRESS

Interested persons may address written comments to:

New Mexico Health Care Authority
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: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5:00 p.m. MT on July 25, 2025**. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All

written comments received will be posted as they are received on the HCA website at <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/comment-period-open-2025/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING DOCKET NO. 23-00119-UT

The New Mexico Public Regulation Commission (“Commission”) gives notice of its initiation of a formal rulemaking to promulgate amendments to its procedural rules at Title 1, Chapter 2, Part 2 of the New Mexico Administrative Code. A rule which may be adopted as the final rule by the Commission may include all, part, or none of the language in the proposed rule.

Summary and concise statement of proposed rule: The objective of the Proposed Rule is to establish procedures for handling matters before the commission concerning its regulation of utilities, telecommunications providers, owners and operators of gas and hazardous liquid pipelines and underground facilities, excavators, and one-call notification systems subject to the jurisdiction of the commission in New Mexico.

Legal authority: Sections 62-8-3, 62-13-2, 62-14-9.1, 62-14-10, 62-19-9, 62-19-21, 63-7-23, 63-9-11, 63-9A-5.1, 63-9A-11, 63-9B-5, 63-9H-10, and 70-3-13 NMSA 1978.

How a copy of the full text of the proposed rule may be obtained: A copy of the full text of the proposed rule and instructions on how to access the complete rulemaking record, reports, and other items filed in the commission’s e-docket system may

be obtained from the Rulemaking Proceedings section of the Commission’s website at <https://www.prc.nm.gov/rulemaking-proceedings/> under Docket No. 23-00119-UT or by calling LaurieAnn Santillanes in the Office of General Counsel at (505) 670-4830.

How a person may comment on the proposed rule, where comments will be received, and when comments are due:

Written initial comments may be filed no later than **August 21, 2025**, written response comments may be filed no later than **September 8, 2025**. Filed comments shall refer to Docket No. 23-00119-UT. Comments may be electronically filed by sending them in PDF format to prc.records@prc.nm.gov. All written comments will be posted on the Commission’s e-Docket website within three days of their receipt by the Commission’s Records Management Bureau.

The record of this case closes on **September 29, 2025**. From that date through the completion of this proceeding, rulemaking participants shall be forbidden from communicating with the Commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person may participate in the hearing: A public hearing on the proposed rule and any proposed alternatives, to be presided over by the Commission or its designee, shall be held beginning at **10:00 a.m. on August 28, 2025**, at the Commission’s offices located at 142 W. Palace, Santa Fe, New Mexico, 87505, and via the Zoom video-conferencing platform.

Any interested person who wishes to make a comment at the hearing may contact Patrick Rodriguez via email at public.comment@prc.nm.gov or by phone at (505) 490-7910 as soon as possible before the start of the hearing to sign up as a commenter to sign up as a commenter. The Commission shall email a Zoom invitation to all

commenters. The Zoom invitation shall include a call-in number for those commenters who are unable to access Zoom’s video-conferencing platform. The public comment hearing shall be held to receive oral comments. All commenters may be limited in time to speak, subject to the discretion of the Commission or its designee. The Commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public hearing. No testimony or other evidence shall be taken at the hearing as this is a rulemaking proceeding. The subject of public comments shall be relevant to matters within the Commission’s jurisdiction. A court reporter shall prepare a transcript of the hearing for filing in this docket.

Any person with a disability requiring special assistance to participate in the hearing should contact the **Office of Director of Administrative Services of the Commission at (505) 827-8019** as soon as possible prior to the commencement of the hearing.

Technical information that served as a basis for the proposed rule and how the information can be obtained:
N/A.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Office of Superintendent of Insurance (OSI or Superintendent) will hold a public hearing in person, via video conference, and via telephone conference regarding a repeal of 13.10.34.24 NMAC, Continuing Education, repeal of 13.10.36 NMAC, Health Care Affordability Fund, and new rule 13.10.37 NMAC, Dental Plan Provider Requirements. **This hearing**

in this rulemaking will commence on Tuesday, July 29, 2025, at 10:00 a.m., MDT.

PURPOSE OF THE PROPOSED

RULE: The purpose of this rulemaking is to: **1)** repeal the requirements in 13.10.34.24 NMAC, Continuing Education, this rule will be reconsidered and submitted in a future rulemaking; **2)** repeal 13.10.36 NMAC, Health Care Affordability Fund, because the authority for the fund was transferred to the Health Care Authority in Senate Bill 14 during the 2024 legislative session, effective on July 1, 2024; and **3)** promulgate new rule 13.10.37 NMAC, Dental Plan Provider Credentialing Requirements to comply with the provisions in House Bill 402 enacted in the 2025 legislative session. House Bill 402 is effective on June 20, 2025. House Bill 402 will be codified at 59A-23G-13 NMSA 1978.

STATUTORY AUTHORITY:

Sections 14-4-1 *et seq.*, NMSA 1978, State Rules Act, and Sections 59A-2-8, 59A-2-9, and 59A-23G-13 NMSA 1978.

TO ATTEND THE HEARING IN PERSON: Office of Superintendent of Insurance - 1120 Paseo de Peralta, (PERA Building), 4th Floor Hearing Room, Santa Fe, NM 87501

PLEASE NOTE: The entrance to the PERA Building is on the ground floor. All guests must sign in with the ground floor receptionist, then each guest will be escorted to the 4th Floor Hearing Room. Please give yourself extra time to check in before 10:00 a.m.

TO ATTEND THE HEARING BY ELECTRONIC VIDEO CONFERENCE VIA MS TEAMS MEETING:

Please copy the link below into your browser to get to the video conference meeting:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MjczYjIYWQ

tZWM5Ny00OTMxLWE1MjYtNmRlM2U3NTU3NjBm%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%2292f8d9f0-87c0-44c3-9357-ba0eb6121f10%22%7d

Meeting ID: 259 794 478 970 9
Passcode: p2xy7Xu2

TO ATTEND VIA TELEPHONE:

+1 505-312-4308 Phone Conference
ID: 661 331 405#

PUBLIC COMMENT: The Superintendent designates Taskeen Naz as the hearing officer for this hearing. Oral comments will be accepted at the public hearing from members of the public and other interested parties in-person or via electronic video conference. Copies of the Notice of Proposed Rulemaking and proposed rule are available by electronic download from the OSI eDocket (<https://edocket.osi.state.nm.us/case-view/6133>). You may also request copies if the Notice of Proposed Rulemaking and proposed rule by emailing Brenda Newell at: brenda.newell@osi.nm.gov or by phone at: 505-487-0695, email communication is preferred. Any copies of the Notice of Proposed Rulemaking, proposed rules, and any updates concerning the hearing date, time, or location will be available by visiting the OSI website at: <https://www.osi.state.nm.us/pages/bureaus/legal/resources/laws-rules> or on the Sunshine Portal at: https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic (from the “Agency” drop down menu, select “Office of Superintendent of Insurance”)

Written comments will be accepted through 4:00 p.m. on Thursday, July 24, 2025. Responses to written comments or to oral comments delivered at the hearing will be accepted through 4:00 p.m. on Wednesday, July 30, 2025. All comments shall be filed electronically through the OSI eDocket. Please copy the following link into your

browser to get to the eDocket: <https://edocket.osi.state.nm.us/case-view/6133>

Written comments may be sent via U.S. mail to:

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

Written comments must be received by OSI and stamped as accepted between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review and consider all timely submitted written comments and written responses. For help submitting a filing, please contact osi-docketfiling@state.nm.us. **The docket number and title below, must be indicated on all written comments submitted to the OSI:**

Docket No. 2025-0092 – Please copy the following link into your browser to get to the eDocket: <https://edocket.osi.state.nm.us/case-view/6133>

IN THE MATTER OF REPEAL OF 13.10.34.24 NMAC, REPEAL OF 13.10.36 NMAC, AND NEW RULE 13.10.37 NMAC

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Andrea Padilla, at 505-531-7171 no later than ten (10) business days prior to the hearing.

End of Notices of Rulemaking and Proposed Rules

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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.

**ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
STATE PARKS DIVISION**

The Energy, Minerals and Natural Resources Department approved at its 6/10/2025 hearing to repeal its rule 19.5.1 NMAC, General Provisions, filed 1/1/2025, and replace it with 19.5.1 NMAC, General Provisions adopted on 6/10/2025 and effective 7/1/2025.

**ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
STATE PARKS DIVISION**

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 5 STATE PARKS
AND RECREATION
PART 1 GENERAL
PROVISIONS**

19.5.1.1 ISSUING
AGENCY: Energy, Minerals and Natural Resources Department, State Parks Division.
[19.5.1.1 NMAC - Rp, 19.5.1.1 NMAC, 07/01/2025]

19.5.1.2 SCOPE: 19.5.1 NMAC applies to persons using the New Mexico state parks system.
[19.5.1.2 NMAC - Rp, 19.5.1.2 NMAC, 07/01/2025]

19.5.1.3 STATUTORY
AUTHORITY: 19.5.1 NMAC is authorized pursuant to Subsection E of Section 9-1-5 NMSA 1978 and Section 16-2-2 *et seq.* NMSA 1978.
[19.5.1.3 NMAC - Rp, 19.5.1.3 NMAC, 07/01/2025]

19.5.1.4 DURATION:
Permanent.
[19.5.1.4 NMAC – Rp, 19.5.1.4 NMAC, 07/01/2025]

19.5.1.5 EFFECTIVE
DATE: July 1, 2025, unless a later date is cited at the end of a section.
[19.5.1.5 NMAC – Rp, 19.5.1.5 NMAC, 07/01/2025]

19.5.1.6 OBJECTIVE:
19.5.1 NMAC’s objective is to identify general provisions and definitions, which apply to parts in Title 19, Chapter 5.
[19.5.1.6 NMAC – Rp, 19.5.1.6 NMAC, 07/01/2025]

19.5.1.7 DEFINITIONS:

A. “Authorized areas” means locations, places, sites, regions, zones or spaces identified by the director or, for purposes of hunting or fishing, the state game commission. These areas may be defined with signs or other appropriate proclamation or means. For purposes of bowfishing, authorized areas include all parks where fishing is allowed.

B. “Active-duty military” means a New Mexico resident who is currently enlisted, drafted, inducted or commissioned in the:

(1) armed forces of the United States and was accepted for and assigned to active duty in the armed forces of the United States;

(2) army reserve, navy reserve, marine corps reserve, air force reserve, coast guard reserve, space force reserve, army national guard or air national guard and was accepted and assigned to duty; or

(3) United States public health

service commissioned corps or the national oceanic and atmospheric administration commissioned officer corps and served in the capacity of a commissioned officer while on active duty in defense of the United States.

C. “Boating and rafting excursions” means a guiding service for boating or rafting trips offered to the general public.

D. “Camping” means the temporary use of division administered lands and waters for the purpose of overnight occupancy.

E. “Capital improvement” means a construction project by a concessionaire to the concession premises that is not maintenance or repair and that costs at least \$1,000.

F. “Commercial activity” means for-profit sales or services but does not include the operation of vending machines unless the vending machine is operated as part of a larger concession operation.

G. “Commercial charter bus” means a bus transporting a group of persons who pursuant to a common purpose, and under a single contract at a fixed price, have acquired the exclusive use of a bus to travel together under an itinerary.

H. “Commercial filming” means the use of motion picture, videotaping, sound recording or other moving image or audio recording equipment that involves the advertisement of an event, product or service; or the creation of a product for sale including film, videotape, television broadcast or documentary of participants in commercial sporting or recreation events for the purpose of generating income.

I. “Commercial photography” means still images taken with a camera that the photographer intends to sell.

J. “Concession”
means commercial activity conducted within a park the department has authorized in writing.

K. “Concessionaire”
means the owner or operator of a concession who operates pursuant to a department-issued concession contract.

L. “Concessions administrator” means a division employee who maintains records and documentation concerning concession contracts and concession permits.

M. “Concession contract” means an agreement between the department and a person, or business entity, which allows the concessionaire to provide services, merchandise, accommodations or facilities within a park. The concessionaire may or may not occupy a permanent structure or location within the park. The concession contract’s term shall not exceed 30 years pursuant to Section 16-2-9 NMSA 1978.

N. “Concession permit” means a permit the department issues to a person or business entity to provide commercial activities, including services or goods in a park for a period of up to one year. The fee for a concession permit is established in 19.5.6 NMAC. Services the division may authorize under a concession permit include guiding and outfitting services for fishing, boating and rafting excursions; educational and park resource protection services; and other services or goods, including commercial services, that enhance visitors’ experience and enjoyment, such as sales of firewood, propane, ice, food or refreshments.

O. “Concession permittee” means the holder of a department-issued concession permit.

P. “Cultural property” means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance.

Q. “Department”
means the energy, minerals and natural resources department.

R. “Developed Camping” a developed camping site is a designated area for camping that includes infrastructure and amenities like restrooms, fire pits, picnic tables, and sometimes even utility hookups.

S. “Director” means the director of the energy, minerals and natural resources department, state parks division.

T. “Director designee” means persons the director appoints including deputy directors, bureau chiefs, regional managers and park superintendents.

U. “Division” means the energy, minerals and natural resources department, state parks division.

V. “Flotation assist device” means a wet suit or wearable flotation device in good condition capable of providing flotation to the wearer on the water’s surface.

W. “Geocaching”
means an outdoor treasure-hunting activity in which the participants use a global positioning system receiver or other navigational means to hide or find containers called “geocaches” or “caches”.

X. “Gross receipts from sales and services” means the total amount of receipts from sales and services.

Y. “Guide” means an individual or an employee of an outfitter who is hired to escort or accompany clients in fishing, rafting or boating.

Z. “Letter boxing”
means an outdoor hobby that combines elements of orienteering, art and puzzle solving. Letter boxers hide small, weatherproof boxes in publicly accessible places and distribute clues to finding the boxes in printed catalogs, on websites or by word of mouth. The activity is characterized by the boxes containing a logbook and a rubber stamp. Letter boxers stamp the box’s logbook with personal rubber stamps and use the box’s stamp to imprint their personal logbooks as proof they found the box.

AA. “NM resident veteran” means a New Mexico resident who:

(1) was regularly enlisted, drafted, inducted or commissioned in the:

(a) armed forces of the United States and was accepted for and assigned to active duty in the armed forces of the United States;

(b) army reserve, navy reserve, marine corps reserve, air force reserve, coast guard reserve, space force reserve, army national guard or air national guard and was accepted and assigned to duty for a minimum of six continuous years; or

(c) United States public health service commissioned corps or the national oceanic and atmospheric administration commissioned officer corps and served in the capacity of a commissioned officer while on active duty in defense of the United States; and

(2) was not separated from such service under circumstances amounting to dishonorable discharge.

BB. “Net receipts from sales and services” means the total amount of receipts from sales and services, less the amount of gross receipts taxes.

CC. “Off highway motor vehicle” means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

(1) “all-terrain vehicle”, which means a motor vehicle 50 inches or less in width, having an unladen dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;

(2) “off-highway motorcycle”, which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and has handlebar-type steering control;

(3) “snowmobile”, which means a motor vehicle designed for travel on snow

or ice and steered and supported in whole or part by skis, belts, cleats, runners or low-pressure tires;

(4)

“recreational off-highway vehicle”, which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:

- (a) a steering wheel for steering control;
- (b) non-straddle seating;
- (c) maximum speed capability greater than 35 miles per hour;
- (d) gross vehicle weight rating no greater than 1,750 pounds;
- (e) less than 80 inches in overall width, exclusive of accessories;
- (f) engine displacement of less than 1,000 cubic centimeters; and
- (g) identification by means of a 17-character vehicle identification number; or

(5) by rule of the department of game and fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

DD. “Other power-driven mobility device” means any mobility device powered by batteries, fuel or other engines – whether or not designed primarily for use by individuals with mobility disabilities – that is used by individuals with mobility disabilities for the purpose of locomotion including golf cars, electronic personal assistance mobility devices, such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair.

EE. “Outfitter” means a person or company who employs guides.

FF. “Park” means an area designated as a state park within the state parks system and that the division manages or owns.

GG. “Park” or **“parking”** means the leaving of a vehicle, camping unit or trailer, whether occupied or not, in a location, other than when engaged in loading or unloading.

HH. “Park management and development plan” means a plan used as a guide for expansion, services, programs and development for the park.

II. “Park support group” means an organization as defined in Section 6-5A-1 NMSA 1978, or an organized group of individuals that volunteers time, services or funds to promote and support the division or an individual park and whose principal purpose as authorized by the division is to complement, contribute to and support, aid the function of or forward the division’s or park’s purposes.

JJ. “Person” means an individual, partnership, firm, corporation, association, joint venture or other entity.

KK. “Personal flotation device” means a United States coast guard approved life preserver, buoyant vest, hybrid device, ring buoy or buoyant cushion.

LL. “Primitive camping” is a specific type of dispersed camping, where you camp within a state park or recreation area without designated campsites or certain amenities.

MM. “Rally” means a parking area or facility designated for group functions.

NN. “Receipts” means consideration in money and in trade received from sales and charges for services.

OO. “Regional manager” means a division employee responsible for several parks within a region.

PP. “Resident” means an individual with a valid New Mexico state identification card or NM license plate on the vehicle.

QQ. “Resource program” means a division employee or employees responsible for the natural and cultural resource protection program.

RR. “Sales and services” means transactions by a concessionaire, or a concessionaire’s agents or employees, for which the concessionaire receives consideration in money or money’s worth in connection with the concession business operated pursuant to the concession contract.

SS. “Secretary” means the secretary of the department.

TT. “Special event facility” means an entire building or structure such as a visitor center, lodge, pavilion or group shelter, or an area designated by the superintendent.

UU. “Utilities” means additional services above and beyond camping such as individual campsite electricity, water and sewer connections that parks may offer that enhance convenience and comfort for users.

VV. “Special use permit” means a permit the division has issued to a person for a non-commercial activity or event in a park.

WW. “State parks system” means land and water in a park.

XX. “Superintendent” means a division employee who is in charge of a specific park; which includes a park superintendent or park manager.

YY. “Vehicle” means an automobile, car, van, sport-utility truck, pickup truck, motorcycle, wagon, buggy or similar device that is used or may be used to transport persons or property on a highway, except devices moved exclusively by human power.

ZZ. “Vending machine” means a coin-operated beverage, snack or service machine subject to division approval.

AAA. “Visitor” means a person who reserves park facilities or enters a park. This definition does not include department employees who are on duty, concessionaires or their employees operating their concession or on duty employees of an entity that owns the property where the park is located.

BBB. "Wheelchair"

means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or both indoor and outdoor locomotion.

CCC. "Working days"

means Monday through Friday, excluding state holidays.
[19.5.1.7 NMAC – Rp, 19.5.1.7 NMAC, 07/01/2025]

History of 19.5.1 NMAC:

Pre NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives.

SPRD 67-1, Rules and Regulations, 07/17/1967;
SPRD 68-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 10/17/1968;
SPRD 69-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 09/11/1969;
SPRD 71-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 11/10/1971;
SPRD 72-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 06/05/1972;
SPRD 73-3, New Mexico Pleasure Boating Requirements and State Park Regulations, 09/14/1973;
SPRD 74-1, New Mexico Pleasure Boating Requirements and State Park Regulations, 02/19/1974;
SPRD 75-1, New Mexico State Park and Recreation Commission Regulations, New Mexico Boating Law, 1975 Edition, 02/24/1975;
SPRD 77-1, New Mexico State Park and Recreation Commission Regulations, New Mexico Boating Law, 1977 Edition, 04/15/1977;
SPRD 79-1, New Mexico Park Regulations and Boating Laws, 07/31/1979;
SPRD 82-1, New Mexico Park Regulations and Boating Laws Revised in 1981, 05/17/1982;
SPRD 87-1, New Mexico State Park Regulations and Boating Laws, Revised in 1987, 05/06/1987;
EMNRD PRD 87-3, Rules Governing Motorboat Registration

and Numbering, Boat Titling and Excise Tax Collections, Security Participation under The Boat Act, 08/06/1987;
EMNRD PRD 89-1, Boat Act Regulations, 12/21/1989;
EMNRD PRD 89-2, New Mexico State Park Regulations, 12/21/1989;
EMNRD PRD 92.1, Boat Act Regulations, 05/20/1992.

**History of Repealed Material:
[RESERVED]****Other History:**

Those portions of EMNRD PRD 89-2, New Mexico State Park Regulations, filed 12/21/1989 and EMNRD PRD 92.1, Boat Act Regulations, filed 05/20/1992 were renumbered, reformatted and replaced by 19 NMAC 5.1, General Provisions, filed 12/17/1996.
19 NMAC 5.1, General Provisions, filed 12/17/1996 renumbered, reformatted, amended and replaced by 19.5.1 NMAC, General Provisions; effective 12/31/2002.
19.5.1 NMAC, General Provisions; filed 12/31/2002, was repealed and replaced by 19.5.1 NMAC, General Provisions; effective 01/01/2025.
19.5.1 NMAC, General Provisions; filed 01/01/2025, was repealed and replaced by 19.5.1 NMAC, General Provisions; effective 07/01/2025.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT STATE PARKS DIVISION

This is an amendment to 19.5.2 NMAC, Sections 12, 13, 14, 32 through 36, and 39, effective 7/1/2025.

19.5.2.12 CAMPING:

A. Visitors may camp in parks in designated areas, provided they obtain a valid camping permit or pass. Visitors shall obtain permits or passes upon entry by paying appropriate fees. See 19.5.6 NMAC. Use of park properties and facilities between the hours of 9:00

p.m. and 6:00 a.m., or as posted by the superintendent, is camping. Check out time, the time the campsite is to be vacated, is 2:00 p.m. unless otherwise posted; however, the camping permit allows day use of the park until 9:00 p.m. or as posted by the superintendent, on the day the camping permit expires. Camping is not available at Cerrillos Hills state park, Living Desert Zoo and Gardens state park, Rio Grande Nature Center state park, Mesilla Valley Bosque state park or Smokey Bear historical park.

B. Campers shall not leave unoccupied any type of vehicle, motorized camper, trailer, tent or other sleeping unit or facility or otherwise leave a campsite unoccupied for more than 24 hours without the superintendent's prior approval. Unoccupied means the camper is not present at the campsite for more than 24 hours.

C. Campers shall always maintain campsites in a clean and sanitary condition. Campers shall clean campsites and place litter only in appropriate disposal containers.

D. Campers in areas or parks designated and posted by the superintendent as pack-in, pack-out, shall carry out supplies and solid waste or other refuse, including human bioproducts, and properly dispose of these items in appropriate waste receptacles outside of the designated area or park.

E. From October 1 through April 30 campers may reside in a park for a maximum of 14 calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. From May 1 through September 30 campers may reside in a park for a maximum of seven calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. Campers shall completely remove camping equipment and gear from the park after reaching the maximum stay limit.

F. The division shall charge fees according to the facilities provided at each campsite, as provided in 19.5.6 NMAC,

regardless of whether the camper uses the facilities at the campsite. For example, camping at a site with electricity requires payment of the fee for a developed site with electrical hookup even if the camper uses no electricity.

G. Vehicles in a park between the hours of 9:00 p.m. and 6:00 a.m., or as posted by the superintendent, are individually subject to the appropriate camping fees. The division considers motor homes towing a vehicle or vehicles towing a camper a single vehicle for 19.5.2.12 NMAC's purposes.

~~**H.** The division may require visitors to pay fees for their entire stay in advance (rather than daily) for weekends, holidays or special events.~~

~~**F]**~~ **H.** Anchoring a boat or vessel overnight within a park constitutes camping and requires a valid camping permit or pass for the anchored boat or vessel unless the visitor has paid camping fees for the towing vehicle.

(1) Visitors may not leave anchored boats or vessels vacant for more than 24 hours without the superintendent's permission. From October 1 through April 30 anchored boats or vessels may remain within a park for a maximum of 14 calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. From May 1 through September 30 anchored boats or vessels may remain within a park for a maximum of seven calendar days during any 20-calendar day period unless the director extends, decreases or waives this limit. Visitors shall completely remove boats or vessels from the park after reaching the maximum stay limit.

(2) ~~[Subsection F]~~ Subsection H of 19.5.2.12 NMAC does not apply to boats or vessels only while they are moored overnight at concession operated facilities such as marinas or buoy lines. Boats or vessels are subject to division camping permits or passes and camping fees when moored overnight at any other

location in the park. Time limits do not apply while boats or vessels are moored at the concession facilities.

~~**[F]**~~ **I.** Reserved campsites shall become available to other visitors if the visitor holding the reservation does not occupy the reserved site or contact the reservations contractor or the park by ~~[4:00 p.m.]~~ 8:00 a.m. the day after the scheduled arrival date. At that time the site will be available to other visitors and reservations. The visitor holding the reservation who failed to file a cancellation is not eligible for a refund.

[19.5.2.12 NMAC - Rp, 19.5.2.12 NMAC, 1/1/2008; A, 1/1/2013; A, 5/15/2018; A, 1/1/2025; A, 7/1/2025]

19.5.2.13 USE OF FACILITIES:

A. Facilities are available on a first come, first served basis except at parks where the division has established a reservation program and a visitor has reserved the facility. Campers shall not save or reserve camping spaces for other individuals even by purchasing additional permits.

B. Visitors using a park facility shall keep it in a clean and sanitary manner and shall leave it in a clean and sanitary condition.

C. Glass containers are prohibited outside vehicles, motor homes, campers, trailers and tents within the state parks system except on established commercial premises.

D. The division has developed and designated special accessible facilities for the use of individuals with disabilities. These facilities are marked with standard ADA signage. Individuals with disabilities shall have preferential use of these facilities over other persons.

E. Visitors shall not remove water from the park for use outside the park or deposit trash generated outside the park within a park.

F. Advance reservations are required for the use of meeting rooms. Meeting rooms are not available in all parks. A person who reserves a meeting room

is responsible for setting up the room, cleaning the room after use and leaving the room in the same condition it was in before use. See 19.5.6 NMAC for meeting room fees.

G. The director may designate areas within the state parks system including campsites, group shelters, group areas, cabins, yurts and lodges for use by reservation.

H. Advance reservations are required for the use of group shelters, group areas or reservation campsites. Visitors shall pay the appropriate day use or camping fees in addition to the fees for use of the facility or area. If visitors make reservations through the division's reservation system contractor, visitors shall pay the reservation processing and cancellation fees the contractor charges. The division may accept annual ~~[permits]~~ passes at reservation campsites if posted. See 19.5.6 NMAC for group shelter fees.

I. The superintendent may restrict the number or size of tents, shade or screen shelters occupying a campsite or day use site by posting the restriction or restrictions in the affected area or areas or by posting on the reservation website.

[19.5.2.13 NMAC - Rp, 19.5.2.13 NMAC, 1/1/2008; A, 12/30/2010; A, 1/1/2013; A, 5/15/2018; A, 1/1/2025; A, 7/1/2025]

19.5.2.14 PARKING:

A. Visitors shall park vehicles, camping units or trailers only in established parking areas or parking turnouts where provided. Visitors shall not park any vehicle, camping unit or trailer in a manner that blocks access, restricts traffic or inhibits the free movement of other vehicles, persons or wheelchairs. Visitors shall not leave a trailer, boat or vessel that is not attached to a vehicle in parking areas or parking turnouts for a period of more than 24 hours without prior approval of the superintendent. At the superintendent's discretion, the division may remove vehicles so parked at the owner's expense.

B. Visitors shall not park a vehicle, camping unit or trailer in a designated disabled parking space unless the visitor's vehicle has registration plates or a state-issued placard indicating disability.

C. The superintendent may restrict the number or size of vehicles, camping units or trailers occupying a campsite, day use site or parking area by posting the restriction or restrictions in the affected area or areas or by posting on the reservation website.

[19.5.2.14 NMAC - Rp, 19.5.2.14 NMAC, 1/1/2008; A, 1/1/2013; A, 1/1/2025; A, 7/1/2025]

19.5.2.32 FEES AND CHARGES:

A. Upon entering a park, visitors shall pay fees and charges in accordance with 19.5.6 NMAC. The visitor shall display applicable permits or passes in accordance with instructions provided with the permit or pass. If a visitor fails to obtain a permit or pass, state park officials may field collect fees.

B. Fees, charges and permit or pass display requirements do not apply to:

(1) government agencies or government officials or employees, including law enforcement and emergency service personnel, who are performing official duties (official duties do not include activities that do not have to occur in a park such as conferences, retreats or training);

(2) non-governmental emergency service personnel, such as private ambulance companies, who are performing their official duties;

(3) persons traveling nonstop through a park on a state or federal highway, county road, federal road or municipal road or street;

(4) on duty news media personnel who are reporting on events or activities within a park and are only in the park to report on those events or activities; or

(5) individuals or groups who are entering the park to provide volunteer services and have signed a volunteer agreement with the division or have arranged with the division to provide volunteer services.

C. Fees and charges do not apply to:

(1) division contractors, suppliers or agents or other persons providing services to a park who are not using the park or its facilities for purposes other than providing services to the park;

(2) concessionaires, concession permittees or their employees or commercial contractors, suppliers and agents who are only traveling to and from the concession and are not using the park or its facilities for personal use;

(3) persons needing to pass through a park to access private property who are only passing through the park and are not using the park or its facilities;

(4) park support group members or volunteers who have a park pass issued pursuant to Subsection D of [19.5.2.36] 19.5.2.39 NMAC; or

D. Visitors not subject to Subsection B of 19.5.2.32 NMAC shall display permits or passes at all times inside a park.

E. The superintendent or director may waive or reduce park fees for primary or secondary school groups, college or university groups, or other organized youth groups or for governmental entities holding such activities as trainings or other educational activities or projects, retreats or conferences at a park.

F. State park officials may issue rain checks for unused, prepaid daily camping activities or the cancellation of a group shelter reservation.

G. The division or its contractors may charge fees in addition to the appropriate use fee for reservation processing and cancellation. The contractor or state park officials shall collect the reservation fee for those park sites where the division has established

a reservation program. See 19.5.6 NMAC. Visitors shall pay the reservation fee in advance with applicable fees for facilities, sites, day use, camping, electricity or other service for the total reservation period.

H. In addition to the appropriate use fees, the division may charge additional fees for special events such as concerts, festivals, etc. The additional fees shall not exceed the value of admission to the special events.

[19.5.2.32 NMAC - N, 1/1/2008; 19.5.2.32 NMAC - Rn & A, 19.5.2.30 NMAC, 1/1/2013; A, 5/15/2018; A, 1/1/2025; A, 7/1/2025]

19.5.2.33 PERMITS AND CONCESSIONS:

Concession-operated campgrounds do not accept division-issued permits/passes.

[19.5.2.33 NMAC - Rp, 19.5.2.28 NMAC, 1/1/2008; A, 12/30/2010; 19.5.2.33 NMAC - Rn, 19.5.2.31 NMAC, 1/1/2013; A, 1/1/2025; A, 7/1/2025]

19.5.2.34 DAY USE AND CAMPING PERMITS:

A. Day use permits.

(1) Day use permits authorize visitors to use park facilities that do not require other fees, such as meeting rooms or group shelters, from 6:00 a.m. to 9:00 p.m.; unless the superintendent has posted different hours.

(2) When purchasing the day use permit visitors shall comply with the instructions on the permit and provide, as requested, their name, address and vehicle license number as well as the date of purchase and the amount enclosed and, if applicable, their site number. Visitors shall also indicate they are visiting the park for day use.

(3) New Mexico residents are exempt from purchasing day use permits from October 1 through April 30 annually.

B. Camping permits. Visitors shall purchase camping permits to camp in a park.

(1) Subject to the availability of a campsite,

camping permits authorize visitors to camp in a park.

(2) When purchasing the camping permit visitors shall comply with the instructions on the permit and provide, as requested, their name, address and vehicle license number as well as their site number, the date of purchase, the amount enclosed and length of stay and, if applicable, their annual [permit] pass number. Visitors shall also indicate they are camping. [19.5.2.34 NMAC - N, 1/1/2008; 19.5.2.34 NMAC - Rn, 19.5.2.32 NMAC, 1/1/2013; A, 1/1/2025; A, 7/1/2025]

19.5.2.35 ANNUAL [PERMITS AND] PASSES:

A. Annual day use passes.

(1) Annual day use passes authorize the vehicle owner or individual to access and use the park at no additional charge during the times indicated in 19.5.2.11 NMAC. Visitors may use annual day use passes at all parks, except at the Living Desert Zoo and Gardens state park, Rio Grande Nature Center state park, and Smokey Bear historical park.

(2) When purchasing an annual day use pass visitors shall comply with the instructions on the pass and provide their name and address.

(3) The division does not issue extra vehicle passes for annual day use passes.

(4) Annual day use passes are non-transferable to individuals not residing in the same household as the original purchaser.

(5) Non-residents may not use a resident annual day use pass.

(6) Annual day use passes that are used in violation of park rules are subject to confiscation.

B. Annual camping [permits] passes.

(1) Annual camping [permits] passes authorize the vehicle owner or individual to access and use the park at no additional charge except for utility

hookups during the times indicated in 19.5.2.12 NMAC. The annual camping [permit] pass allows the visitor one sleeping unit. A motor home towing a vehicle or a vehicle towing a camping trailer is considered a sleeping unit. The visitor shall pay the per night camping fee for additional vehicles.

(2) Annual camping [permits] passes are available for:

(a) New Mexico residents as documented with a current New Mexico driver's license or other state of New Mexico tribal, or federal issued photo identification;

(b) New Mexico residents 62 years of age or older as documented with a current New Mexico driver's license or other state of New Mexico issued photo identification;

(c) New Mexico residents with disabilities who present a New Mexico handicap motor vehicle license plate issued to them; a parking placard for mobility impaired individuals with a placard holder identification card issued to them by the taxation and revenue department, motor vehicle division if the placard was issued before June 4, 2008; a parking placard for mobility impaired individuals with the photograph of the placard holder issued to them by the taxation and revenue department, motor vehicle division if the placard was issued on June 4, 2008 or after; a New Mexico department of game and fish lifetime hunting and fishing card containing their name; or a written determination from the United States social security administration finding that they are currently eligible for social security disability benefits or supplemental security income disability benefits; [or a photocopy of the award letter the United States department of veterans affairs issues indicating they have a one hundred percent service-connected disability;]

(d) A New Mexico resident who is active-duty military. [or an honorably discharged veteran of the

United States military as defined by the New Mexico department of veterans' services. Orders or other documentation (excluding military ID cards) of current active-duty service must be presented to purchase an active-duty military pass. The applicant's DD-214 must be presented to purchase a veteran pass.] The applicant's common access card in addition to a valid New Mexico state identification card must be presented to purchase an active-duty military pass.

(e) all-out-of-state-residents.

(3) When purchasing an annual camping [permit] pass, visitors shall comply with the instructions on the [permit] pass and provide their name; address; if applicable, proof of age or residency; and the license plate number of the vehicle for which the visitor is purchasing the [permit] pass.

(4) Visitors may use annual camping [permits] passes at all parks, except at the Living Desert Zoo and Gardens state park, Rio Grande Nature Center state park, and Smokey Bear historical park.

(5) Annual camping [permits] passes are authorized for use by the person the [permit] pass is issued to as indicated on the [permit] pass receipt and are non-transferable.

C. Annual day use passes and annual camping [permits] passes are valid from January 1 through December 31 annually. Annual day use passes and annual camping [permits] passes for the next calendar year may be purchased beginning July 1 each year. The division shall not make refunds or prorations for [permits or] passes that remain in effect for less than 12 months.

D. Visitors may obtain replacement annual camping [permits] passes and stickers by submitting a signed affidavit describing the facts of the purchase and the [permit's] pass's loss or destruction and the original [permit] pass [or] and proof of purchase. The division shall not issue

replacement annual camping [permits] passes without proof of purchase. The division does not issue replacements for annual day use passes.

E. The division may sell gift certificates for annual day use passes and annual camping [permits] passes.

[19.5.2.35 NMAC - N, 1/1/2008; 19.5.2.35 NMAC - Rn & A, 19.5.2.33 NMAC, 1/1/2013; A, 1/1/2025; A, 7/1/2025]

19.5.2.36 [DISABLED-VETERANS] LIFETIME VETERAN PASSES:

A. Disabled veterans camping passes:

(1) A disabled veterans camping pass authorizes New Mexico resident veterans with a fifty percent or greater service-connected disability to camp at a park at no charge for three nights, consecutive or non-consecutive, within a 12-month period.

(2) To obtain the three one-night passes, an eligible veteran shall apply with the New Mexico department of veterans services for certification that verifies the veteran's disability and residency (current address) and that the New Mexico department of veterans services forwards to the division:

(3) Disabled veterans may obtain replacement camping passes and stickers by submitting a signed affidavit describing the facts of the issuance and loss or destruction of the pass and, if available, the original pass or proof of issuance.

B. Disabled veterans annual day use passes:

(1) Disabled veterans annual day uses passes authorize New Mexico resident veterans with a permanent fifty percent or greater service-connected disability to obtain one annual day use pass at no charge for personal use only. An eligible veteran desiring more than one annual day use pass shall purchase additional annual day use passes at full price.

(2) To obtain an annual day use pass, an eligible

veteran shall apply with the New Mexico department of veterans services for certification that verifies the veteran's disability and residency (current address) and that the New Mexico department of veterans services forwards to the division:

(3) The division does not issue replacements for disabled veterans annual day use passes:]

A. New Mexico resident veterans are eligible for a free lifetime veteran pass that provides the individual with unlimited entry into state parks or recreation areas operated by the division and unlimited use of camping areas operated by the division subject to restrictions outlined in 19.5.2.11 NMAC, 19.5.2.12 NMAC, and 19.5.2.13 NMAC.

B. To obtain a lifetime veteran pass, an eligible veteran shall apply with the New Mexico department of veterans services for certification that verifies the veteran's status and residency.

C. Upon certification of eligibility, the New Mexico department of veterans services will issue all lifetime veteran passes.

D. Lifetime veteran passes are not valid for the following fees:

(1) central reservation system contractor's service fees;

(2) group shelter fees;

(3) or meeting, event and logging facility fees.

[19.5.2.36 NMAC - Rp, 19.5.2.28 NMAC, 1/1/2008; A, 12/30/2010; 19.5.2.36 NMAC - Rn, 19.5.2.34 NMAC, 1/1/2013; A, 7/1/2025]

19.5.2.39 PARK PASSES:

A. Concessionaires. The director or director designee [(see Subsection Q of 19.5.1.7 NMAC)] (See Subsection R of 19.5.7 NMAC) may issue park passes to concessionaires, concession permittees or their employees or commercial contractors, suppliers and agents for access to and from the concession. Concessionaires,

concession permittees or their employees or commercial contractors, suppliers and agents using the park, lake or facilities away from the concession premise shall pay the appropriate fees.

B. Contractors. The director or director designee [(see Subsection Q of 19.5.1.7 NMAC)] (See Subsection R of 19.5.7 NMAC) may issue park passes to division contractors, suppliers or agents or other persons providing services to a park for access to the park. Division contractors, suppliers or agents or other persons providing services to a park using the park or its facilities for purposes other than providing services to a park shall pay the appropriate fees.

C. Access to private property. The director or director designee may issue park passes to persons needing to pass through a park to access private property. Persons with such park passes shall only use the park passes to travel through the park. If they use the park or its facilities they shall pay the appropriate fees.

D. Park support groups and volunteers. The director or director designee may issue park passes to individuals who are members of a park support group that has entered into an agreement with the department or, as provided in division policy, to volunteers who significantly contribute to the division.

E. Complimentary park passes. The director or director designee [(see Subsection Q of 19.5.1.7 NMAC)] (See Subsection R of 19.5.7 NMAC) may issue complimentary passes as rainchecks to visitors for unused services or to resolve visitor complaints about park operation or maintenance.

F. Official use passes. The director may issue "official use only" passes to state government executive branch officials with direct oversight of the division, park advisory board members and state legislators for the performance of their official duties.

G. Advertising and promotions. To promote the parks or

in exchange for advertising or promotion of parks, the director may issue free or discounted park passes or not charge fees if the director obtains the secretary's approval after the division provides the secretary with written justification showing that the issuance of park passes for promotion or advertising or not charging fees for promotional purposes provides a benefit to the division. Reduced rates for advertising must be equal to or exceed the value of the park passes the division provides in exchange for receiving the reduced rates.
[19.5.2.39 NMAC - Rn, 19.5.2.38 NMAC, 6/25/2019; A, 1/1/2025; A, 7/1/2025]

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT STATE PARKS DIVISION

This is an amendment to 19.5.6 NMAC, Sections 10, 11 and 12, effective 7/1/2025.

19.5.6.10 ANNUAL DAY USE PASS (per vehicle):

Resident annual day use pass	\$75.00
Non-resident annual day use pass	\$150.00
[Disabled veterans pass-	No Charge (New Mexico resident veteran with a fifty percent or greater service-connected disability)]

[19.5.6.10 NMAC - Rp, 19 NMAC 5.6.10, 5/1/2004; A, 1/1/2008; A, 7/1/2025]

19.5.6.11 ANNUAL CAMPING ~~[PERMIT]~~ PASS (per vehicle includes one tow vehicle upon request):

New Mexico resident with valid state issued ID	\$300.00
New Mexico senior resident – 62 years or older with valid state issued ID	\$150.00
New Mexico physically disabled resident (see Subsection B of 19.5.2.35 NMAC)	\$150.00
New Mexico active-duty military [or honorably discharged veteran]	\$150.00
Out-of-state resident	\$600.00
<u>Lifetime veteran pass</u>	<u>FREE</u>

19.5.6.11 NMAC - Rp, 19 NMAC 5.6.11, 5/1/2004; A, 1/1/2008; A, 1/1/2013; A, 7/1/2025]

19.5.6.12 REPLACEMENT OF ANNUAL CAMPING ~~[PERMIT]~~ PASS: \$25.00._

[19.5.6.12 NMAC - Rp, 19 NMAC 5.6.12, 5/1/2004; A, 1/1/2008; A, 7/1/2025]

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 6 WATER QUALITY PART 8 GROUND AND SURFACE WATER PROTECTION – SUPPLEMENTAL REQUIREMENTS FOR WATER REUSE

20.6.8.1 ISSUING
AGENCY: Water Quality Control
Commission
[20.6.8.1 NMAC - N, 07/12/2025]

20.6.8.2 SCOPE: All
persons subject to regulation

implemented through the department pursuant to the Water Quality Act, Sections 74-6-1 et seq, NMSA 1978 and specifically to persons intending to reuse wastewater and their operations.
[20.6.8.2 NMAC - N, 07/12/2025]

**20.6.8.3 STATUTORY
AUTHORITY:** Standards and regulations are adopted by the commission under the authority of the Water Quality Act, Sections 74-6-1 through 74-6-17 NMSA 1978 and the Produced Water Act, Subsection B of Section 70-13-3 NMSA 1978 and Subsection D of Section 70-13-4 NMSA 1978.
[20.6.8.3 NMAC - N, 07/12/2025]

20.6.8.4 DURATION:
December 31, 2030.
[20.6.8.5 NMAC - N, 07/12/2025]

**20.6.8.5 EFFECTIVE
DATE:** July 12, 2025, unless a later date is indicated in the history note at the end of a section.
[20.6.8.6 NMAC - N, 07/12/2025]

20.6.8.6 OBJECTIVE:
The objective of 20.6.8 NMAC is to supplement the general requirements of 20.6.2.1200 through 20.6.2.2201 NMAC and 20.6.4.8 through 20.6.4.900 NMAC, and the general groundwater permitting requirements of 20.6.2.3000 through 20.6.2.3114 NMAC to control the discharges of water contaminants specific to water reuse.
[20.6.8.6 NMAC - N, 07/12/2025]

20.6.8.7 DEFINITIONS:
The following terms as used in this part shall have the following

meanings: terms defined in the Water Quality Act, but not defined in this part, shall have the meaning given in the act.

A. Terms beginning with numerals or the letter “A,” and abbreviations for units. [RESERVED]

B. Terms beginning with the letter “B”. [RESERVED]

C. Terms beginning with the letter “C”. [RESERVED]

D. Terms beginning with the letter “D”.

(1)

“Department” means the New Mexico environment department.

(2) “Direct

potable reuse” means the application of reclaimed wastewater for drinking water purposes through the delivery of purified water directly to a drinking water plant or a drinking water distribution system without an environmental buffer. Additional treatment, monitoring, or an engineered buffer would be used in place of an environmental buffer to provide equivalent protection of public health and response time if the purified water does not meet specifications.

(3)

“Discharge permit” as defined in 20.6.2 NMAC.

(4) “Disposal”

as defined in 20.6.2 NMAC.

(5) “Domestic

wastewater” means untreated wastewater containing human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to, wastes from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains.

E. Terms beginning with the letter “E”. “Environmental buffer” means any ground water, streams, lakes, or impoundments used for reuse water storage or conveyance purposes related to an indirect potable application.

F. Terms beginning with the letter “F”. “Feasibility study” means a study conducted by a person to determine if a new or modified domestic wastewater

treatment technology will be technically, economically, or financially viable for use in a direct or indirect potable application.

G. Terms beginning with the letter “G”. “Ground water” as defined in 20.6.2 NMAC.

H. Terms beginning with the letter “H”. [RESERVED]

I. Terms beginning with the letter “I”.

(1) “Indirect

potable reuse” means the application of reclaimed wastewater for drinking water purposes with an intermediary environmental or constructed buffer.

(2)

“Injection” as defined in 20.6.2 NMAC.

J. Terms beginning with the letter “J”. [RESERVED]

K. Terms beginning with the letter “K”. [RESERVED]

L. Terms beginning with the letter “L”. [RESERVED]

M. Terms beginning with the letter “M”. [RESERVED]

N. Terms beginning with the letter “N”.

(1) “National

Pollutant Discharge Elimination System” means the federal program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the federal Clean Water Act.

(2) “NPDES

permit” means a national pollutant discharge elimination permit which is an authorization, license, or equivalent control document issued by the authorized permitting entity to implement the requirements of the federal program as identified in 40 C.F.R. Sections 122, 123, and 124.

O. Terms beginning with the letter “O”. [RESERVED]

P. Terms beginning with the letter “P”.

(1) “Person”

as defined in 20.6.2 NMAC.

(2) “Pilot

project” means a representative engineering scale model or prototype system that is tested in a non-

laboratory environment. A pilot project represents an increase in the technological scale than otherwise achievable in a laboratory and often involves larger quantities of materials over longer periods of time.

(3) “Potable”

means water that meets state drinking water standards at 20.7.10 NMAC and is otherwise suitable for human consumption.

(4)

“Pretreatment” means the reduction, elimination, or alteration of pollutants in wastewater prior to or in lieu of discharging into a publicly owned treatment works (POTW) or other wastewater treatment facility. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes, or by other means. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against volumetric or pollutant surges or load variations that might interfere with or otherwise be incompatible with the treatment facility.

(5) “Produced

water” means a fluid that is an incidental byproduct from drilling for or the production of oil and gas.

Q. Terms beginning with the letter “Q”. [RESERVED]

R. Terms beginning with the letter “R”.

(1)

“Reclaimed wastewater” means domestic wastewater that has been treated to the specified levels for the defined applications and complies with other applicable local, state, or federal regulations.

(2) “Reuse

water” means a treated wastewater originating from domestic, industrial, or produced water sources, that has undergone a level of treatment appropriate for an application such as agriculture, irrigation, potable water supplies, aquifer recharge, industrial processes, or environmental restoration. Reuse water has a water quality, based on application, determined to be protective of the environment and human health.

For purposes of this Part, reuse is categorized by the source of the water.

S. Terms beginning with the letter “S”.

(1) **“State”**
means the state of New Mexico.

(2) **“Surface water”** means a “surface water(s) of the state” as defined in 20.6.4 NMAC.

T. Terms beginning with the letter “T”.

(1) **“Treated wastewater”** means wastewater that has undergone treatment.

(2) **“Treatment”** means a process in which wastewater has been reconditioned by biological, mechanical, or chemical processes to remove or eliminate contaminants, creating an effluent that can be returned to the water cycle either through discharge, transfer, storage, disposal, or distribution.

U. Terms beginning with the letter “U”.

(1) **“Untreated produced water”** means produced water that has not undergone treatment.

(2) **“Untreated wastewater”** means wastewater that has not undergone treatment.

V. Terms beginning with the letter “V”. [RESERVED]

W. Terms beginning with the letter “W”.

(1) **“Water pollutant”** as defined in 20.6.4 NMAC.

(2) **“Water pollution”** as defined in Section 74-6-2 NMSA 1978.

(3) **“Wastewater”** means water or other fluids associated directly with sewerage systems, industrial processes, or produced water that is disposed of, or undergoes treatment for discharge, transfer, storage, disposal, distribution, or reuse. Wastewater in this Part does not include dairy wastewater, as defined in 20.6.6 NMAC.

X-Z. Terms beginning with the letters “X” through “Z”. [RESERVED]
[20.6.8.7 NMAC – N, 07/12/2025]

20.6.8.8 – 20.6.8.99 [RESERVED]
[20.6.8.8-20.6.8.99 NMAC – N, 07/12/2025]

20.6.8.100 GENERAL PROVISIONS: Unless otherwise required by this Part, all persons are subject to the state’s Ground and Surface Water Protection Regulations at 20.6.2 NMAC.
[20.6.8.100 NMAC – N, 07/12/2025]

20.6.8.101 – 20.6.8.199 [RESERVED]
[20.6.8.101-20.6.8.199 NMAC – N, 07/12/2025]

20.6.8.200 DOMESTIC WASTEWATER REUSE: [RESERVED]
[20.6.8.200 NMAC – N, 07/12/2025]

20.6.8.201 DIRECT AND INDIRECT POTABLE APPLICATIONS:

A. Unauthorized applications. The department shall not approve a discharge permit or a discharge permit modification that includes the discharge of reuse water for direct or indirect potable applications except for those authorized applications identified in Subsection B of 20.6.8.201 NMAC.

B. Authorized applications. Feasibility studies: Persons proposing to conduct a feasibility study for direct or indirect potable applications shall;

(1) Comply with all applicable permitting requirements in 20.6.2 and 20.6.4 NMAC.

(2) Ensure there is no connection between a potable water system and the water being studied and no cross connections exist between feasibility study-water and a community’s potable water supply.

(3) Ensure that all direct and indirect potable reuse feasibility studies are conducted in a manner that does not interfere with ongoing operations at the wastewater and drinking water facilities.

(4) Obtain approval from the department,

through either a discharge permit or NPDES permit and comply with all conditions therein.
[20.6.8.201 – N, 07/12/2025]

20.6.8.202-299 [RESERVED]
[20.6.8.202-20.6.8.299 NMAC – N, 07/12/2025]

20.6.8.300 INDUSTRIAL WASTEWATER REUSE: [RESERVED]
[20.6.8.300 NMAC – N, 07/12/2025]

20.6.8.301-399 [RESERVED]
[20.6.8.301-20.6.8.399 NMAC – N, 07/12/2025]

20.6.8.400 PRODUCED WATER REUSE: As provided in the Water Quality Act, Subsection P of Section 74-6-4 NMSA 1978, and the Produced Water Act, Subsection B of Section 70-13-3 NMSA 1978, the following provisions apply to the discharge of produced water for activities unrelated to the exploration, drilling, production, treatment, or refinement of oil or gas.

A. General requirements.

(1) **Untreated produced water discharge to surface water:** No person shall cause or allow untreated produced water to discharge so that it may move directly or indirectly to a surface water. The department shall deny certification of any federal permit proposing to discharge untreated produced water to a surface water.

(2) **Treated produced water discharge to surface water:** No person shall cause or allow treated produced water to discharge so that it may move directly or indirectly to a surface water. The department shall deny certification of any federal permit proposing to discharge treated produced water to a surface water.

(3) **Untreated produced water discharge to ground water:** No person shall cause or allow untreated produced water to discharge so that it may move directly or indirectly into ground water. The department shall not issue a discharge permit or a discharge

permit modification that includes the discharge of untreated produced water.

(4) Treated produced water discharge to ground water: No person shall cause or allow treated produced water to discharge so that it may move directly or indirectly into ground water. The department shall not issue a discharge permit or a discharge permit modification that includes the discharge of treated produced water.

B. Authorized pilot projects

Pilot projects determined by the department not to require a discharge permit because the pilot project will not discharge in a manner that may directly or indirectly affect ground or surface water, are subject to the following requirements:

(1) Persons intending to conduct a pilot project shall secure and comply with all applicable federal, state, and local statutes, permits, and certifications, including the Produced Water Act, Sections 70-13-1, et. seq NMSA 1978, and including payment of department fees and satisfying department financial assurance requirements.

(2) The pilot project shall be designed to provide information specific to untreated produced water quality, treatment technologies, treated produced water quality, treatment volumes, and toxicity studies for potential produced water reuse applications.

(3) Any person intending to conduct a pilot project shall submit to the ground water quality bureau of the department an application for a produced water pilot project permit prior to use.

(4) Pilot projects shall not commence until the department has issued a pilot project permit.

(5) Persons distributing, transporting, storing, treating, or utilizing untreated or treated produced water shall have written procedures at the locations where the pilot project is physically located to describe measures to prevent releases onto the ground,

directly or indirectly into ground or surface water.

(6) All untreated and treated produced water shall be handled, transported, distributed, and stored in accordance with all applicable local, state, and federal regulations.

(7) Any release of untreated or treated produced water is subject to the notifications and corrective actions in 20.6.2.1203 NMAC except releases under the authority of the oil conservation commission pursuant to the provisions of the Oil and Gas Act, NMSA 1978, Section 70-2-12 and other laws conferring power on the oil conservation commission and the oil conservation division of the energy, minerals, and natural resources department to prevent or abate water pollution.

(8) Persons disposing of untreated or treated produced water, as part of the final disposition following a pilot project shall use an appropriate method approved by the department, which may include one of the following methods in accordance with the relative permit: discharge to a produced water disposal well permitted pursuant to the oil conservation commission's regulations for oil and gas injection at 19.15.26 NMAC, delivery to a surface waste management facility permitted pursuant to the oil conservation commission's regulations for oil and gas surface waste management facilities at 19.15.36 NMAC, or disposal in a permanent pit permitted pursuant to the oil conservation commission's regulations for oil and gas pits, closed-loop systems, below-grade tanks and sumps at 19.15.17 NMAC. The department may consider alternative disposal options on a case-by-case basis.

(9) Persons disposing of the components of a pilot project using untreated or treated produced water, as part of the final disposition must adhere to all local, state, and federal regulations, as applicable.

C. Produced water pilot project permit.

(1) Any person intending to use produced water for an authorized pilot project under Subsection B of 20.6.8.400 NMAC shall submit to the ground water quality bureau of the department an application for a produced water pilot project permit prior to use and shall not proceed with the project until the application is approved.

(a) Applications shall be on a form provided by the department and shall include the following information:

(i) the name and address of the person intending to conduct the pilot project;

(ii) the location of the intended pilot project;

(iii) the concentration of water contaminants in the untreated produced water used in the pilot project;

(iv) the daily quantity of produced water treated in the pilot project;

(v) the pilot project research plan and objectives;

(vi) documentation that the pilot project design is consistent with the approved uses in Subsection B of 20.6.8.400 NMAC;

(vii) the storage, secondary containment and spill prevention methods that will be used to prevent accidental discharges; and the plans for a monitoring program and devices to detect any such discharges;

(viii) a plan to transport in and transport out any untreated produced water or treated produced water in a safe manner, in accordance with state and federal regulations;

(ix) plans for safe handling, characterization, and proper disposal of produced water, treatment residuals and wastes, and any materials that come into contact with untreated produced water or treated

produced water, and any other waste generated by the project, including soils, plant material, treatment equipment, and containment area materials;

(x) plans to minimize the risk of human exposure to produced water via any exposure pathway; and

(xi) financial assurance in place to cover the cost of cleanup and remediation in the event of failure during operation and closure of the pilot project.

(xii) proposed locations and newspaper for providing notice of the pilot project consistent with the manner of notice required of discharge permit applications set out in Subsection A of 20.6.2.3108 NMAC.

(b) The department, at its discretion, may request additional information.

(c) Based on the information provided in the application, the department shall determine whether the application is administratively complete and notify the applicant of any deficiencies.

(2) Following a determination that an application is administratively complete, the applicant and department shall proceed with the further public notice and participation requirements set out in Subsections B through N of 20.6.2.3108 NMAC and 20.6.2.3110 NMAC; and the relevant evaluation and action requirements set out in 20.6.2.3109 and 20.6.2.3111 NMAC. The plans required of the applicant in Paragraph (1) of Subsection C shall be incorporated into the pilot project permit as enforceable conditions. The department shall provide in the permit a daily maximum produced water capacity and the term of any pilot project permit shall not exceed five years. Appeals from the secretary’s decisions and the commission’s decisions may be taken in accordance with 20.6.2.3112 and 20.6.2.3113 NMAC.

(3) **Data Reporting Requirements**

(a) Persons implementing pilot projects pursuant to Subsection B of 20.6.8.400 NMAC shall submit to the department all research results, including lab analyses of all water contaminants in the untreated produced water and treated produced water, to assist the department in developing standards and assist the commission in promulgation of regulations for the use of treated produced water in a manner that prevents water pollution and protects human health and the environment.

(b) Persons implementing pilot projects pursuant to Subsection B of 20.6.8.400 NMAC shall submit to the department monthly reports with the volume of water treated, water quality data for all liquid streams, and the volumes, mass, and characteristics of liquid and solid waste disposed of, as requested by the department.

(c) The department shall publish on its website all applications for produced water pilot project permits, all written procedures and plans required by Subsections B and C of this Section, the department’s determination, and supplemental information provided by the applicant at the department’s request.
[20.6.8.400 NMAC – N, 07/12/2025]

20.6.8.401-20.6.8.899 [RESERVED]
[20.6.8.401-20.6.8.899 NMAC – N, 07/12/2025]

20.6.8.900 REFERENCES:
[RESERVED]
[20.6.8.900 NMAC – N, 07/12/2025]
History of 20.6.8 NMAC:
[RESERVED]

HEALTH, DEPARTMENT OF

The New Mexico Department of Health approved the repeal of its rule 7.29.5 NMAC - Certification of Community Health Workers (filed 1/17/2015) and replaced it with 7.29.5 NMAC - Certification of Community Health Workers adopted on 6/3/2025, and effective 6/24/2025.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH
CHAPTER 29 PRIMARY
AND RURAL HEALTH CARE
SERVICES
PART 5 CERTIFICATION
OF COMMUNITY HEALTH
WORKERS

7.29.5.1 ISSUING
AGENCY: New Mexico Department of Health.
[7.29.5.1 NMAC - Rp, 7.29.5.1 NMAC, 6/24/2025]

7.29.5.2 SCOPE: This rule applies to any person seeking to practice as a certified community health worker in the state of New Mexico.
[7.29.5.2 NMAC - Rp, 7.29.5.2 NMAC, 6/24/2025]

7.29.5.3 STATUTORY
AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to “...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions,” and the Community Health Workers Act, Sections 24-30-1 through 24-30-7 NMSA 1978, which authorizes the department to adopt regulations to carry out the provisions of the act.
[7.29.5.3 NMAC - Rp, 7.29.5.3 NMAC, 6/24/2025]

7.29.5.4 DURATION:
Permanent.
[7.29.5.4 NMAC - Rp, 7.29.5.4 NMAC, 6/24/2025]

7.29.5.5 EFFECTIVE
DATE: June 24, 2025, unless a later date is cited at the end of a section.
[7.29.5.5 NMAC - Rp, 7.29.5.5 NMAC, 6/24/2025]

7.29.5.6 OBJECTIVE: The objective of this rule is to implement

the Community Health Workers Act. This rule governs the voluntary certification of community health workers (CHWs) in New Mexico. [7.29.5.6 NMAC - Rp, 7.29.5.6 NMAC, 6/24/2025]

7.29.5.7 DEFINITIONS:

A. Definitions

beginning with "A":

(1) "Action

against a certificate" means any formal action taken by the department that adversely affects certification status, including but not limited to denial of initial certification or re-certification, suspension or revocation of a certificate, probation or reprimand.

(2)

"Applicant" means an individual applying for community health worker certification or recertification.

B. Definitions

beginning with "B": "Board"

means the board of certification of community health workers established under these rules.

C. Definitions

beginning with "C":

(1)

"Certificate" means the document issued by the department to qualified applicants who have successfully completed the application process for certification as community health workers.

(2)

"Certification" means the voluntary process by which the department grants recognition and use of a credential to individuals who are eligible to practice as certified community health workers.

(3) "Certified

community health worker" or "CCHW" means a community health worker to whom the department has issued a certificate to practice as a certified community health worker.

(4)

"Community health worker" or "CHW" means a public health worker, also known as a tribal community health representative or a promotora, who applies an understanding of the experience, language, and culture of the

populations that the individual serves and who provides services aimed at optimizing individual, family and community health outcomes.

(5)

"Continuing education" means courses or training designed to develop and enhance knowledge, skills, and professional development to ensure that CCHWs are up to date with current practices in the field.

(6)

"Conviction" means a plea or adjudication of guilt, a plea of nolo contendere, or an Alford plea, and does not include a conditional discharge or deferred adjudication that results in dismissal of a charge.

(7) "Core

competencies" means a combination of qualities, practical skills and knowledge, defined by the department as essential to the provision of services by community health workers, demonstration of which is required for certification.

D. Definitions

beginning with "D": "Department" means the department of health.

E. Definitions

beginning with "E": [RESERVED]

F. Definitions

beginning with "F": [RESERVED]

G. Definitions

beginning with "G": [RESERVED]

H. Definitions

beginning with "H": [RESERVED]

I. Definitions

beginning with "I": [RESERVED]

J. Definitions

beginning with "J": [RESERVED]

K. Definitions

beginning with "K": [RESERVED]

L. Definitions

beginning with "L": [RESERVED]

M. Definitions

beginning with "M":

[RESERVED]

N. Definitions

beginning with "N": [RESERVED]

O. Definitions

beginning with "O": [RESERVED]

P. Definitions

beginning with "P": [RESERVED]

Q. Definitions

beginning with "Q": [RESERVED]

R. Definitions

beginning with "R":

"Recertification" means a renewal of certification.

S. Definitions

beginning with "S":

(1) "Scope

of practice" means the roles and related tasks performed by CCHWs in the provision of services, including the knowledge, skills and attributes needed to perform work-related functions, as defined by the department.

(2)

"Secretary" means the secretary of the department of health.

T. Definitions

beginning with "T": [RESERVED]

U. Definitions

beginning with "U": [RESERVED]

V. Definitions

beginning with "V": [RESERVED]

W. Definitions

beginning with "W":

[RESERVED]

X. Definitions

beginning with "X": [RESERVED]

Y. Definitions

beginning with "Y": [RESERVED]

Z. Definitions

beginning with "Z": [RESERVED]

[7.29.5.7 NMAC - Rp, 7.29.5.7 NMAC, 6/24/2025]

7.29.5.8 BOARD OF CERTIFICATION OF COMMUNITY HEALTH WORKERS:

A. Board

membership:

(1) The board

shall be comprised of nine members who are residents of New Mexico, appointed by the secretary, and shall include:

(a)

three currently practicing CHWs, including at least one tribal community health representative;

(b)

the secretary or the secretary's designee, who shall serve as chair of the board; and

(c)

five additional members that the secretary shall endeavor to appoint from community health stakeholders including but not limited to health care providers, tribal representatives,

individuals from institutions of higher learning, or members of the community from various geographic regions of the state.

(2)

Members of the board other than the department's representative shall serve for staggered terms of four years. The secretary shall appoint to the initial board three members to a four-year term, three members to a three-year term, and two members to a two-year term. Each member shall hold office until his or her successor is appointed. Board members may be reappointed to multiple consecutive terms.

(3) Board

members shall be reimbursed as provided for in the Per Diem and Mileage Act, Section 10-8-1 *et seq.* NMSA 1978 and shall receive no other compensation, perquisite or allowance.

B. Meetings: The

board shall convene at least once per quarter at the call of the chair and as frequently as reasonably necessary to review and make recommendations regarding the CHW certification process.

(1) Meetings

shall be conducted in accordance with the Open Meetings Act, Section 10-15-1 through 10-15-4 NMSA 1978. A simple majority of the members of the board shall constitute a quorum for the purpose of transacting official business.

(2) Meeting

arrangements and attendance requirements shall be determined by the board. The board shall recommend to the secretary removal of board members for non-participation or any other good cause.

C. Duties and

responsibilities: The board shall advise the secretary on the implementation of standards, guidelines, and requirements relating to the training and regulation of persons seeking certification or practicing as CCHWs.

(1) The board

shall make recommendations to the secretary on the following matters:

(a)

standards and requirements for the establishment and approval or acceptance of community health worker education and training programs in the state;

(b)

standards and requirements for approval or acceptance of continuing education courses and programs as the board may require for recertification every two years;

(c)

minimum education, training, experience, and other qualifications that a certified community health worker shall possess to qualify as a trainer in any education, training, or continuing education program for community health workers;

(d)

the process to acknowledge, document, and assess relevant education, training and experience or other qualifications acquired by CHWs practicing in the state before the effective date of the Community Health Workers Act for purposes of certification while waiving minimum training and experience requirements established by the act (also known as "grandfathering");

(e)

the means to assess community health worker competency in connection with certification;

(f)

the core competencies to be required for certification, in consideration of current New Mexico and national CHW workforce studies; and

(g)

the scope of practice for CCHWs.

(2) The board

may provide guidance to the program on issues or topics presented to the board at the program's discretion.

(3) Board

recommendations: The board shall provide to the secretary written recommendations in accordance with the duties listed in this section, including any supporting documentation or public commentary. The secretary shall make a final determination on all board recommendations.

[7.29.5.8 NMAC - Rp, 7.29.5.8 NMAC, 6/24/2025]

**7.29.5.9 NEW MEXICO
REGISTRY OF COMMUNITY
HEALTH WORKERS:**

The New Mexico registry of community health workers shall be maintained at the department. The registry is voluntary and open to all persons who are CCHWs in the state of New Mexico. The registry shall contain the name, certification number, certification status, and geographic location of the CCHW. Registry information is subject to public inspection.

[7.29.5.9 NMAC - Rp, 7.29.5.9 NMAC, 6/24/2025]

**7.29.5.10 COMMUNITY
HEALTH WORKER
CERTIFICATION:**

A. Initial

certification:

(1) All

applicants for initial certification in New Mexico shall:

(a)

submit to the department a completed application in a form specified by the department to include verification that applicant has met the eligibility requirements;

(b)

submit to the department the designated application fee; and

(c)

if an applicant otherwise meets the eligibility requirements, then in accordance with this rule, submit a request to the department of public safety (DPS) or a DPS vendor for a state and national criminal history screening. The results of the criminal history screening shall be received by the department before a certificate can be issued.

(2) Applicants

who were practicing CHWs prior to the effective date of the Community Health Workers Act shall submit:

(a)

proof that applicant is at least 18 years of age;

(b)

verification of proficiency in the state approved core competencies through training or experience, signed by a verifiable current or former supervisor within two years of date of application;

(c) two letters of professional reference; and

(d) documentation of 2,000 hours of work or volunteer experience as a CHW in the two years prior to application, or documentation of at least half-time paid or volunteer employment as a CHW in the five years prior to application.

(3) Applicants who were not practicing CHWs prior to the effective date of the Community Health Workers Act, or who otherwise do not meet the criteria for grandfathering by waiver of minimum training and experience requirements based on practice prior to the effective date of the Community Health Workers Act, shall submit:

(a) proof that applicant is at least 18 years of age;

(b) proof of completion of a department-approved training program that contains an examination component for each of the core competencies; and

(c) proof of at least a high school diploma or certificate of high school equivalency. Transcripts from schools outside the United States shall be assessed for U.S. equivalency by a current national association of credential evaluation services (NACES) educational credential evaluation service. The completed assessment documentation must be attached to the application, and the applicant shall be solely responsible for any costs or fees associated with the assessment.

(4) In lieu of the documentation required in Subparagraph (d) of Paragraph (2) and Subparagraph (b) of Paragraph (3) of this section, an applicant may submit to the department documentation of current certification as a CHW in another U.S. state, territory, or commonwealth, which shall include the following:

(a) The name of each U.S. state, territory, or commonwealth that issued the certification;

(b) The certification number of each certification;

(c) The date each certification was issued;

(d) Documentation of the professional certificate or license issued to the applicant by each state, territory, or commonwealth in which the applicant holds a professional certificate or license; and

(e) A statement, signed and dated by the applicant, attesting that the applicant:

(i) has been certified or licensed in another U.S. state, territory, or commonwealth for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;

(ii) has met minimum education requirements specified in this section;

(iii) has not voluntarily surrendered a certification or license in any other state or country while under investigation for unprofessional conduct; and

(iv) does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.

(5) Applicants may be certified at the following levels:

(a) generalist: an applicant who provides proof of completion of a department-approved training program that contains an examination component for each of the core competencies, or an applicant who meets the requirements for certification through grandfathering;

(b) specialist I: an applicant who meets the requirements for a generalist and who demonstrates additional education or training in at least one specialty area;

(c) specialist II: an applicant who meets the requirements for a generalist

and who demonstrates additional education or training in at least two specialty areas;

(d) specialist III: an applicant who meets the requirements for a generalist and who demonstrates additional education or training in three or more specialty areas;

(e) specialty areas include but are not limited to basic clinical support skills, heart health, chronic disease, behavioral health, maternal and child health or developmental disabilities.

(5) The department shall issue certificates to applicants who satisfy the requirements of this rule, unless the application is disapproved.

(6) Certificates shall be valid for two years from the date of issuance. A CCHW shall carry the CCHW certificate and present it upon request.

B. Recertification:
An applicant for recertification shall:

(1) submit to the department a completed application in a form specified by the department to include proof of current certification;

(2) submit to the department the designated application fee;

(3) provide proof of completion of at least 30 hours of department-approved continuing education; and

(4) submit a request to DPS or a DPS vendor for a current state and national criminal history screening every other recertification period (i.e., every four years), if the applicant otherwise meets eligibility requirements.

C. Reinstatement after lapse, suspension, or revocation:

(1) The requirements for reinstatement of a certificate that has lapsed are the same as those for recertification, with the payment of fees as identified for reinstatement after lapse in Subsection F of 7.29.5.10 NMAC and, if required as part of recertification, then in accordance with this rule, submission

of a request to DPS or a DPS vendor for a current state and national criminal history screening.

(2) The requirements for reinstatement of a certificate that has been suspended or revoked are the same as those for recertification, provided that the term of suspension has been completed or terminated or approval of reinstatement after revocation has been granted. Applicant shall pay the designated fees for reinstatement after suspension or revocation in Subsection F of 7.29.5.10 NMAC and, in accordance with this rule, submit a request to DPS or a DPS vendor for a current state and national criminal history screening.

D. Disapproval:

(1) The department may disapprove an application if an applicant has not met the eligibility requirements as defined by the department or has submitted an incomplete application. The department shall send a notice of disapproval with the reasons why the applicant was disapproved and the requirements necessary to reapply.

(2) An applicant whose application has been disapproved under Paragraph (1) of Subsection D of 7.29.5.10 NMAC may not appeal the disapproval. The applicant shall be permitted to reapply and shall submit a current and complete application that meets the designated requirements within 60 days of receipt of the notice of disapproval. If the re-submitted application is received by the program within the 60 days, no new application fee is required. If the re-submitted application is received after the 60 days, the applicant shall be required to pay the application fee designated in this rule.

E. Application processing:

(1) Applications, including associated fees, shall be sent to the department's office of community health workers.

(2) The department shall review applications on a rolling basis. Applicants shall be notified in writing within 30 working

days of receipt of the application by the department whether their application has been approved or disapproved.

(3) If an application has been disapproved, applicants shall be notified of their ability to reapply pursuant to Paragraph (2) of Subsection D of 7.29.5.10 NMAC.

(4) If an application has been approved, then applicants shall be directed to complete a state and national criminal history screening. For applicants with no criminal history, or with no history of felony convictions, the department shall issue a certificate within 10 working days of receipt of the criminal history screening results.

(5) Applications with an associated criminal history shall be referred to the certification review committee and reviewed according to the procedure set forth in this rule.

F. Fees:

(1) The department shall charge the following fees for certification or approval services:

(a) initial certification: generalist \$125;

(b) initial certification: specialist I \$135;

(c) initial certification: specialist II \$145;

(d) initial certification: specialist III \$155;

(e) recertification for any level \$125;

(f) reinstatement after lapse \$100;

(g) reinstatement after suspension or revocation \$100;

(h) continuing education program initial approval \$300;

(i) continuing education program approval renewal \$200;

(j) trainer endorsement and renewal of endorsement \$250;

(k) replacement of a CCHW certificate \$25.

(2) If an applicant is certified as a generalist, prior to his or her recertification the applicant may apply to be a specialist at any level and pay the difference between the specialist fee and the generalist fee.

(3) Payment of fees: Payment of fees will be accepted in a form specified by the department. Fees are not refundable.

(4) Use of fees: The department shall apply any fee it collects under these rules to cover the costs of administering the community health worker certification program established pursuant to the Community Health Workers Act.

G. Unauthorized training:

(1) Continuing education units (CEUs) obtained from an unauthorized use of NMDOH CHW training shall not be deemed to satisfy continuing education requirements of this rule.

(2) Continuing education units (CEUs) obtained from an unauthorized use of NMDOH CEU provider training shall not be deemed to satisfy continuing education requirements of this rule.

H. Unauthorized practice:

(1) In order to use the title "certified community health worker," the initials "CCHW" or other designation indicating that the individual is a certified community health worker, an individual shall be certified pursuant to the provisions of the Community Health Workers Act and these rules.

(2) To ensure compliance, the department may issue cease-and-desist orders to persons violating the provisions of the Community Health Workers Act or these rules.

(3) A CCHW shall engage only in those activities authorized pursuant to the Community

Health Workers Act and these rules. While engaging in practice as a CCHW, an individual shall not engage in or perform any act or service for which another professional certificate, license or other legal authority is required unless the individual holds the relevant professional certificate, license or other legal authority to perform that act or service.
[7.29.5.10 NMAC - Rp, 7.29.5.10 NMAC, 6/24/2025]

7.29.5.11 CRIMINAL HISTORY SCREENING:

A. The department is authorized to obtain the criminal history records of applicants and to exchange fingerprint data directly with the federal bureau of investigation (FBI), DPS and any other law enforcement agency or organization. The department shall require fingerprinting of applicants for the purposes of this section.

B. Procedure:

(1) If an applicant otherwise meets the eligibility requirements, then the department shall require the applicant to submit a request to DPS or a DPS vendor for a current state and national criminal history screening.

(2) The department shall provide applicants with the department's originating agency identification (ORI) number or other department identifier for the purposes of criminal history screening.

(3) Applicant shall provide to DPS or a DPS vendor a background check request, fingerprints, and supporting documentation including an authorization for release of information to the department in accordance with DPS or the designated vendor's procedures.

(4) DPS or the designated DPS vendor shall review state records and also transmit the fingerprints to the FBI for a national screening. The results of the screening shall be made available to the department for review.

(5) The department shall make a

determination whether the applicant has been convicted of a felony that bears upon the applicant's fitness to provide services.

(6) Applicant shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to DPS or the designated DPS vendor. Fees cannot be waived by the department.

(7) The department shall comply with applicable confidentiality requirements of DPS and the FBI regarding the maintenance, dissemination, and destruction of criminal background check information.

(8) For applicants with no criminal history, or with no history of felony convictions, the department shall issue a certificate in accordance with this rule if all other requirements for certification have been satisfied.

[7.29.5.11 NMAC - Rp, 7.29.5.11 NMAC, 6/24/2025]

7.29.5.12 TRAINER ENDORSEMENT:

A. Persons or entities who wish to be endorsed by the department of health to conduct CHW training shall annually submit a completed state endorsement application form and application packet to the department. Department endorsement of a CHW trainer is valid for one year.

B. All application packet materials shall be submitted to the department in a 3-ring binder. Binders shall be organized to include a table of contents, a labeled divider for each application part, and such other content as required by this rule and the training endorsement application form. Application packets shall be submitted in the manner identified on the application form. Applicants are advised to retain a complete copy of the application materials for their records. Application materials for CHW training endorsement shall include the following:

(1) overview of training, to include, at a minimum, contact information, name of sponsoring organization, physical and mailing address, organization telephone and fax numbers, website address, organization type, and non-profit status;

(2) list of core competency trainings for which the applicant seeks endorsement;

(3) training information, to include, at a minimum, the training title, description, and focus; target audience; plan for recruitment; eligibility, application, and registration criteria for participants; anticipated cost and available support; training location, format, and frequency; training language; a sample attendance record; information concerning training, approach, development, and delivery; involvement of CHWs in training; evaluation method(s); and organizational experience in providing trainings previously, to include information concerning individual trainings and the core competencies addressed;

(4) instructor and trainer information, to include, at a minimum, names, job titles, telephone and fax numbers, e-mail addresses; education and work experience; CHW supervision history; training experience; the CHW core competencies in which the applicant provides training; specialty knowledge and skills; and training delivery methods;

(5) designee signature; and

(6) payment for all associated fees (see section 7.29.5.10 NMAC).

[7.29.5.12 NMAC - N, 6/24/2025]

7.29.5.13 CONTINUING EDUCATION PROGRAM APPROVAL:

A. The office of community health workers approves community health worker continuing education programs that meet specific criteria. These approved programs may then be taken by community

health workers to meet the CEU requirement for certification renewal. Only continuing education programs that receive prior approval from the department can satisfy the CEU requirement for certification renewal. Department approval of a continuing education program is valid for one year.

B. A continuing education provider shall submit a completed CEU application for approval of a continuing education program, along with a non-refundable payment for all associated fees (see 7.29.5.10 NMAC). Applications must be received at least four weeks prior to the event; applications received after the event date will not be reviewed or approved.

C. A continuing education provider that seeks approved of a continuing education program must have:

(1) A means of responsibility for control over all aspects of the CEU program(s) to ensure that educational objectives and standards are met;

(2) A system for selection and supervision of qualified instructors;

(3) A system for evaluation of each approved program by program participants; and

(4) Presenters who are certified CHWs and have three years of working experience, or non-CHWs who hold a bachelor's degree or higher from an accredited institution and have three years of experience working with CHWs.

D. Retention of approved program materials by providers: It is the responsibility of the continuing education provider to maintain CEU program information as well as attendance records for all participants, and to issue certificates of completion of each approved program. Such records should be retained for a minimum of three years from the date of the program and be made available to participants upon request. CEU providers are not required to submit attendance sheets to the department.

E. Evaluations: The CEU provider shall collect program evaluations from participants, and shall utilize the program's statement of objectives to ascertain whether desired goals have been reached. Evaluations are for the provider's records only; however, if the program is more than 3 CEUs, an evaluation review (no more than one page) shall be submitted to the department within one month of the date that the program is held.

F. Internet-based learning: For internet-based learning programs, contact hours are determined on content, time to review the content, and an appropriate number of test questions that reflect whether the learning objectives have been met. Post-test on all distance learning products with a passing score of not less than seventy percent is required.

G. Credit hour determination: One continuing education hour equals one clock-hour of instruction. Breaks, lunches, introductions, and social events do not count toward CEUs.

H. Promoting CEU programs and issuing certificates: Continuing education providers may advertise an event as offering CHW continuing education credits only after the program is granted approval by the department. CEU programs may be advertised, without a statement that the program offers CHW continuing education credits, if an application has been submitted but has not yet been reviewed. Once the program is approved by the department, the following statement should be added to event materials and must be on CEU certificates: "CHW CEUs approved by DOH-OCHW." [7.29.5.13 NMAC - N, 6/24/2025]

7.29.5.14 CERTIFICATION REVIEW COMMITTEE:

A. A certification review committee is hereby established. The committee shall be appointed by the secretary and shall be comprised of five employees of the public health division, to include the division director, the

director of the center for health and safe communities, and the CHW program manager. The committee may conduct an individualized review of the grounds for action against a certificate and shall determine whether to pursue action against a certificate by a majority vote. A certificate may be denied, suspended or revoked, or may be subject to any lesser action, including but not limited to reprimand or probation.

B. Grounds for action against a certificate: A certificate may be denied, suspended, revoked, or subject to other adverse action, for:

(1) violation of, or failure to satisfy, a requirement of this rule;

(2) conviction of a felony that relates to the CHW scope of practice;

(3) fraud, deceit, or misrepresentation during the certification application process;

(4) failure to possess and apply the knowledge, skill or care that is ordinarily possessed and exercised by CCHWs or as defined by the core competencies; and

(5) unprofessional conduct, which includes but is not limited to:

(a) verbally or physically abusing a client;

(b) unauthorized practice or practice which is beyond the defined scope of practice for CCHWs, including unauthorized use of the CCHW designation;

(c) unauthorized disclosure of medical or other confidential information;

(d) obtaining or attempting to obtain any fee for client services for one's self or for another through fraud, misrepresentation or deceit; or

(e) physical or mental incapacity which could result or has resulted in performance of CCHW duties in a manner which endangers the health and safety of others.

C. Committee review of criminal history screening results:

(1)

The committee may conduct an individualized review of applications with an associated history of felony convictions, and shall determine whether to pursue action against a certificate by a majority vote. Committee members shall meet any DPS or FBI requirements regarding individuals who handle criminal history information.

(2)

The committee may request that applicants provide additional information in writing in order to make a final determination of certification, such as evidence of acquittal, dismissal, conviction of a lesser included crime or rehabilitation.

(3)

In accordance with the Community Health Workers Act at Section 24-30-7 NMSA 1978, the provisions of the Criminal Offender Employment Act, Section 28-2-1 through 28-2-6 NMSA 1978 shall govern any consideration of criminal records required or permitted by the Community Health Workers Act. The following factors may also be considered in order to make a final determination on certification:

(a)

total number of felony convictions and type of crimes;

(b)

time elapsed since last conviction or since discharge of sentence;

(c)

circumstances of the crime including but not limited to whether violence was involved;

(d)

activities evidencing rehabilitation, including but not limited to substance abuse or other rehabilitation programs;

(e)

false or misleading statements in the application; and

(f)

relation of crimes to the scope of practice.

(4) For the purposes of this section and pursuant

to the Criminal Offender Employment Act, Section 28-2-4 NMSA 1978: if an applicant has been convicted of a felony, and the conviction directly relates to the scope of practice, then the burden is on the applicant to demonstrate by a preponderance of the evidence that the applicant has been sufficiently rehabilitated.

(5) Applicants

shall be notified in writing of the decision to pursue action against a certificate based on the results of a criminal history review, including a statement of the grounds or subject upon which the action is based.

(6) An

applicant whose certification or recertification is denied, suspended or revoked based on information obtained in a criminal history background check, shall be entitled to review the information obtained and to appeal the decision pursuant to the procedure in accordance with this rule.

D. Committee review of other grounds for action:

(1)

The committee may conduct an individualized review of the grounds for action against a CCHW or applicant and shall determine whether to pursue action against a certificate by a majority vote.

(2) The

committee may request that applicants provide additional information in writing in order to make a final determination of certification.

(3) Applicants

shall be notified in writing of the decision to pursue action against a certificate based on the results of the committee's review, including a statement of the grounds or subject upon which the proposed action is based.

(4) An

applicant whose certification or recertification is denied, suspended or revoked shall be entitled to review the information obtained and to appeal the decision pursuant to the procedure in accordance with this rule.

E. An applicant who is reprimanded, placed on probation, or who is otherwise subjected to

any lesser form of action against a certificate than denial, suspension, or revocation may for good cause submit a verbal or written request to the certification review committee for a secondary review. Requests for review must be submitted within 10 working days of the original decision to take action against a certificate. All decisions by the committee after a secondary review are considered final and are not subject to appeal. [7.29.5.14 NMAC - Rp, 7.29.5.12 NMAC, 6/24/2025]

7.29.5.15 HEARINGS:

A. Right to appeal:

An applicant may appeal a decision by the department to deny, suspend, revoke, or take other adverse action against a certificate, by requesting a hearing by mailing a certified return receipt letter to the address provided in the notice of action within 20 days after service of notice.

B. Notice: The

department shall serve upon an applicant written notice containing the action against a certificate and a statement of the grounds or subject upon which the action is based and instructions for requesting a hearing.

C. Notice of hearing:

Upon receipt of a timely request for a hearing, the department shall appoint a hearing officer and schedule a hearing, to be held in Santa Fe, New Mexico within 60 working days of receipt of the request.

(1) Either

party may request a continuance at least 10 days prior to the scheduled hearing, to be approved or denied by the hearing officer.

(2) If an

applicant fails to appear after requesting a hearing, the hearing officer may proceed to consider the matter and render a report and recommendation.

(3) If no

request for a hearing is made in the time and manner specified, the committee shall take the action against the certificate and such action shall be final.

D. Hearing officer duties: The hearing officer shall

preside over the hearing, administer oaths, take evidence and decide evidentiary objections and rule on any motions or other matters that arise prior to the hearing.

E. Admissible evidence: The hearing officer may admit evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence shall not apply but may be considered in determining the weight to be given to any item of evidence. Action against a certificate must not be based solely on hearsay evidence.

F. Discovery: Any party is entitled to obtain the names and addresses of witnesses who will or may be called by the other party to testify and to inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. Additional discovery may be ordered at the hearing officer's discretion.

G. Burden of proof: In accordance with the Criminal Offender Employment Act:

(1) When the action against a certificate is not based on a review of the applicant's criminal history report, the department has the burden of proving by a preponderance of the evidence the basis for the action.

(2) When the action against a certificate is based on a review of the applicant's criminal history report, and the applicant has been convicted of a felony directly related to the scope of practice, the applicant has the burden of proving sufficient rehabilitation by a preponderance of the evidence.

H. Conduct of hearing: Hearings shall be open to the public but may be closed at either party's request, at the discretion of the hearing officer. The hearing officer shall state on the record the reasons for holding a closed hearing.

I. Legal representation: An individual entitled to a hearing under this rule shall have the right to be represented by an attorney licensed to practice in

New Mexico or by a member of his or her profession or occupation, or both.

J. Hearing officer written report and recommendation(s): The hearing officer shall issue a report and recommended findings to the department secretary within 30 working days of the final submission in the case.

K. Decision of the department: The secretary shall render a final determination in writing, including the basis for the decision, within 30 calendar days of the submission of the hearing officer's written report. A copy of the final decision shall be mailed to the applicant by certified mail, return receipt requested to the most current address provided by the applicant. It is the responsibility of the applicant to provide current contact information to the program.

L. Reinstatement of a suspended or revoked certificate:

(1) Requests for reinstatement for a revoked certificate shall not be considered by the department prior to the expiration of three years from the date of the revocation indicated in the department's final decision. Requests for reinstatement of a suspended certificate shall not be considered by the department prior to the expiration of one year from the date of the suspension indicated in the department's final decision.

(2) Individuals who request reinstatement of their certificate shall provide the department with substantial evidence to support their request in the form of notarized written reports or sworn statements from individuals who have personal knowledge of the individual's activities and progress during the time that the certificate is suspended or revoked.

(3) Reinstatement of a suspended or revoked certificate requires proof of meeting the recertification requirements as set forth in this rule including payment of the reinstatement fee designated in this rule.

(4)

If reinstatement of a suspended or revoked certificate is denied, individuals have a right to appeal in accordance with the hearing procedures set forth in this rule. [7.29.5.15 NMAC - Rp, 7.29.5.13 NMAC, 6/24/2025]

7.29.5.16 INSPECTION OF RECORDS: The following records are not subject to public inspection, and shall be maintained in a confidential manner:

A. Health information protected by state and federal laws.

B. Materials associated with reviews conducted by the certification review committee, including but not limited to criminal history information.

C. Protected personal identifier information, as that term is used in the Inspection of Public Records Act at Section 14-2-1.1 NMSA 1978, that are contained in an application, including all but the last four digits of a date of birth and social security numbers. [7.29.5.16 NMAC - Rp, 7.29.5.14 NMAC, 6/24/2025]

HISTORY OF 7.29.5 NMAC: [RESERVED]

History of Repealed Material: 7.29.5 NMAC, Certification of Community Health Workers filed 1/7/2015, Repealed effective 6/24/2025.

Other: 7.29.5 NMAC, Certification of Community Health Workers filed 1/7/2015 Replaced by 7.29.5 NMAC, Certification of Community Health Workers effective 6/24/2025.

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.510 NMAC, Sections 11, 12, 13, and 15, effective 8/1/2025.

8.200.510.11 COMMUNITY SPOUSE RESOURCE

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

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

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

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

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

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

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

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

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

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

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

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

L. On or after January 1, 2000, the state minimum is \$31,290

and the federal maximum CSRA is \$84,120.

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

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

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

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

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

R. On or after January 1, 2006, the state minimum is \$31,290 and the federal maximum CSRA is \$99,540.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HH. On or after January 1, 2022, the state minimum is \$31,290 and the federal maximum CSRA is \$137,400.

II. On or after January 1, 2023, the state minimum is \$31,290 and the federal maximum CSRA is \$148,620.

JJ. On or after January 1, 2024, the state minimum is \$31,290 and the federal maximum CSRA is \$154,140.

KK. On or after January 1, 2025, the state minimum is \$31,584 and the federal maximum CSRA is \$157,920.

[8.200.510.11 NMAC - Rp, 8.200.510.11 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT):
Apply applicable deductions in the

order listed below when determining the medical care credit for an institutionalized spouse.

**DEDUCTION
AMOUNT**

A. Personal needs allowance for institutionalized spouse: [July 1, 2023]

[~~\$94~~]

July 1, 2024

\$94

B. Minimum monthly maintenance needs allowance (MMMNA):

[July 1, 2023]

[~~\$2,465~~]

July 1, 2024

\$2,555

C. The community spouse monthly income allowance (CSMIA) is calculated by subtracting the community spouse's gross income from the MMMNA:

(1) If allowable shelter expenses of the community spouse exceeds the minimum allowance then deduct an excess shelter allowance from community spouse's income that includes: expenses for rent; mortgage (including interest and principal); taxes and insurance; any maintenance charge for a condominium or cooperative; and an amount for utilities (if not part of maintenance charge above); use the standard utility allowance (SUA) deduction used in the food stamp program for the utility allowance.

[July 1,

2023] [~~\$740~~]

July 1,

2024 \$766.50

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

(a)

Jan. 1, 2025 \$1,393

[~~(a)~~] (b)

Jan. 1, 2024 \$1,388.50

[~~(b)~~] (c)

July 1, 2023 \$1,251

[~~(c)~~] (d)

Jan. 1, 2023 \$1,427

[~~(d)~~] (e)

July 1, 2022 \$1,146

[~~(e)~~] (f)

Jan. 1, 2022 \$1,257

July 1, 2021 \$1,082 [~~(f)~~] (g)

Jan. 1, 2021 \$1,105 [~~(g)~~] (h)

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

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

F. Non-covered medical expenses.

G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed \$3,853.50. [8.200.510.12 NMAC - Rp, 8.200.510.12 NMAC, 7/1/2015; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 1/16/2020; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

8.200.510.13 AVERAGE MONTHLY COST OF NURSING FACILITIES FOR PRIVATE PATIENTS USED IN TRANSFER OF ASSET PROVISIONS: Costs of care are based on the date of application registration.

DATE

AVERAGE COST

PER MONTH

A. July 1, 1988 - Dec. 31, 1989 \$1,726 per month

B. Jan. 1, 1990 - Dec. 31, 1991 \$2,004 per month

C. Jan. 1, 1992 - Dec. 31, 1992 \$2,217 per month

D. Effective July 1, 1993, for application \$2,377 per month

Jan. 1, 1993 register on or after

E. Jan. 1, 1994 - Dec. 31, 1994 \$2,513 per month

F. Jan. 1, 1995 - Dec. 31, 1995 \$2,592 per month

G. Jan. 1, 1996 - Dec. 31, 1996 \$2,738 per month

H. Jan. 1, 1997 - Dec. 31, 1997 \$2,889 per month

I. Jan. 1, 1998 - Dec. 31, 1998 \$3,119 per month

J. Jan. 1, 1999 - Dec. 31, 1999 \$3,429 per month

K. Jan. 1, 2000 - Dec. 31, 2000 \$3,494 per month

L. Jan. 1, 2001 - Dec. 31, 2001 \$3,550 per month

M. Jan. 1, 2002 - Dec. 31, 2002 \$3,643 per month

N. Jan. 1, 2003 - Dec. 31, 2003 \$4,188 per month

O. Jan. 1, 2004 - Dec. 31, 2004 \$3,899 per month

P. Jan. 1, 2005 - Dec. 31, 2005 \$4,277 per month

Q. Jan. 1, 2006 - Dec. 31, 2006 \$4,541 per month

R. Jan. 1, 2007 - Dec. 31, 2007 \$4,551 per month

S. Jan. 1, 2008 - Dec. 31, 2008 \$4,821 per month

T. Jan. 1, 2009 - Dec. 31, 2009 \$5,037 per month

U. Jan. 1, 2010 - Dec. 31, 2010 \$5,269 per month

V. Jan. 1, 2011 - Dec. 31, 2011 \$5,774 per month

W. Jan. 1, 2012 - Dec. 31, 2012 \$6,015 per month

X. Jan. 1, 2013 - Dec. 31, 2013 \$6,291 per month

Y. Jan. 1, 2014 - Dec. 31, 2014 \$6,229 per month

Z. Jan. 1, 2015 - Dec. 31, 2015 \$6,659 per month

AA. Jan. 1, 2016 - Dec. 31, 2016 \$7,786 per month

BB. Jan. 1, 2017 - Dec. 31, 2017 \$7,485 per month

CC. Jan. 1, 2018 - Dec. 31, 2018 \$7,025 per month

DD. Jan. 1, 2019 - Dec. 31, 2019 \$7,285 per month

EE. Jan. 1, 2020 - Dec. 31, 2020 \$7,480 per month

FF. Jan. 1, 2021 - Dec. 31, 2021 \$7,590 per month

GG. Jan. 1, 2022 - Dec. 31, 2021 \$7,811 per month

HH. Jan. 1, 2023 - Dec. 31, 2023 \$8,275 per month

II. Jan. 1, 2024 - Dec. 31, 2024 \$8,919 per month

JJ. Jan. 1, 2025 - \$8,947 per month

[8.200.510.13 NMAC - Rp, 8.200.510.13 NMAC, 7/1/2015;

A/E, 1/1/2016; A/E, 3/1/2017;
A/E, 8/30/2018; A/E, 4/11/2019;
A, 7/30/2019; A/E, 8/11/2020;
A, 12/15/2020; A/E, 4/1/2021; A,
9/1/2021; A/E, 4/1/2022; A, 8/9/2022;
A/E, 4/1/2023; A/E, 4/1/2024; A,
8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

**8.200.510.15 EXCESS HOME
EQUITY AMOUNT FOR LONG-
TERM CARE SERVICES:**

A.	Jan. 2025
\$730,000	
[A:] B. Jan. 2024	
\$713,000	
[B:] C. Jan. 2023	
\$688,000	
[C:] D. Jan. 2022	
\$636,000	
[D:] E. Jan. 2021	
\$603,000	
[E:] F. Jan. 2020	
\$595,000	
[F:] G. Jan. 2019	
\$585,000	
[G:] H. Jan. 2018	
\$572,000	
[H:] I. Oct. 2017	
\$560,000	
[I:] J. Jan. 2017	
\$840,000	
[J:] K. Jan. 2016	
\$828,000	
[K:] L. Jan. 2015	
\$828,000	
[L:] M. Jan. 2014	
\$814,000	
[M:] N. Jan. 2013	
\$802,000	
[N:] O. Jan. 2012	
\$786,000	
[O:] P. Jan. 2011	
\$758,000	
[P:] Q. Jan. 2010	
\$750,000	
[8.200.510.15 NMAC - Rp, 8.200.510.15 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A, 3/1/18; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]	

**HEALTH CARE
AUTHORITY
MEDICAL ASSISTANCE
DIVISION**

**This is an amendment to 8.200.520
NMAC, Sections 11, 12, 13, 15, 16,
and 20, effective 8/1/2025.**

**8.200.520.11 FEDERAL
POVERTY INCOME
GUIDELINES:**

A. One hundred
percent federal poverty limits (FPL):

Size of budget group month	FPL per
[_____]	1
_____	\$1,255*
_____	2
_____	\$1,704*
_____	3
_____	\$2,152
_____	4
_____	\$2,600
_____	5
_____	\$3,049
_____	6
_____	\$3,497
_____	7
_____	\$3,945
_____	8
_____	\$4,394]
_____	1
_____	\$1,305*
_____	2
_____	\$1,763*
_____	3
_____	\$2,221
_____	4
_____	\$2,680
_____	5
_____	\$3,138
_____	6
_____	\$3,596
_____	7
_____	\$4,055
_____	8
_____	\$4,513
_____	Add [\$449]

\$458 for each additional person in the
budget group.

*FPL
must be below [+100%] one hundred
percent for an individual or couple for
qualified medicare beneficiary (QMB)
program.

B. One hundred twenty

percent FPL: This income level is
used only in the determination of the
maximum income limit for specified
low income medicare beneficiaries
(SLIMB) applicants or eligible
recipients.

Applicant or eligible recipient	Amount
1	
Individual	At least [\$1,255] \$1,305 per month but no more than [\$1,506] \$1,565 per month.

2	
Couple	At least [\$1,704] \$1,763 per month but no more than [\$2,044] \$2,115 per month.

For
purposes of this eligibility calculation,
“couple” means an applicant couple
or an applicant with an ineligible
spouse when income is deemed.

C. One hundred thirty-
three percent FPL:

Size of budget group month	FPL per
[_____]	1
_____	\$1,670
_____	2
_____	\$2,266
_____	3
_____	\$2,862
_____	4
_____	\$3,458
_____	5
_____	\$4,055
_____	6
_____	\$4,651
_____	7
_____	\$5,247
_____	8
_____	\$5,844]
_____	1
_____	\$1,735
_____	2
_____	\$2,345
_____	3
_____	\$2,954
_____	4
_____	\$3,564
_____	5
_____	\$4,173
_____	6
_____	\$4,783
_____	7
_____	\$5,393
_____	8
_____	\$6,002
_____	Add [\$597] \$609

for each additional person in the budget group.

D. One hundred thirty-five percent FPL: This income level is used only in the determination of the maximum income limit for a qualified individual 1 (QI1) applicant or eligible recipient. For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed. The following income levels apply:

Applicant or eligible recipient	Amount
1	
Individual	At least [\$1,506] <u>\$1,565</u> per month but no more than [\$1,695] <u>\$1,761</u> per month.
2	
Couple	At least [\$2,044] <u>\$2,115</u> per month but no more than [\$2,300] <u>\$2,380</u> per month.

E. One hundred eighty-five percent FPL:

group	Size of budget
month	FPL per
[1
	\$2,322
	2
	\$3,152
	3
	\$3,981
	4
	\$4,810
	5
	\$5,640
	6
	\$6,469
	7
	\$7,299
	8
	\$8,128]
	1
	\$2,413
	2
	\$3,261
	3
	\$4,109
	4
	\$4,957
	5
	\$5,805
	6
	\$6,653
	7
	\$7,501

	8
	\$8,349
	Add [\$829] <u>\$848</u>

for each additional person in the budget group.

F.	Two hundred percent FPL:
	Size of budget
group	FPL per
month	
[1
	\$2,510
	2
	\$3,407
	3
	\$4,304
	4
	\$5,200
	5
	\$6,097
	6
	\$6,994
	7
	\$7,890
	8
	\$8,787]
	1
	\$2,609
	2
	\$3,525
	3
	\$4,442
	4
	\$5,359
	5
	\$6,275
	6
	\$7,192
	7
	\$8,109
	8
	\$9,025
	Add [\$897] <u>\$916</u>

for each additional person in the budget group.

G.	Two hundred thirty-five percent FPL:
	Size of budget
group	FPL per
month	
[1
	\$2,950
	2
	\$4,003
	3
	\$5,057
	4
	\$6,110

	5
	\$7,164
	6
	\$8,218
	7
	\$9,271
	8
	\$10,325]
	1
	\$3,065
	2
	\$4,142
	3
	\$5,219
	4
	\$6,297
	5
	\$7,374
	6
	\$8,451
	7
	\$9,528
	8
	\$10,605

Add [~~\$1,054~~]

\$1,077 for each additional person in the budget group.

H. Two hundred fifty percent FPL:

	Size of budget
group	FPL per
month	
[1
	\$3,138
	2
	\$4,259
	3
	\$5,380
	4
	\$6,500
	5
	\$7,621
	6
	\$8,742
	7
	\$9,863
	8
	\$10,984]
	1
	\$3,261
	2
	\$4,407
	3
	\$5,553
	4
	\$6,698
	5
	\$7,844

6	\$8,990
7	\$10,136
8	\$11,282

Add [~~\$1,121~~] \$1,146 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp, 8.200.520.11 NMAC, 8/28/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019, A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

8.200.520.12 COST OF LIVING ADJUSTMENT (COLA) DISREGARD COMPUTATION: The countable social security benefit without the COLA is calculated using the COLA increase table as follows:

- A. divide the current gross social security benefit by the COLA increase in the most current year; the result is the social security benefit before the COLA increase;
- B. divide the result from Subsection A above by the COLA increase from the previous period or year; the result is the social security benefit before the increase for that period or year; and
- C. repeat Subsection B above for each year, through the year that the applicant or eligible recipient received both social security benefits and supplemental security income (SSI); the final result is the countable social security benefit.

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
1	<u>2025 Jan - Dec</u>	<u>2.5</u>	<u>Jan 25</u>
[1] 2	2024 Jan - Dec	3.2	Jan 24
[2] 3	2023 Jan - Dec	8.7	Jan 23
[3] 4	2022 Jan - Dec	5.9	Jan 22
[4] 5	2021 Jan - Dec	1.3	Jan 21
[5] 6	2020 Jan - Dec	1.6	Jan 20
[6] 7	2019 Jan - Dec	2.8	Jan 19
[7] 8	2018 Jan - Dec	2.0	Jan 18
[8] 9	2017 Jan - Dec	0.3	Jan 17
[9] 10	2016 Jan - Dec	0	Jan 16
[10] 11	2015 Jan - Dec	1.017	Jan 15
[11] 12	2014 Jan - Dec	1.015	Jan 14
[12] 13	2013 Jan - Dec	1.017	Jan 13
[13] 14	2012 Jan - Dec	1.037	Jan 12
[14] 15	2011 Jan - Dec	0	Jan 11
[15] 16	2010 Jan - Dec	1	Jan 10
[16] 17	2009 Jan - Dec	1	Jan 09
[17] 18	2008 Jan - Dec	1.058	Jan 08
[18] 19	2007 Jan - Dec	1.023	Jan 07
[19] 20	2006 Jan - Dec	1.033	Jan 06
[20] 21	2005 Jan - Dec	1.041	Jan 05
[21] 22	2004 Jan - Dec	1.027	Jan 04
[22] 23	2003 Jan - Dec	1.021	Jan 03
[23] 24	2002 Jan - Dec	1.014	Jan 02
[24] 25	2001 Jan - Dec	1.026	Jan 01
[25] 26	2000 Jan - Dec	1.035	Jan 00
[26] 27	1999 Jan - Dec	1.025	Jan 99
[27] 28	1998 Jan - Dec	1.013	Jan 98
[28] 29	1997 Jan - Dec	1.021	Jan 97

[29] <u>30</u>	1996 Jan - Dec	1.029	Jan 96
[30] <u>31</u>	1995 Jan - Dec	1.026	Jan 95
[31] <u>32</u>	1994 Jan - Dec	1.028	Jan 94
[32] <u>33</u>	1993 Jan - Dec	1.026	Jan 93
[33] <u>34</u>	1992 Jan - Dec	1.03	Jan 92
[34] <u>35</u>	1991 Jan - Dec	1.037	Jan 91
[35] <u>36</u>	1990 Jan - Dec	1.054	Jan 90
[36] <u>37</u>	1989 Jan - Dec	1.047	Jan 89
[37] <u>38</u>	1988 Jan - Dec	1.04	Jan 88
[38] <u>39</u>	1987 Jan - Dec	1.042	Jan 87
[39] <u>40</u>	1986 Jan - Dec	1.013	Jan 86
[40] <u>41</u>	1985 Jan - Dec	1.031	Jan 85
[41] <u>42</u>	1984 Jan - Dec	1.035	Jan 84
[42] <u>43</u>	1982 Jul - 1983 Dec	1.035	Jul 82
[43] <u>44</u>	1981 Jul - 1982 Jun	1.074	Jul 81
[44] <u>45</u>	1980 Jul - 1981 Jun	1.112	Jul 80
[45] <u>46</u>	1979 Jul - 1980 Jun	1.143	Jul 79
[46] <u>47</u>	1978 Jul - 1979 Jun	1.099	Jul 78
[47] <u>48</u>	1977 Jul - 1978 Jun	1.065	Jul 77
[48] <u>49</u>	1977 Apr - 1977 Jun	1.059	Apr 77

[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

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

Year	Individual	Institution	Individual	Couple	Institution	Couple
	FBR	FBR	VTR	FBR	FBR	VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33
1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33

1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66
1/06 to 1/07	\$603	\$30	\$201	\$904	\$60	\$301.33
1/07 to 1/08	\$623	\$30	\$207.66	\$934	\$60	\$311.33
1/08 to 1/09	\$637	\$30	\$212.33	\$956	\$60	\$318.66
1/09 to 1/10	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/10 to 1/11	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/11 to 1/12	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/12 to 1/13	\$698	\$30	\$232.66	\$1,048	\$60	\$349.33
1/13 to 1/14	\$710	\$30	\$237	\$1,066	\$60	\$355
1/14 to 1/15	\$721	\$30	\$240	\$1,082	\$60	\$361
1/15 to 12/15	\$733	\$30	\$244	\$1,100	\$60	\$367
1/16 to 12/16	\$733	\$30	\$244	\$1,100	\$60	\$367
1/17 to 12/17	\$735	\$30	\$245	\$1,103	\$60	\$368
1/18 to 12/18	\$750	\$30	\$250	\$1,125	\$60	\$375
1/19 to 12/19	\$771	\$30	\$257	\$1,157	\$60	\$386
1/20 to 12/20	\$783	\$30	\$261	\$1,175	\$60	\$392
1/21 to 12/21	\$794	\$30	\$264.66	\$1,191	\$60	\$397
1/22 to 12/22	\$841	\$30	\$280.33	\$1,261	\$60	\$420.50
1/23 to 12/23	\$914	\$30	\$304.66	\$1,371	\$60	\$456.99
1/24 to 12/24	\$943	\$30	\$314.33	\$1,415	\$60	\$471.66
1/25 to 12/25	\$967	\$30	\$322.33	\$1,450	\$60	\$483.33

A. Ineligible child deeming allocation is [~~\$472~~] \$483.

B. Part B premium is [~~\$174.70~~] \$185 per month.

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

D. The SSI resource standard is \$2000 for an individual and \$3000 for a couple.

[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

A. Individual living in their own household who own or rent:

Payment amount: [~~\$943~~] \$967 Individual
[~~\$1,415~~] \$1,450 Couple

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

Payment amount:
[~~\$943 - \$314.33 = \$628.67~~] \$967 - \$322.33 = \$644.67 Individual
[~~\$1,415 - \$471.66 = \$943.34~~] \$1,450 - \$483.33 = \$966.67 Couple

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

Payment amount:
[~~\$943 - \$314.33 = \$628.67~~] \$967 - \$322.33 = \$644.67 Individual
[~~\$1,415 - \$471.66 = \$943.34~~] \$1,450 - \$483.33 = \$966.67 Couple

D. Child living in home with their parent:

Payment amount: [~~\$943~~] \$967

E. Individual in institution:

Payment amount: \$30.00

[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES: Effective January 1, 2024, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is [~~\$2,829~~] \$2,901.

[8.200.520.16 NMAC - Rp, 8.200.520.16 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

8.200.520.20 COVERED QUARTER INCOME STANDARD:

Date	Calendar Quarter Amount
Jan. 2025 - Dec. 2025	<u>\$1,810 per calendar quarter</u>
Jan. 2024 - Dec. 2024	\$1,730 per calendar quarter
Jan. 2023 - Dec. 2023	\$1,640 per calendar quarter
Jan. 2022 - Dec. 2022	\$1,510 per calendar quarter
Jan. 2021 - Dec. 2021	\$1,470 per calendar quarter
Jan. 2020 - Dec. 2020	\$1,410 per calendar quarter
Jan. 2019 - Dec. 2019	\$1,360 per calendar quarter
Jan. 2018 - Dec. 2018	\$1,320 per calendar quarter
Jan. 2017 - Dec. 2017	\$1,300 per calendar quarter
Jan. 2016 - Dec. 2016	\$1,260 per calendar quarter
Jan. 2015 - Dec. 2015	\$1,220 per calendar quarter
Jan. 2014 - Dec. 2014	\$1,200 per calendar quarter
Jan. 2013 - Dec. 2013	\$1,160 per calendar quarter
Jan. 2012 - Dec. 2012	\$1,130 per calendar quarter
Jan. 2011 - Dec. 2011	\$1,120 per calendar quarter
Jan. 2010 - Dec. 2010	\$1,120 per calendar quarter
Jan. 2009 - Dec. 2009	\$1,090 per calendar quarter
Jan. 2008 - Dec. 2008	\$1,050 per calendar quarter
Jan. 2007 - Dec. 2007	\$1,000 per calendar quarter
Jan. 2006 - Dec. 2006	\$970 per calendar quarter
Jan. 2005 - Dec. 2005	\$920 per calendar quarter
Jan. 2004 - Dec. 2004	\$900 per calendar quarter
Jan. 2003 - Dec. 2003	\$890 per calendar quarter
Jan. 2002 - Dec. 2002	\$870 per calendar quarter

[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 03/01/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

**HEALTH CARE AUTHORITY
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.291.430 NMAC, Section 10, effective 8/1/2025

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

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	[\$1,255] <u>\$1,305</u>	[\$1,670] <u>\$1,735</u>	[\$1,732] <u>\$1,800</u>	[\$2,385] <u>\$2,478</u>	[\$3,012] <u>\$3,130</u>	[\$3,138] <u>\$3,261</u>	[\$3,765] <u>\$3,913</u>
2	[\$1,704] <u>\$1,763</u>	[\$2,266] <u>\$2,345</u>	[\$2,351] <u>\$2,433</u>	[\$3,237] <u>\$3,349</u>	[\$4,088] <u>\$4,230</u>	[\$4,259] <u>\$4,407</u>	[\$5,110] <u>\$5,288</u>

3	[\$2,152] \$2,221	[\$2,862] \$2,954	[\$2,970] \$3,065	[\$4,089] \$4,220	[\$5,164] \$5,330	[\$5,380] \$5,553	[\$6,455] \$6,663
4	[\$2,600] \$2,680	[\$3,458] \$3,564	[\$3,588] \$3,698	[\$4,940] \$5,091	[\$6,240] \$6,430	[\$6,500] \$6,698	[\$7,800] \$8,038
5	\$3,138 [\$3,049]	\$4,173 [\$4,055]	\$4,330 [\$4,207]	\$5,962 [\$5,792]	\$7,530 [\$7,316]	\$7,844 [\$7,621]	\$9,413 [\$9,145]
6	[\$3,497] \$3,596	[\$4,651] \$4,783	[\$4,826] \$4,963	[\$6,644] \$6,833	[\$8,392] \$8,630	[\$8,742] \$8,990	[\$10,490] \$10,788
7	[\$3,945] \$4,055	[\$5,247] \$5,393	[\$5,445] \$5,595	[\$7,496] \$7,703	[\$9,468] \$9,730	[\$9,863] \$10,136	[\$11,835] \$12,163
8	[\$4,394] \$4,513	[\$5,844] \$6,002	[\$6,063] \$6,228	[\$8,348] \$8,574	[\$10,544] \$10,830	[\$10,984] \$11,282	[\$13,180] \$13,538
+1	[\$449] \$458	[\$597] \$609	[\$618] \$633	[\$852] \$871	[\$1,076] \$1,100	[\$1,121] \$1,146	[\$1,345] \$1,375

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11/16/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A, 12/1/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025]

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.310.2 NMAC, Sections 1, 8, 9, 10, 12, 13, and 14, effective 7/1/2025.

8.310.2.1 ISSUING

AGENCY: New Mexico Health Care Authority (HCA).

[8.310.2.1 NMAC - Rp, 8.310.2.1 NMAC, 1/1/2014; A, 7/1/2024; A, 7/1/2025]

8.310.2.8 MISSION

STATEMENT: ~~[To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.]~~ We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.

[8.310.2.8 NMAC - Rp, 8.310.2.8 NMAC, 1/1/2014; A, 8/10/2021; A/E, 1/1/2025; A, 7/1/2025]

8.310.2.9 GENERAL PROGRAM DESCRIPTION:

A. The New Mexico medical assistance division (MAD)

pays for medically necessary health care services furnished by a MAD enrolled medical provider. See 42 CFR 440.210; Section 27-2-16 NMSA 1978 (Repl. Pamp. 1991).

B. MAD pays for medically necessary behavioral health professional services including assessments, evaluations, and therapy required by the condition of the medical assistance program (MAP) eligible recipient. See 42 CFR Sections 440.40, 440.60(a) and 441.571.

C. MAD covers services which are medically necessary for the diagnosis or treatment of illnesses, injuries or conditions of a MAP eligible recipient, as determined by MAD or its designee. All services must be furnished within the limits of the MAD New Mexico administrative code (NMAC) rules policies and instructions within the scope of practice defined by the provider's licensing board, scope of practice act, or regulatory authority. Any claim submitted for reimbursement is subject to review by MAD or its designee to verify the medical necessity of the service. All claims are subject to pre-payment or post-payment review and recoupment.

D. [HSD] HCA, through MAD, is responsible for the administration of the medicaid

program and other health care programs. This joint federal and state program provides payment for medically necessary health services furnished to MAP eligible recipients.

E. A provider must be eligible for participation as a MAD approved provider at the time services are furnished. MAD does not cover services performed during a time period when the provider or facility did not meet required licensing or certification requirement.

F. If a MAP eligible recipient is enrolled with a MAD managed care organization (MCO), the provider must contact that member's MCO for specific reimbursement information. A MCO contracted with the state of New Mexico is not required to follow the MAD fee-for-service (FFS) fee schedules or reimbursement methodologies unless otherwise instructed by MAD. Reimbursement arrangements are determined contractually between the MCO and the provider.
[8.310.2.9 NMAC - N, 1/1/2014; A, 7/1/2025]

8.310.2.10 RELATIONSHIP TO MEDICARE:

MAD covers medically necessary health services furnished to a MAP eligible recipient who meets specific income, resource and eligibility standards. Medicare is

a federal program which offers health insurance coverage to MAP eligible recipient 65 years of age and older, to those who have received disability benefits for 24 consecutive months, to those who have end stage renal disease, and to other MAP eligible recipients as specified by other provisions of the Social Security Act.

A. New Mexico has entered into an agreement with the social security administration to pay a medicaid MAP eligible recipient's premium for medicare part B, and under some circumstances, medicare part A premiums.

B. After medicare has made payment for services, MAD pays for the medicare co-insurance, deductible and copayment amounts for a MAP eligible recipient subject to the following reimbursement limitations.

(1) Medicaid payment for the co-insurance, deductible, copayment or other patient responsibility is limited such that the payment from medicare, plus the amount allowed by MAD for the co-insurance, copayment and deductible, shall not exceed the MAD allowed amount for the service. When the medicare payment exceeds the amount that medicaid would have allowed for the service, no payment is made for the co-insurance, copayment, deductible or other patient responsibility. The claim is considered paid in full. The provider may not collect any remaining portion of the medicare co-insurance, copayment or deductible from the MAP eligible recipient or ~~his or her~~ their authorized representative. For services for which medicare part B applies a 50 percent co-insurance rate, medicare co-insurance, copayment and deductible amounts are paid at an amount that allows the provider to receive more than MAD allowed amount, not to exceed a percentage determined by ~~[HSD]~~ HCA.

(2) MAD will pay toward the medicare co-insurance and deductible to the extent that the amount paid by medicare and the allowed medicare co-insurance, deductible and copayment

together do not exceed the MAD allowable amount. MAD will pay the full medicare co-insurance and deductible when MAD does not have a specific amount allowed for the service. When MAD does not use an equivalent payment methodology for a service, the full coinsurance, deductible and copayment amounts will be paid. This occurs when providers are paid at encounter rates, percent of billed charges followed by cost settlements, or when providers are entitled to a full reimbursement rate such as for federally qualified health centers and hospital outpatient prospective payment system reimbursement.

[8.310.2.10 NMAC - Rp, 8.300.1.10 NMAC, 1/1/2014; A, 7/1/2025]

8.310.2.12 SERVICES:

MAD covers services and procedures that are medically necessary for the diagnosis and treatment of an illness or injury as indicated by the MAP eligible recipient's condition. All services must be furnished within the limits of provider program rules and within the scope of their practice board and licensure.

A. Medical practitioner services:

(1) Second surgical opinions: MAD covers second opinions when surgery is considered.

(2) Services performed in an outpatient setting: MAD covers procedures performed in the office, clinic or as outpatient institutional services as alternatives to hospitalization. These procedures are those for which an overnight stay in a hospital is seldom necessary.

(a) A MAP eligible recipient may be hospitalized if they have existing medical conditions that predispose them to complications even with minor procedures.

(b) Claims may be subject to pre-payment or post-payment review.

(c) Medical justification for performance of these procedures in a hospital must be documented in the MAP eligible recipient's medical record.

(3)

Noncovered therapeutic radiology and diagnostic imaging services: MAD does not pay for kits, films or supplies as separate charges. All necessary materials and minor services are included in the service or procedure charge. Reimbursement for imaging procedures includes all materials and minor services necessary to perform the procedure. MAD does not pay an additional amount for contrast media except in the following instances:

(a) radioactive isotopes;

(b) non-ionic radiographic contrast material; or

(c) gadolinium salts used in magnetic resonance imaging.

(4) Midwives

services: MAD covers services furnished by certified nurse midwives or licensed midwives within the scope of their practice, as defined by state laws and rules and within the scope of their practice board and licensure. Reimbursement for midwife services is based on one global fee, which includes prenatal care, delivery and postpartum care.

(a) Separate trimesters completed and routine vaginal delivery can be covered if a MAP eligible recipient is not under the care of one provider for the entire prenatal, delivery and postpartum periods.

(b) MAD covers laboratory and diagnostic imaging services related to pregnancy. These services can be billed separately.

(c) MAD covers gynecological or obstetrical ultrasounds without requiring a prior authorization of any kind.

(d) MAD covers a MAP eligible pregnant recipient's labor and delivery services at a New Mexico department of health (DOH) licensed birth center through the "Birthing Options Program" (BOP). MAD reimburses the birth center facility and the rendered services of a midwife separately.

BOP services are provided by an eligible midwife that enrolls as a BOP provider with the ~~[human services department/medical assistance division (HSD/MAD)]~~ health care authority/medical assistance division (HCA/MAD). The facility must comply with all DOH licensing requirements, including limiting licensure. The facility must maintain all clinical documentation, including schedules, for the period of time as required under 8.302.1 NMAC. The program does not cover the full scope of midwifery services nor replace pediatric care that should occur at a primary care clinic.

(e)

Non-covered midwife services: Midwife services are subject to the limitation and coverage restrictions which exist for other MAD services. MAD does not cover the following specific services furnished by a midwife:

(i)

oral medications or medications, such as ointments, creams, suppositories, ophthalmic and otic preparations which can be appropriately self-administered by the MAP eligible recipient;

(ii)

services furnished by an apprentice; unless billed by the supervising midwife;

(iii)

an assistant at a home birth unless necessary based on the medical condition of the MAP eligible recipient which must be documented in the claim.

B. Pharmaceutical, vaccines and other items obtained from a pharmacy: MAD does not cover drug items that are classified as ineffective by the food and drug administration (FDA) and antitubercular drug items that are available from the public health department. In addition, MAD does not cover personal care items or pharmacy items used for cosmetic purposes only. Transportation to a pharmacy is not a MAD allowed benefit with the exception for justice-involved MAP eligible recipients who are released from incarceration at a

correctional facility within the first seven days of release.

C. Laboratory and diagnostic imaging services: MAD covers medically necessary laboratory and diagnostic imaging services ordered by primary care provider (PCP), physician assistant (PA), certified nurse practitioner (CNP), or clinical nurse specialists (CNS) and performed in the office by a provider or under ~~[his or her]~~ their supervision by a clinical laboratory or a radiology laboratory, or by a hospital-based clinical laboratory or radiology laboratory that are an enrolled MAD provider. See 42 CFR Section 440.30.

(1) MAD

covers interpretation of diagnostic imaging with payment as follows: when diagnostic radiology procedures, diagnostic imaging, diagnostic ultrasound, or non-invasive peripheral vascular studies are performed in a hospital inpatient or outpatient setting, payment is made only for the professional component of the service. This limitation does not apply if the hospital does not bill for any component of the radiology procedures and does not include the cost associated with furnishing these services in its cost reports.

(2)

A provider may bill for the professional components of imaging services performed at a hospital or independent radiology laboratory if the provider does not request an interpretation by the hospital radiologist.

(3) Only one

professional component is paid per radiological procedure.

(4) Radiology

professional components are not paid when the same provider or provider group bills for professional components or interpretations and for the performance of the complete procedure.

(5)

Professional components associated with clinical laboratory services are payable only when the work is actually performed by a pathologist who is not billing for global procedures and the service is for

anatomic and surgical pathology only, including cytopathology, histopathology, and bone marrow biopsies, or as otherwise allowed by the medicare program.

(6) Specimen

collection fees are payable when obtained by venipuncture, arterial stick, or urethral catheterization, unless a MAP eligible recipient is an inpatient of a nursing facility or hospital.

(7)

Noncovered laboratory services:

MAD does not cover laboratory specimen handling, mailing, or collection fees. Specimen collection is covered only if the specimen is drawn by venipuncture, arterial stick, or collected by urethral catheterization from a MAP eligible recipient who is not a resident of a NF or hospital. MAD does not cover the following specific laboratory services:

(a)

clinical laboratory professional components, except as specifically described under covered services above;

(b)

specimens, including pap smears, collected in a provider's office or a similar facility and conveyed to a second provider's office, office laboratory, or non-certified laboratory;

(c)

laboratory specimen handling or mailing charges;

(d)

specimen collection fees other than those specifically indicated in covered services; and

(e)

laboratory specimen collection fees for a MAP eligible recipient in NF or inpatient hospital setting.

D. Reproductive health services: MAD pays for family planning and other related health services (see 42 CFR Section 440.40(c)) and supplies furnished by or under the supervision of a MAD enrolled provider acting within the scope of their practice board or licensure.

(1) Prior to

performing medically necessary surgical procedures that result in

sterility, providers must complete a “sterilization consent” or a “hysterectomy acknowledgment/consent” form. MAD covers a medically necessary sterilization under the following conditions. See 42 CFR Section 441.251 et seq:

(a) a MAP eligible recipient 21 years and older at the time consent is obtained;

(b) a MAP eligible recipient is not mentally incompetent; mentally incompetent is a declaration of incompetency as made by a federal, state, or local court; a MAP eligible recipient can be declared competent by the court for a specific purpose, including the ability to consent to sterilization;

(c) a MAP eligible recipient is not institutionalized; for this section, institutionalized is defined as:

(i) an individual involuntarily confined or detained under a civil or criminal statute in a correctional or rehabilitative facility, including a psychiatric hospital or an intermediate care facility for the care and treatment of mental illness;

(ii) confined under a voluntary commitment in a psychiatric hospital or other facility for the care and treatment of mental illness;

(d) a MAP eligible recipient seeking sterilization must be given information regarding the procedure and the results before signing a consent form; this explanation must include the fact that sterilization is a final, irreversible procedure; a MAP eligible recipient must be informed of the risks and benefits associated with the procedure;

(e) a MAP eligible recipient seeking sterilization must also be instructed that their consent can be withdrawn at any time prior to the performance of the procedure and that they would not lose any other MAD benefits as a result of the decision to have or not have the procedure; and

(f) a MAP eligible recipient voluntarily

gives informed consent to the sterilization procedure. See 42 CFR Section 441.257(a); and

(g) a MAP eligible recipient’s informed consent to the sterilization procedure must be attached to the claim.

(2) Hysterectomies: MAD covers only a medically necessary hysterectomy. MAD does not cover a hysterectomy performed for the sole purpose of sterilization. See 42 CFR Section 441.253.

(a) Hysterectomies require a signed, voluntary informed consent which acknowledges the sterilizing results of the hysterectomy. The form must be signed by the MAP eligible recipient prior to the operation.

(b) Acknowledgement of the sterilizing results of the hysterectomy is not required from a MAP eligible recipient who has been previously sterilized or who is past child-bearing age as defined by the medical community. In this instance, the PCP signs the bottom portion of the hysterectomy form which states the MAP eligible recipient has been formerly sterilized, and attaches it to the claim.

(c) An acknowledgement can be signed after the fact if the hysterectomy is performed in an emergency.

(3) Birthing options services (BOP): MAD covers a MAP eligible pregnant recipient’s labor and delivery services at a New Mexico department of health (DOH) licensed birth center through BOP. The BOP is an out-of-hospital birthing option for pregnant individuals enrolled in the medicaid program who are at low-risk for adverse birth outcomes. BOP services are provided by an eligible midwife that enrolls as a BOP provider with [human services department/medical assistance division (HSD/MAD)] HCA/MAD. The BOP services are specifically for basic obstetric care for uncomplicated pregnancies and childbirth, including immediate newborn care that is limited to stabilization of the baby

during this transition. The program does not cover the full scope of midwifery services nor replace pediatric care that should occur at a primary care clinic.

(4) Doula services: MAD covers doula services to prevent perinatal complication or promote the physical and mental health of the beneficiary. MAD covers only those services furnished by a doula certified by the department of health (DOH).

(a) department of health certification of a doula will include the following:

(i) a uniform application process with timelines and procedures;

(ii) a certification review committee; and

(iii) a uniform hearing process to allow for an applicant to appeal a decision by the department of health.

(b) in addition to DOH certification eligible doula service providers must:

(i) be at least 18 years old;

(ii) maintain a current adult and infant cardiopulmonary resuscitation (CPR) certification from the American Red Cross or American Heart Association; and

(iii) complete the basic Health Insurance Portability and Accountability Act of 1996 (HIPPA) training.

(c) doula services include the following:

(i) prenatal and post-partum physical, emotional, and evidence-based education support and linkages to community-based resources;

(ii) non-medical labor and delivery (L&D) support; and

(iii) education related to pre-conception, pregnancy loss, infant loss, or termination of pregnancy.

(4) (5) Other covered services: MAD covers medically necessary methods, procedures, pharmaceutical supplies

and devices to prevent unintended pregnancy or contraception.

~~(5)~~ (6)

Noncovered reproductive health care: MAD does not cover the following specific services:

- (a) sterilization reversal services;
- (b) fertility drugs;
- (c) in vitro fertilization;
- (d) artificial insemination;
- (e) hysterectomies performed for the sole purpose of family planning;
- (f) induced vaginal deliveries prior to 39 weeks unless medically indicated;
- (g) caesarean sections unless medically indicated; and
- (h) elective procedures to terminate a pregnancy.

E. Nutritional

services: MAD covers medically necessary nutritional services which are based on scientifically validated nutritional principles and interventions which are generally accepted by the medical community and consistent with the physical and medical condition of the MAP eligible recipient. MAD covers only those services furnished by PCP, licensed nutritionists or licensed dietitians. MAD covers the following services:

(1) Nutritional assessments for a pregnant MAP eligible recipient and for a MAP eligible recipient under 21 years of age through the early and periodic screening, diagnosis and treatment (EPSDT) program. Nutritional assessment is defined as an evaluation of the nutritional needs of the MAP eligible recipient based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs and includes recommending appropriate nutritional intake.

(2) Nutrition counseling to or on behalf of a MAP eligible recipient under 21 years of age who has been referred

for a nutritional need. Nutrition counseling is defined as advising and helping a MAP eligible recipient obtain appropriate nutritional intake by integrating information from the nutrition assessment with information on food, other sources of nutrients and meal preparation, consistent with cultural background and socioeconomic status.

(3) Noncovered nutritional services: MAD covers only those services furnished by a PCP, licensed nutritionist or licensed dietitian. MAD does not cover the following specific services:

- (a) services not considered medically necessary for the condition of the MAP eligible recipient as determined by MAD or its designee;
- (b) dietary counseling for the sole purpose of weight loss;
- (c) weight control and weight management programs; and
- (d) commercial dietary supplements or replacement products marketed for the primary purpose of weight loss and weight management; see 8.324.4 NMAC.

F. Transplant

services: Non-experimental transplant services are covered. MAD covered transplantation services include hospital, a PCP, laboratory, outpatient surgical, and other MAD covered services necessary to perform the selected transplantation for the MAP eligible recipient and donor.

(1) Due to special medicare coverage available for individuals with end-stage renal disease, medicare eligibility must be pursued by the provider for coverage of a kidney transplant before requesting MAD reimbursement.

(2) MAD covers the MAP eligible recipient's and donor's related medical, transportation, meals and lodging services for non-experimental transplantation.

(3) MAD does not cover transplant procedures,

treatments, use of a drug, biological product, a product or a device which are considered unproven, experimental, investigational or not effective for the condition for which they are intended or used.

(4) A written prior authorization must be obtained for any transplant, with the exception of a cornea and a kidney. The prior authorization process must be started by the MAP eligible recipient's attending PCP contacting the MAD UR contractor. Services for which prior approval was obtained remain subject to UR at any point in the payment.

G. Dental services:

Dental services are covered as an optional medical service for a MAP eligible recipient. Dental services are defined as those diagnostic, preventive or corrective procedures to the teeth and associated structures of the oral cavity furnished by, or under the supervision of, a dentist that affect the oral or general health of the MAP eligible recipient. See 42 CFR Section 440.100(a). MAD also covers dental services, dentures and special services for a MAP eligible recipient who qualifies for services under the EPSDT program. See 42 CFR Section 441.55.

(1) Emergency dental care: MAD covers emergency care for all MAP eligible recipients. Emergency care is defined as services furnished when immediate treatment is required to control hemorrhage, relieve pain or eliminate acute infection. For a MAP eligible recipient under 21 years of age, care includes operative procedures necessary to prevent pulpal death and the imminent loss of teeth, and treatment of injuries to the teeth or supporting structures, such as bone or soft tissue contiguous to the teeth.

(a) Routine restorative procedures and root canal therapy are not emergency procedures.

(b) Prior authorization requirements are waived for emergency care, but the claim can be reviewed prior to payment to confirm that an actual

emergency existed at the time of service.

(2) Diagnostic services: MAD coverage for diagnostic services is limited to the following:

(a) for a MAP eligible recipient under 21 years of age, diagnostic services are limited to one clinical oral examination every six months and upon referral one additional clinical oral examination by a different dental provider every six months;

(b) one clinical oral examination every 12 months for a MAP eligible recipient 21 years and older; and

(c) MAD covers emergency oral examinations which are performed as part of an emergency service to relieve pain and suffering.

(3) Radiology services: MAD coverage of radiology services is limited to the following:

(a) one intraoral complete series every 60 months per MAP eligible recipient; this series includes bitewing x-rays;

(b) additional bitewing x-rays once every 12 months per MAP eligible recipient; and

(c) panoramic films performed can be substituted for an intraoral complete series, which is limited to one every 60 months per MAP eligible recipient.

(4) Preventive services: MAD coverage of preventive services is subject to certain limitations.

(a) Prophylaxis: MAD covers for a MAP eligible recipient under 21 years of age one prophylaxis service every six months. MAD covers for a MAP eligible recipient 21 years of age and older who has a developmental disability, as defined in 8.314.6 NMAC, one prophylaxis service every six months. For a MAP eligible recipient 21 years of age and older without a developmental disability, as defined in 8.314.6 NMAC, MAD covers one prophylaxis service once in a 12 month-period.

(b) Fluoride treatment: MAD covers for a MAP eligible recipient under 21 years of age, one fluoride treatment every six months. For a MAP eligible recipient 21 years of age and older MAD, covers one fluoride treatment once in a 12-month period.

(c) Fluoride varnish: MAD covers for a MAP eligible recipient under 21 years of age, one fluoride varnish treatment every six months.

(d) Molar sealants: MAD only covers for a MAP eligible recipient under 21 years of age, sealants for permanent molars. Each MAP eligible recipient can receive one treatment per tooth every 60 months. MAD does not cover sealants when an occlusal restoration has been completed on the tooth. Replacement of a sealant within the 60-month period requires a prior authorization. For a MAP eligible recipient 21 years of age and older, MAD does not cover sealant services.

(e) Space maintenance: MAD covers for a MAP eligible recipient under 21 years of age fixed unilateral and fixed bilateral space maintainers (passive appliances). For a MAP eligible recipient 21 years of age and older, MAD does not cover space maintenance services.

(5) Restorative services: MAD covers the following restorative services:

(a) amalgam restorations (including polishing) on permanent and deciduous teeth;

(b) resin restorations for anterior and posterior teeth;

(c) one prefabricated stainless steel crown per permanent or deciduous tooth;

(d) one prefabricated resin crown per permanent or deciduous tooth; and

(e) one recementation of a crown or inlay.

(6) Endodontic services: MAD covers therapeutic

pulpotomy for a MAP eligible recipient under 21 years of age if performed on a primary or permanent tooth and no periapical lesion is present on a radiograph.

(7) Periodontic services: MAD covers for a MAP eligible recipient certain periodontics surgical, non-surgical and other periodontics services subject to certain limitations:

(a) a collaborative practice dental hygienist may provide periodontal scaling and root planning, per quadrant after diagnosis by a MAD enrolled dentist; and

(b) a collaborative practice dental hygienist may provide periodontal maintenance procedures with prior authorization.

(8) Removable prosthodontic services: MAD covers two denture adjustments per every 12 months per MAP eligible recipient. MAD also covers repairs to complete and partial dentures.

(9) Fixed prosthodontics services: MAD covers one recementation of a fixed bridge.

(10) Oral surgery services:

(a) simple and surgical extractions: MAD coverage includes local anesthesia and routine post-operative care; erupted surgical extractions are defined as extractions requiring elevation of mucoperiosteal flap and removal of bone, or section of tooth and closure;

(b) autogenous tooth reimplantation of a permanent tooth: MAD covers for a MAP eligible recipient under 21 years of age; and

(c) the incision and the drainage of an abscess for a MAP eligible recipient.

(11) Adjunctive general services: MAD covers emergency palliative treatment of dental pain for a MAP eligible recipient. MAD also covers general anesthesia and intravenous sedation for a MAP eligible recipient. Documentation of medical necessity must be available for review by

MAD or its designee. For a MAP eligible recipient under 21 years of age, MAD covers the use of nitrous oxide analgesia. For a MAP eligible recipient 21 years of age and older, MAD does not cover the use of nitrous oxide analgesia.

(12) Hospital care: MAD covers dental services normally furnished in an office setting if they are performed in an inpatient hospital setting only with a prior authorization, unless one of the following conditions exist:

(a) the MAP eligible recipient is under 21 years of age; or

(b) the MAP eligible recipient under 21 years of age has a documented medical condition for which hospitalization for even a minor procedure is medically justified; or

(c) any service which requires a prior authorization in an outpatient setting must have a prior authorization if performed in an inpatient hospital.

(13) Behavioral management: Dental behavior management as a means to assure comprehensive oral health care for persons with developmental disabilities is covered. This code allows for additional compensation to a dentist who is treating persons with developmental disabilities due to the increased time, staffing, expertise, and adaptive equipment required for treatment of a special needs MAP eligible recipient. Dentists who have completed the training and received their certification from DOH are eligible for reimbursement.

(14) Noncovered dental services: MAD does not cover dental services that are performed for aesthetic or cosmetic purposes. MAD covers orthodontic services only for a MAP eligible recipient under 21 years of age and only when specific criteria are met to assure medical necessary. MAD does not cover the following specific services:

(a) surgical tray is considered part of the surgical procedure and is not reimburse separately for tray;

(b) sterilization is considered part of the dental procedure and is not reimbursed separately for sterilization;

(c) oral preparations, including topical fluorides dispensed to a MAP eligible recipient for home use;

(d) permanent fixed bridges;

(e) procedures, appliances or restorations solely for aesthetic, or cosmetic purposes;

(f) procedures for desensitization, remineralization or tooth bleaching;

(g) occlusal adjustments, diskings, overhang removal or equilibration;

(h) mastique or veneer procedures;

(i) treatment of TMJ disorders, bite openers and orthotic appliances;

(j) services furnished by non-certified dental assistants, such as radiographs;

(k) implants and implant-related services; or

(l) removable unilateral cast metal partial dentures.

H. Podiatry and procedures on the foot: MAD covers only medically necessary podiatric services furnished by a provider, as required by the condition of the MAP eligible recipient. All services must be furnished within the scope and practice of the podiatrist as defined by state law, the New Mexico board of podiatry licensing requirements, and in accordance with applicable federal, state, and local laws and rules. MAD covers routine foot care if certain conditions of the foot, such as corns, warts, calluses and conditions of the nails, post a hazard to a MAP eligible recipient with a medical condition. MAD covers the treatment of warts on the soles of the feet (plantar warts). Medical justification for the performance of routine care must be documented in the MAP eligible

recipient's medical record. MAD covers the following specific podiatry services.

(1) Routine foot care: Routine foot care services that do not meet the coverage criteria of medicare part B are not covered by MAD. MAD covers services only when there is evidence of a systemic condition, circulatory distress or areas of diminished sensation in the feet demonstrated through physical or clinical determination. A MAP eligible recipient with diagnoses marked by an asterisk(*) in the list below must be under the active care of a physician or physician assistant (PA). to qualify for covered routine foot care, and must have been assessed by that provider for the specified condition within six months prior to or 60-calendar days after the routine foot care service. A CNP, PA and a CNS do not satisfy the coverage condition of "active care by a PCP".

(2) Common billed diagnoses: The following list of systemic diseases is not all-inclusive and represents the most commonly billed diagnoses which qualify for medically necessary foot care:

(a) diabetes mellitus*;

(b) arteriosclerosis obliterans;

(c) buerger's disease;

(d) chronic thrombophlebitis*;

(e) neuropathies involving the feet associated with:

(i) malnutrition and vitamin deficiency*;

(ii) malnutrition (general, pellagra);

(iii) alcoholism;

(iv) malabsorption (celiac disease, tropical sprue);

(v) pernicious anemia;

(vi) carcinoma*;

(vii) diabetes mellitus*;

drugs or toxins*;	(viii)	burning.	(v)	certain outpatient podiatric services may be covered.
multiple sclerosis*;	(ix)	foot structure: Non-surgical and surgical correction of a subluxated foot structure that is an integral part of the treatment of foot pathology or that is undertaken to improve the function of the foot or to alleviate an associated symptomatic condition, including treatment of bunions, is covered when medical necessity has been documented. Treatment for bunions is limited to capsular or bony surgery. The treatment of subluxation of the foot is defined as partial dislocations or displacements of joint surfaces, tendons, ligaments or muscles in the foot.	(4) Subluxated	(10) Noncovered podiatric services: A provider is subject to the limitations and coverage restrictions that exist for other medical services. MAD does not cover the following specific services or procedures.
uremia (chronic renal disease)*;	(x)			
traumatic injury;	(xi)			
leprosy or neurosyphilis;	(xii)			(a) Routine foot care is not covered except as indicated under "covered services" for a MAP eligible recipient with systemic conditions meeting specified class findings. Routine foot care is defined as:
hereditary disorders;	(xiii)			
hereditary sensory radicular neuropathy;	(xiv)			
fabry's disease; and	(xv)			(i) trimming, cutting, clipping and debriding toenails;
amyloid neuropathy.	(xvi)			(ii) cutting or removal of corns, calluses, or hyperkeratosis;
foot care services: MAD covers routine foot care services for a MAP eligible recipient who has a systemic condition and meets the severity in the class findings as follows: one of class A findings; or two of class B findings; or one of the class B findings and two of the following class C findings:	(3) Routine	MAD covers the treatment of warts on the feet.	(5) Foot warts:	(iii) other hygienic and preventative maintenance care such as cleaning and soaking of the feet, application of topical medications, and the use of skin creams to maintain skin tone in either ambulatory or bedfast MAP eligible recipient; and
class A findings: non-traumatic amputation of foot or integral skeletal portion thereof;	(a)	Asymptomatic mycotic nails: MAD covers the treatment of asymptomatic mycotic nails in the presence of a systemic condition that meets the clinical findings and class findings as required for routine foot care.	(6)	(iv) any other service performed in the absence of localized illness, injury or symptoms involving the foot.
class B findings:	(b)	nails: MAD covers the treatment of mycotic nails in the absence of a covered systemic condition if there is clinical evidence of mycosis of the toenail and one or more of the following conditions exist and results from the thickening and dystrophy of the infected nail plate:	(7) Mycotic	(b) Services directed toward the care or the correction of a flat foot condition are not covered. Flat foot is defined as a condition in which one or more arches of the foot have flattened out.
absent posterior tibial pulse;	(i)			
absent dorsalis pedis pulse; and	(ii)			
advanced trophic changes as evidenced by any three of the following: hair growth (decrease or increase); nail changes (thickening); pigmentary changes (discoloring); skin texture (thin, shiny); or skin color (rubor or redness);	(iii)	marked, significant limitation;	(a)	
class C findings:	(c)	pain; or	(b)	(c) Orthopedic shoes and other supportive devices for the feet are generally not covered. This exclusion does not apply if the shoe is an integral part of a leg brace or therapeutic shoes furnished to a diabetic MAP eligible recipient.
claudication;	(i)	secondary infection.	(c)	(d) Surgical or nonsurgical treatments undertaken for the sole purpose of correcting a subluxated structure in the foot as an isolated condition are not covered. Subluxations of the foot are defined as partial dislocations or displacements of joint surfaces, tendons, ligaments, or muscles of the foot.
temperature changes (e.g., cold feet);	(ii)	shoes and other supportive devices: MAD only covers these items when the shoe is an integral part of a leg brace or therapeutic shoes furnished to diabetics who is a MAP eligible recipient.	(8) Orthopedic	
edema;	(iii)	Hospitalization: If the MAP eligible recipient has existing medical condition that would predispose [him or her] them to complications even with minor procedures, hospitalization for the performance of	(9)	
paresthesias (abnormal spontaneous sensations in the feet); or	(iv)			

(e)

MAD will not reimburse for services that have been denied by medicare for coverage limitations.

I. Anesthesia:

MAD covers anesthesia and monitoring services which are medically necessary for performance of surgical or diagnostic procedures, as required by the condition of the MAP eligible recipient. All services must be provided within the limits of MAD benefit package, within the scope and practice of anesthesia as defined by state law and in accordance with applicable federal and state and local laws and rules.

(1) When a

provider performing the medical or surgical procedure also provides a level of anesthesia lower in intensity than moderate or conscious sedation, such as a local or topical anesthesia, payment for this service is considered to be part of the underlying medical or surgical service and will not be covered in addition to the procedure.

(2) An

anesthesia service is not covered if the medical or surgical procedure is not a MAD covered service.

(3) Separate

payment is not allowed for qualifying circumstances. Payment is considered bundled into the anesthesia allowance.

(4) Separate

payment is not allowed for the anesthesia complicated by the physical status of the MAP eligible recipient.

J. Vision:

MAD covers specific vision care services that are medically necessary for the diagnosis of and treatment of eye diseases for a MAP eligible recipient. MAD pays for the correction of refractive errors required by the condition of the MAP eligible recipient. All services must be furnished within the limits of the MAD benefits package, within the scope and practice of the medical professional as defined by state law and in accordance with applicable federal, state and local laws and rules.

(1) Vision

exam: MAD covers routine eye exams. Coverage for an eligible adult

recipient 21 years of age and older of age is limited to one routine eye exam in a 36-month period. An exam for an existing medical condition, such as cataracts, diabetes, hypertension, and glaucoma, will be covered for required follow-up and treatment. The medical condition must be clearly documented on the MAP eligible recipient's visual examination record and indicated by diagnosis on the claim. Exam coverage for a MAP eligible recipient under 21 years of age is limited to one routine eye exam in a 12-month period.

(2)

Noncovered vision services: MAD does not cover vision services that are performed for aesthetic or cosmetic purposes. MAD covers orthoptic assessments and treatments only when specific criteria are met to assure medical necessity.

K. Hearing:

All audiology screening, diagnostic, preventive or corrective services require medical clearance. Audiologic and vestibular function studies are rendered by an audiologist or a PCP. Hearing aid dealers and dispensers are not reimbursed for audiological, audiometric or other hearing tests. Only licensed audiologists and PCPs are reimbursed for providing these testing services.

L. Client medical

transportation: MAD covers expenses for transportation, meals, and lodging it determines are necessary to secure MAD covered medical or behavioral health examination and treatment for a MAP eligible recipient in or out of ~~his or her~~ their home community. See 42 CFR 440.170. Travel expenses include the cost of transportation by long distance common carrier, taxicab, handivan, and ground or air ambulance, all as appropriate to the situation and location of the MAP eligible recipient. When medically necessary, MAD covers similar expenses for an attendant who accompanies the MAP eligible recipient to the medical or behavioral health examination or treatment. MAD reimburses a MAP eligible recipient or the transportation

provider for medically necessary transportation subject to the following.

(1)

Free alternatives: Alternative transportation services which may be provided free of charge include volunteers, relatives or transportation services provided by a nursing facility (NF) or another residential center. A MAP eligible recipient must certify in writing that they do not have access to free alternatives.

(2) Least

costly alternatives: MAD covers the most appropriate and least costly transportation alternatives suitable for the MAP eligible recipient's medical or behavioral health condition. If a MAP eligible recipient can use a private vehicle or public transportation, those alternatives must be used before the MAP eligible recipient can use more expensive transportation alternatives.

(3) Non-

emergency transportation service:

(a)

MAD covers non-emergency transportation services for a MAP eligible recipient who does not have primary transportation to a MAD covered service and who is unable to access a less costly form of public transportation.

(b)

MAP eligible recipients released from incarceration at a correctional facility may be transported by a New Mexico medicaid transportation provider to a pharmacy to fill and retrieve prescribed medication. The eligible recipient must have a valid prescription that is qualified to be filled or re-filled at the time of their release from incarceration.

(4) Long

distance common carriers: MAD covers long distance services furnished by a common carrier if the MAP eligible recipient must leave ~~his or her~~ their home community to receive medical or behavioral health services. Authorization forms for direct payment to long distance bus common carriers by MAD are available through the MAP eligible

recipient's local county income support division (ISD) office.

(5) Ground ambulance services: MAD covers services for a MAP eligible recipient provided by ground ambulances when:

(a) an emergency which requires ambulance service is certified by the attending provider or is documented in the provider's records as meeting emergency medical necessity as defined as:

(i) an emergency condition that is a medical or behavioral health condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the MAP eligible recipient (or with respect to a pregnant individual, the health of the individual or their unborn child) in serious jeopardy, serious impairment to body function or serious dysfunction of any bodily organ or part; and

(ii) medical necessity for ambulance services is established if the MAP eligible recipient's condition is such that the use of any other method of transportation is contraindicated and would endanger the MAP eligible recipient's health.

(b) Scheduled, non-emergency ambulance services: These services are covered when ordered by the MAP eligible recipient's attending provider who certifies that the use of any other method of non-emergency transportation is contraindicated by the MAP eligible recipient's medical or behavioral condition.

(c) Reusable items and oxygen: MAD covers non-reusable items and oxygen required during transportation. Coverage for these items is included in the base rate reimbursement for a ground ambulance;

(6) Air ambulance services: MAD covers services for a MAP eligible recipient provided by an air ambulance, including a private airplane, if an emergency exists and the medical necessity for the service is certified by their attending provider.

(a) An emergency condition is a medical or behavioral health condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the MAP eligible recipient (or with respect to a pregnant individual, the health of the individual or their unborn child) in serious jeopardy, serious impairment to body function or serious dysfunction of any bodily organ or part.

(b) MAD covers the following services for air ambulances:

- (i) non-reusable items and oxygen required during transportation;
- (ii) professional attendants required during transportation; and
- (iii) detention time or standby time up to one hour without provider documentation; if the detention or standby time is more than one hour, a statement from the attending provider or flight nurse justifying the additional time is required.

(7) Lodging services: MAD covers lodging services if a MAP eligible recipient is required to travel to receive medical or behavioral health services and an overnight stay is required due to medical necessity or cost considerations. If medically justified and approved, in-state lodging is initially set for up to five continuous days. For a longer stay, the need for lodging must be re-evaluated by the fifth day to authorize up to an additional 15 days. Re-evaluation must be made every 15-calendar

days for extended stays, prior to the expiration of the existing authorization. Approval of lodging is based on the attending provider's statement of need. Authorization forms for direct payment to a MAD approved lodging provider by MAD are available through local county ISD offices. In addition, overnight lodging could include the following situations:

(a) a MAP eligible recipient who is required to travel more than four hours each way to receive medical or behavioral health services; or

(b) a MAP eligible recipient who is required to travel less than four hours each way and is receiving daily medical or behavioral health services and is not sufficiently stable to travel or must be near a facility because of the potential need for emergency or critical care.

(8) Meal services: MAD covers meals if a MAP eligible recipient is required to leave ~~his or her~~ their home community for eight hours or more to receive medical or behavioral health services. Authorization forms for direct payment to a meal provider by MAD are available through local county ISD offices.

(9) Coverage for attendants: MAD covers transportation, meals and lodging in the same manner as for a MAP eligible recipient for one attendant if the medical necessity for the attendant is certified in writing by the MAP eligible recipient's attending provider or the MAP eligible recipient who is receiving medical service is under 18 years of age. MAD only covers transportation services or related expenses for a MAP eligible recipient and as certified, ~~his or her~~ their attendant. Transportation services and related expenses will not be reimbursed by MAD for any other individual accompanying the MAP eligible recipient to a MAD covered medical or behavioral health service.

(10) Coverage for a MAP eligible waiver recipient: Transportation of a MAP eligible

waiver recipient to a provider of a waiver service is only covered when the service is occupational therapy, physical therapy, speech therapy or an outpatient behavioral health therapy.

(11)

Out-of-state transportation and related expenses: All out-of-state transportation, meals and lodging must be prior approved by MAD or its designee. Out-of-state transportation is approved only if the out-of-state medical or behavioral health service is approved by MAD or its designee. Documentation must be available to the reviewer to justify the out-of-state travel and verify that treatment is not available in the state of New Mexico.

(a)

Requests for out-of-state transportation must be coordinated through MAD or its designee;

(b)

Authorization for lodging and meal services by an out-of-state provider can be granted for up to 30-calendar days by MAD or its designee. Re-evaluation authorizations are completed prior to expiration and every 30-calendar days, thereafter.

(c)

Border cities: A border city is a city within 100 miles of a New Mexico border (Mexico excluded). Transportation to a border city is treated as in-state provider service. A MAP eligible recipient who receives a MAD reimbursable service from a border area provider is eligible for transportation services to that provider. See 8.302.4 NMAC, to determine when a provider is considered an out-of-state provider or a border area provider.

(12) Client

medical transportation fund: In a non-emergency situation, a MAP eligible recipient can request reimbursement from the client medical transportation (CMT) fund through [his or her] their local county ISD office for money spent on transportation, meals and lodging by the MAP eligible recipient; for reimbursement from the CMT fund, a MAP eligible recipient must apply for reimbursement within 30-calendar days from the date of appointment or the date they are discharged from the hospital.

(a)

Information requirements: The following information must be furnished to the ISD CMT fund custodian within 30-calendar days of the MAD approved provider visit to receive reimbursement:

(i)

submit a letter on the provider's stationary which indicates that the MAP eligible recipient kept the appointment for which the CMT fund reimbursement is requested; for medical or behavioral health services, written receipts confirming the date of service must be given to the MAP eligible recipient for submission to the local county ISD office;

(ii)

proper referral with original signatures and documentation stating that the MAD services are not available within the community from the MAD requesting provider, when a referral is necessary;

(iii)

verification of current eligibility of the recipient for a MAD service for the month the appointment and travel is made;

(iv)

certification that free alternative transportation services are not available and that the MAP eligible recipient is not enrolled in a [HSD] HCA contracted managed care organization (MCO);

(v)

verification of mileage; and

(vi)

documentation justifying a medical attendant.

(b)

Preparation of referrals for travel outside the home community: If a MAP eligible recipient must travel over 65 miles from [his or her] their home community to receive medical care, the transportation provider must obtain a written verification from the referring provider or from the service provider containing the following information for the provider to retain with their billing records:

(i)

the medical, behavioral health or diagnostic service for which the MAP eligible recipient is being referred;

(ii)

the name of the out of community medical or behavioral health provider; and

(iii)

justification that the medical or behavioral health care is not available in the home community.

(c)

Fund advances in emergency situations: Money from the CMT fund is advanced for travel only if an emergency exists. An emergency is defined in this instance as a non-routine, unforeseen accident, injury or acute illness demanding immediate action and for which transportation arrangements could not be made five calendar days in advance of the visit to the provider. Advance funds must be requested and disbursed prior to the medical or behavioral health appointment.

(i)

The ISD CMT fund custodian or a MAD FFS coordinated service contractor or the appropriate utilization review (UR) contractor verifies that the recipient is eligible for a MAD service and has a medical or behavioral health appointment prior to advancing money from the CMT fund and that the MAP eligible recipient is not enrolled in a [HSD] HCA contracted MCO;

(ii)

written referral for out of community service must be received by the CMT fund custodian or a MAD FFS coordinated service contractor or the appropriate UR contractor no later than 30-calendar days from the date of the medical or behavioral health appointment for which the advance funds were requested. If a MAP eligible recipient fails to provide supporting documentation, recoupment proceedings are initiated; see Section OIG-900, Restitutions.

(d)

MAP Eligible recipients enrolled in a [HSD] HCA contracted MCO: A member enrolled in [HSD] HCA contracted MCO on the date of service is not eligible to use the client medical transportation fund for services that are the responsibility of the MAP eligible recipient's MCO.

<p>(13) Noncovered transportation services: Transportation services are subject to the same limitations and coverage restrictions which exist for other services. A payment for transportation to a non-covered MAD service is subject to retroactive recoupment. MAD does not cover the following services or related costs of travel:</p> <p>(a) an attendant where there is not the required certification from the MAP eligible recipient's medical or behavioral health provider;</p> <p>(b) minor aged children of the MAP eligible recipient that are simply accompanying them to medical or behavioral health services;</p> <p>(c) transportation to a non-covered MAD service;</p> <p>(d) transportation to a pharmacy provider with the exception for justice-involved MAP eligible recipients who are released from incarceration at a correctional facility within the first seven days of release; see 8.324.7 NMAC.</p>	<p>telemedicine to the extent required by New Mexico state law and regulations or meet federal requirements for providing services to IHS facilities or tribal contract facilities. Provision of telemedicine services does not require that a certified medicaid healthcare provider be physically present with the MAP eligible recipient at the originating site unless the telemedicine consultant at the distant site deems it necessary.</p> <p>(a) Telemedicine originating-site: The location of a MAP eligible recipient at the time the service is being furnished via an interactive telemedicine communications system. The origination-site can be any of the following medically warranted sites where services are furnished to a MAP eligible recipient.</p> <p>(i) The office of a physician or practitioner.</p> <p>(ii) A critical access hospital (as described in section 1861 (mm)(1) of the Act).</p> <p>(iii) A rural health clinic (as described in 1861 (mm)(2) of the Act).</p> <p>(iv) A federally qualified health center (as defined in section 1861 (aa)(4) of the Act).</p> <p>(v) A hospital (as defined in section 1861 (e) of the Act).</p> <p>(vi) A hospital-based or critical access hospital-based renal dialysis center (including satellites).</p> <p>(vii) A skilled nursing facility (as defined in section 1819(a) of the Act).</p> <p>(viii) A community mental health center (as defined in section 1861(ff)(3)(B) of the Act).</p> <p>(ix) A renal dialysis facility (only for the purposes of the home dialysis monthly ESRD-related clinical assessment in section 1881(b)(3)(B) of the Act).</p> <p>(x) The home of an individual (only for</p>	<p>related clinical assessment in section 1881(b)(3)(B) of the Act).</p> <p>(xi) A mobile stroke unit (only for the purposes of diagnosis, evaluation, or treatment of symptoms of an acute stroke provided in accordance with section 1834(m)(6) of the Act).</p> <p>(xii) The home of an individual (only for the purposes of treatment of a substance use disorder or a co-occurring mental health disorder), furnished on or after July 1, 2019, to an individual with a substance use disorder diagnosis.</p> <p>(xiii) The home of an individual when an interactive audio and video telecommunication system that permits real-time visit is used between the eligible provider and the MAP eligible recipient.</p> <p>(xiv) A School Based Health Center (SBHC) as defined by section 2110(c) (9) of the Act.</p> <p>(b) Telemedicine distant-site: The location where the telemedicine provider is physically located at the time of the telemedicine service. All services are covered to the same extent the service and the provider are covered when not provided through telemedicine. For these services, use of the telemedicine communications system fulfills the requirement for a face-to-face encounter.</p> <p>(c) Telemedicine reimbursement: MAD covers both distant (where the eligible provider is located) as well as the originating sites (where the MAP eligible recipient is located, if another eligible provider accompanies the patient). If audio/video technology is used in furnishing a service when the MAP eligible recipient and the practitioner are in the same institutional or office setting, then the practitioner should bill for the service furnished as if it was furnished in person and no additional reimbursement is made.</p> <p>(d) Telemedicine providers: Reimbursement for professional</p>
<p>M. Telehealth services:</p> <p>(1) Telemedicine visits: An interactive HIPAA compliant telecommunication system must include both interactive audio and video and be delivered on a real-time basis at the originating and distant sites. If real-time audio/video technology is used in furnishing a service when the MAP eligible recipient and the practitioner are in the same institutional or office setting, then the practitioner should bill for the service furnished as if it was furnished in person as a face to face encounter. Coverage for services rendered through telemedicine shall be determined in a manner consistent with medicaid coverage for health care services provided through in person consultation. For telemedicine services, when the originating-site is in New Mexico and the distant-site is outside New Mexico, the provider at the distant-site must be licensed for</p>		

services at the originating-site and the distant-site are made at the same rate as when the services provided are furnished without the use of a telecommunication system. In addition, reimbursement is made to the originating-site for a real-time interactive audio/video technology telemedicine system fee (where the MAP eligible recipient is located, if another eligible provider accompanies the patient) at the lesser of the provider's billed charge, or the maximum allowed by MAD for the specific service of procedure. If the originating site is the patient's home, the originating site fee should not be billed if the eligible provider does not accompany the MAP eligible recipient. The MAP eligible recipient is not reimbursed for their computer/ internet.

(e)

A telemedicine originating-site communication system fee is covered if the MAP eligible recipient was present at and participated in the telemedicine visit at the originating-site and the system that is used meets the definition of a telemedicine system.

(2) Telephone

visits: MAD will reimburse eligible providers for limited professional services delivered by telephone without video. No additional reimbursement is made to the originating-site for an interactive telemedicine system fee.

(3) MAD

will reimburse for services delivered through store-and-forward. To be eligible for payment under store-and-forward, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another; to allow a consulting provider to obtain information, analyze it, and report back to the referring physician providing the telemedicine consultation. Store-and-forward telemedicine includes encounters that do not occur in real time (asynchronous) and are consultants that do not require face-to-face live encounter between patient and telemedicine provider.

(4)

Noncovered telemedicine services: A service provided through telemedicine is subject to the same program restrictions, limitations and coverage which exist for the service when not provided through telemedicine. Telemedicine services are not covered when audio/video technology is used in furnishing a service when the MAP eligible recipient and the practitioner are in the same institutional or office setting.

N. Pregnancy

termination services: MAD does not cover the performance of 'elective' pregnancy termination procedures. MAD will only pay for services to terminate a pregnancy when certain conditions are met.

(1) Prior to

performing pregnancy termination services providers must complete and file in the MAP eligible recipient medical record, a consent for pregnancy termination that includes written certification of a provider that the procedure meets one of the following conditions:

(a)

the procedure is necessary to save the life of the MAP eligible recipient as certified in writing by a provider;

(b)

the pregnancy is a result of rape or incest, as certified by the treating provider, the appropriate reporting agency, or if not reported, the MAP eligible recipient is not physically or emotionally able to report the incident; or

(c)

the procedure is necessary to terminate an ectopic pregnancy; or

(d)

the procedure is necessary because the pregnancy aggravates a pre-existing condition, makes treatment of a condition impossible, interferes with or hampers a diagnosis, or has a profound negative impact upon the physical, emotional or mental health of the MAP eligible recipient.

(2)

Psychological services: MAD covers behavioral health services for a pregnant MAP eligible recipient.

(3)

Oral

medications: MAD covers oral medications approved by the FDA have been determined a benefit by MAD for pregnancy termination. MAD will cover oral medications when administered by a provider acting within the scope of ~~[his or her]~~ their practice board and licensure.

(4) Informed

consent: Under New Mexico law, the provider may not require any MAP eligible recipient to accept any medical service, diagnosis, or treatment or to undergo any other health service provided under the plan if the MAP eligible recipient objects on religious grounds or in the case of a non-emancipated MAP eligible recipient, the legal parent or guardian of the non-emancipated MAP eligible recipient objects.

(a)

Consent: Voluntary, informed consent by a MAP eligible recipient 18 years of age and older, or an emancipated minor MAP eligible recipient must be given to the provider prior to the procedure to terminate pregnancy, except in the following circumstances:

(i)

in instances where a medical emergency exists; a medical emergency exists in situations where the attending PCP certifies that, based on the facts of the case presented, in ~~[his or her]~~ their best clinical judgment, the life or the health of the MAP eligible recipient is endangered by the pregnancy so as to require an immediate pregnancy termination procedure;

(ii)

in instances where the MAP eligible recipient is unconscious, incapacitated, or otherwise incapable of giving consent; in such circumstances, the consent shall be obtained as prescribed by New Mexico law;

(iii)

in instances where pregnancy results from rape or incest or the continuation of the pregnancy endangers the life of the MAP eligible recipient;

(iv)

consent is valid for 30-calendar days from the date of signature, unless

withdrawn by the MAP eligible recipient prior to the procedure.

(b)

Required acknowledgements: In signing the consent, the MAP eligible recipient must acknowledge that they have received, at least, the following information:

(i)

alternatives to pregnancy termination;

(ii)

medical procedure(s) to be used;

(iii)

possibility of the physical, mental, or both, side effects from the performance of the procedure;

(iv)

right to receive pregnancy termination behavioral health services from an independent MAD provider; and

(v)

right to withdraw consent up until the time the procedure is going to be performed.

(c)

Record retention: A dated and signed copy of the consent, with counseling referral information, if requested, must be given to the MAP eligible recipient. The provider must keep the original signed consent with the MAP eligible recipient's medical records.

(d)

Consent for a MAP eligible recipient under 18 years of age who is not an emancipated minor, in instances not involving life endangerment, rape or incest: Informed written consent for an non-emancipated minor to terminate a pregnancy must be obtained, dated and signed by a parent, legal guardian, or another adult acting 'in loco parentis' to the minor. An exception is when the minor objects to parental involvement for personal reasons or the parent, guardian or adult acting 'in loco parentis' is not available. The treating PCP shall note the minor's objections or the unavailability of the parent or guardian in the minor's chart, and:

(i)

certify in [his or her] their best clinical judgment, the minor is mature enough and well enough informed to make the decision about the procedure; in the circumstance where sufficient maturity and information is

not present or apparent, certify that the procedure is in the minor's best interests based on the information provided to the treating PCP by the minor; or

(ii)

refer the minor to an independent MAD behavioral health provider in circumstances where the treating PCP believes behavioral health services are necessary before a clinical judgment can be rendered on the criteria established in Paragraph (1) above; the referral shall be made on the same day of the visit between the minor and the treating PCP where consent is discussed; the independent MAD behavioral health provider shall meet with the minor and confirm in writing to the treating PCP whether or not the minor is mature enough and sufficiently informed to make the decision about the procedure; in the circumstance where sufficient maturity and information is not present or apparent, that the procedure is in the minor's best interests based on the information provided to the independent MAD behavioral health provider by the minor; this provider's written report is due to the treating PCP within 72 hours of initial referral;

(iii)

a minor shall not be required to obtain behavioral health services referenced in Paragraph (2) above; however, if the treating PCP is unable or unwilling to independently certify the requirements established in Paragraph (1) above, the minor must be informed by the treating PCP that written consent must be obtained by the parent, legal guardian or parent 'in loco parentis' prior to performing the procedure; or, that the minor must obtain a court order allowing the procedure without parental consent.

O. Behavioral health professional services: Behavioral health services are addressed specifically in 8.321.2 NMAC.

P. Experimental

or investigational services: MAD covers medically necessary services which are not considered unproven, investigational or experimental for the condition for which they are intended or used as determined by MAD. MAD does not cover experimental or

investigational medical, surgical or health care procedures or treatments, including the use of drugs, biological products, other products or devices, except the following:

(1) Phase

I, II, III or IV: MAD may approve coverage for routine patient care costs incurred as a result of the MAP eligible recipient's participation in a phase I, II, III, or IV cancer trial that meets the following criteria. The cancer clinical trial is being conducted with the approval of at least one of the following:

(a)

one of the federal national institutes of health;

(b)

a federal national institutes of health cooperative group or center;

(c)

the federal department of defense;

(d)

the FDA in the form of an investigational new drug application;

(e)

the federal department of veteran affairs; or

(f)

a qualified research entity that meets the criteria established by the federal national institutes of health for grant eligibility.

(2) Review

and approval: The clinical trial has been reviewed and approved by an institutional review board that has a multiple project assurance contract approved by the office of protection from research risks of the federal national institutes of health.

(3)

Experimental or investigational interventions: Any medical, surgical, or other healthcare procedure or treatment, including the use of a drug, a biological product, another product or device, is considered experimental or investigational if it meets any of the following conditions:

(a)

current, authoritative medical and scientific evidence regarding the medical, surgical, or other health care procedure or treatment, including the use of a drug, a biological product, another product or device for a

specific condition shows that further studies or clinical trials are necessary to determine benefits, safety, efficacy and risks, especially as compared with standard or established methods or alternatives for diagnosis or treatment or both outside an investigational setting;

(b)

the drug, biological product, other product, device, procedure or treatment (the “technology”) lacks final approval from the FDA or any other governmental body having authority to regulate the technology;

(c)

the medical, surgical, other health care procedure or treatment, including the use of a drug, a biological product, another product or device is the subject of ongoing phase I, II, or III clinical trials or under study to determine safety, efficacy, maximum tolerated dose or toxicity, especially as compared with standard or established methods or alternatives for diagnosis or treatment or both outside an investigational setting.

(4) Review

of conditions: On request of MAD or its designee, a provider of a particular service can be required to present current, authoritative medical and scientific evidence that the proposed technology is not considered experimental or investigational.

(5)

Reimbursement: MAD does not reimburse for medical, surgical, other health care procedures or treatments, including the use of drugs, biological products, other products or devices that are considered experimental or investigational, except as specified as follows. MAD will reimburse a provider for routine patient care services, which are those medically necessary services that would be covered if the MAP eligible recipient were receiving standard cancer treatment, rendered during the MAP eligible recipient’s participation in phase I, II, III, or IV cancer clinical trials.

(6)

Experimental or investigational services: MAD does not cover procedures, technologies or therapies

that are considered experimental or investigational.

Q. Smoking/Tobacco

cessation: MAD covers tobacco cessation services for all MAP eligible recipients.

(1) Eligible

medical, dental, and behavioral health practitioner: Cessation counseling services may be provided by one of the following:

(a)

by or under the supervision of a physician; or

(b) by

any other MAD enrolled health care professional authorized to provide other MAD services who is also legally authorized to furnish such services under state law;

(c)

generally, eligible practitioners would be medical practitioners, including independently enrolled CNPs, behavioral health and dental practitioners; physician assistants and CNPs not enrolled as independent MAD providers, and registered nurses and dental hygienists may bill for counseling services through the enrolled entity under which their other services are billed, when under the supervision of a dentist or physician;

(d)

counseling service must be prescribed by a MAD enrolled licensed practitioner.

(2) Eligible

pharmacy providers: For rendering tobacco cessation services, eligible pharmacists are those who have attended at least one continuing education course on tobacco cessation in accordance with the federal public health guidelines found in the United States department of health and human services’ *quick reference guide for clinicians*, and *treating tobacco use and dependence*.

(3) Tobacco

cessation drug items: MAD covers all prescribed tobacco cessation drug items for a MAP eligible recipient as listed in this section when ordered by a MAD enrolled prescriber and dispensed by a MAD enrolled pharmacy. MAD does not require

prior authorization for reimbursement for tobacco cessation products, but the items must be prescribed by a MAD enrolled practitioner. Tobacco cessation products include, but are not limited to the following:

(a)

sustained release bupropion products;

(b)

varenicline tartrate tablets; and

(c)

prescription and over-the-counter (OTC) nicotine replacement drug products, such as lozenges, patches, gums, sprays and inhalers.

(4) Covered

services: MAD makes reimbursement for assessing all MAP eligible recipient’s tobacco dependence including a written tobacco cessation treatment plan of care as part of an evaluation and management (E&M) service, and may bill using the E&M codes. MAD covers face-to-face counseling when rendered by an appropriate provider. The effectiveness of counseling is comparable to pharmacotherapy alone. Counseling plus medication provides additive benefits. Treatment may include prescribing any combination of tobacco cessation products and counseling. Providers can prescribe one or more modalities of treatment. Cessation counseling session refers face-to-face MAP eligible recipient contact of either

(a)

intermediate session (greater than three minutes up to 10 minutes); or

(b)

intensive session (greater than 10 minutes).

(5)

Documentation for counseling services: Ordering and rendering practitioners must maintain sufficient documentation to substantiate the medical necessity of the service and the services rendered, which may consist of documentation of tobacco use. The rendering practitioner must maintain documentation that face-to-face counseling was prescribed by a practitioner, even if the case is a referral to self, consistent with other NMAC rules and other materials.

(6) Limitations

on counseling sessions: The services do not have any limits on the length of treatment or quit attempts per year. The program also allows participants to try multiple treatments and does not impose any requirement to enroll into counseling. During the 12-month period, the practitioner and the MAP eligible recipient have flexibility to choose between intermediate or intensive counseling modalities of treatment for each session.

R. Screening, brief intervention and referral to treatment (SBIRT) service: SBIRT is a community-based practice designed to identify, reduce and prevent problematic substance use or misuse and co-occurring mental health disorders as an early intervention. Through early identification in a medical setting, SBIRT services expand and enhance the continuum of care and reduce costly health care utilization. The primary objective is the integration of behavioral health with physical health care. SBIRT is delivered through a process consisting of universal screening, scoring the screening tool and a warm hand-off to a SBIRT trained professional who conducts a face-to-face brief intervention for positive screening results. If the need is identified for behavioral health treatment, the certified SBIRT staff, with the eligible recipient's approval, assists in securing behavioral health services. Only a physical health office, clinic, or facility who has been certified by a [HSD] HCA approved SBIRT trainer and uses the approved healthy lifestyle questionnaire (HLQ) can complete the screen. The physical office, clinic or facility must be the billing provider, not the individual practitioner. All practitioners must be SBIRT certified and are employees or contractors of a SBIRT physical health office, clinic or facility. See the SBIRT policy and billing manual for detailed description of the service and billing requirements.

S. Other services:

Other covered and noncovered services including hospitalization and other residential facilities, devices

for hearing and vision correction, behavioral health services, home and community based services, EPSDT services, case management and other adjunct and specialty services are described in other NMAC rules.

[8.310.2.12 NMAC - Rp, 8.310.2.12 NMAC, 1/1/2014; A, 8/10/2021; A, 4/5/2022; A/E, 1/1/2025; A, 7/1/2025]

8.310.2.13 GENERAL NONCOVERED SERVICES**A. General**

noncovered services: MAD does not cover certain procedures, services, or miscellaneous items. See specific provider or service rules or sections of this rule for additional information on service coverage and limitations. A provider cannot turn an account over to collections or to any other factor intending to collect from the MAP eligible recipient or [his-or-her] their authorized representative; see 8.302.2 NMAC. A provider cannot bill a MAP eligible recipient or [his-or-her] their authorized representative for the copying of the MAP eligible recipient's records, and must provide copies of the MAP eligible recipient's records to other providers upon request of the MAP eligible recipient.

B. Appointment,**interest and carrying charges:**

MAD does not cover penalties on payments for broken or missed appointments, costs of waiting time, or interest or carrying charges on accounts. A provider may not bill a MAP eligible recipient or [his-or-her] their authorized representative for these charges or the penalties associated with missed or broken appointments or failure to produce eligibility cards, with the exception of MAP recipient eligibility categories of CHIP or WDI who may be charged up to \$5 for a missed appointment.

C. Contract services:

Services furnished by a contractor, an organization, or an individual who is not the billing provider must meet specific criteria for coverage as stated in MAD or its designee's NMAC rules, billing instructions, policy manuals; see 8.302.2 NMAC.

D. Cosmetic services

and surgeries: MAD does not

cover cosmetic items or services that are prescribed or used for aesthetic purposes. This includes items for aging skin, for hair loss, and personal care items such as non-prescription lotions, shampoos, soaps or sunscreens. MAD does not cover cosmetic surgeries performed for aesthetic purposes. "*Cosmetic surgery*" is defined as a procedure performed to improve the appearance of physical features that may or may not improve the functional ability of the area of concern. MAD covers only a surgery that meets specific criteria and is approved as medically necessary reconstructive surgery.

E. Postmortem

examinations: MAD does not cover postmortem examinations.

F. Education or

vocational services: MAD does not cover literature, booklets, and other educational materials. Dietary counseling is covered only for a MAP eligible recipient under 21 years of age, as part of the EPSDT program and for a pregnant MAP eligible recipient. MAD does not cover formal educational or vocational training services, unless those services are included as active treatment services for a MAP eligible recipient in intermediate care facility for individuals with intellectual disabilities (ICF-IID) or for a MAP eligible recipient under 21 years of age receiving inpatient psychiatric services. See 42 CFR 441.13(b). "*Formal educational services*" relate to training in traditional academic subjects. Vocational training services relate to organized programs directly related to the preparation of a MAP eligible recipient for paid or unpaid employment.

G. Hair or nail

analysis: MAD does not cover hair or nail analysis.

H. Preparations

dispensed for home use: MAD does not cover oral, topical, otic, or ophthalmic preparations dispensed to a MAP eligible recipient by a PCP, a CNP, a P.A., or an optometrist for home use or self administration unless authorized by MAD to assure the availability of medications.

I. Routine physical examinations: MAD only covers a routine physical examination for:

(1) a MAP eligible recipient residing in a NF or an ICF-IID facility.

(2) a MAP eligible recipient under 21 years of age through the tot to teen health check screen, New Mexico's EPSDT screening program. Included in the coverage is the physical examinations, screenings and treatment.

J. Screening services: MAD does not cover screening services that are not used to make a diagnosis, such as chromosome screening, hypertension screening, diabetic screening, general health panels, executive profiles, paternity testing, or premarital screens. MAD covers screening services for a MAP eligible recipient under 21 years of age through the tot to teen healthcheck program. MAD covers screening services ordered by a provider for cancer detection such as pap smears and mammograms for a MAP eligible recipient when medically appropriate.

K. Services not covered by medicare: MAD does not cover services, procedures, or devices that are not covered by medicare due to their determination that the service is not medically necessary or that the service is experimental or not effective.

L. Bariatric surgery services: Bariatric surgery services are covered only when medically indicated and alternatives are not successful.

M. Services and tests which are not routinely warranted due to the MAP eligible recipient's age: MAD does not reimburse for routine screening, tests, or services which are not medically necessary due to the age of the MAP eligible recipient:

(1) Papanicolaou test (pap smear) for women under 21 years of age unless prior history or risk factors make the test medically warranted; and

(2) prostate specific antigen (PSA) test for men

under age 40 unless prior history or risk factors make the test medically warranted.

N. Services for surrogate mothers: MAD does not pay for services for pregnancy, complications encountered during pregnancy related conditions, prenatal care and postpartum care, or delivery for services to a surrogate mother for which an agreement or contract between the surrogate mother and another party exists.

[8.310.2.13 NMAC - Rp, 8.310.2.14 NMAC, 1/1/2014; A, 8/10/2021; A, 4/5/2022; A, 7/1/2025]

8.310.2.14 PRIOR AUTHORIZATION AND UTILIZATION REVIEW:

All MAD services are subject to UR for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. The provider must contact [HSD] HCA or its authorized agents to request UR instructions. It is the provider'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] HCA, the provider must follow that contractor's instructions for authorization of services.

A. Prior authorization: Procedures or services may require a prior authorization from MAD or its designee. Services for which a prior authorization was obtained remain subject to UR at any point in the payment process, including after payment has been made. It is the provider'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.

(1) Dental services: MAD covers certain services, including some diagnostic, preventive, restorative, endodontic, periodontic, removable prosthodontics, maxillofacial prosthetic, oral surgery, and orthodontic services only when a prior authorization is received from MAD or its designee. MAD covers medically necessary orthodontic services to treat handicapping malocclusions for a MAP eligible recipient under 21 years of age by prior authorization.

(2) Transplantation services: A written prior authorization must be obtained for any transplant, with the exception of a cornea and a kidney. The prior authorization process must be started by the MAP eligible recipient's attending PCP contacting the MAD UR contractor. Services for which prior approval was obtained remain subject to UR at any point in the payment process.

(3) Pregnancy termination services: Services to terminate a pregnancy do not require a prior authorization from MAD or its designee.

(4) Eligibility determination: The prior authorization of a service does not guarantee that an individual is eligible for MAD or other health care programs. A provider must verify that an individual is eligible for a specific program at the time services are furnished and must determine if a MAP eligible recipient has other health insurance.

(5) Reconsideration: A provider who disagrees with a prior authorization -request denial or another review decision can request reconsideration; see 8.350.2 NMAC.

B. Prior authorization and UR: MAD has developed a UR process to regulate provider compliance with MAD quality control and cost containment objectives. See 42 CFR Section 456. Specific details pertinent to a service or a provider are contained in NMAC rules or UR instructions

for that specific service or provider type. MAD makes available on the [HSD/MAD] HCA/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by [HSD] HCA or its authorized agents, including program rules, billing instruction, UR instructions, and other pertinent materials. When enrolled, a provider receives instruction on how to access these documents. It is the provider's responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider must contact [HSD] HCA or its authorized agents to obtain answers to questions related to the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of [his or her] their MAD provider participation agreement (PPA) and all applicable statutes, regulations, rules, and executive orders. MAD or its selected claims processing contractor issues payments to a provider using electronic funds transfer (EFT) only. A provider must supply necessary information in order for payment to be made.

C. Medical necessity requirements: MAD reimburses a provider for furnishing MAD covered service to a MAP eligible recipient only when the service is medically necessary. Medical necessity is required for the specific service, level of care (LOC), and service setting, if relevant to the service. A provider must verify that MAD covers a specific service and that the service is medically necessary prior to furnishing the service. Medical necessity determinations are made by professional peers based on established criteria, appropriate to the service that are reviewed and approved by MAD. MAD denies payment for services that are not medically necessary and for services that are not covered by MAD. The process for determining medical necessity is called UR. The UR of a MAD service may be performed directly by MAD or its designee, or

another state agency designated by MAD.

D. Timing of UR:

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

- (a)** prior authorization review (review occurs before the service is furnished);
- (b)** concurrent review (review occurs while service is being furnished);
- (c)** pre-payment review (claims review occurring after service is furnished but before payment);
- (d)** retrospective review (review occurs after payment is made); and
- (e)** one or more reviews may be used by MAD to assess the medical necessity and program compliance of any service.

(2) Prior authorization reviews: A claim for a service that requires a prior authorization are paid only if the prior authorization was obtained and approved by MAD or MAD's UR contractor, prior to services being furnished. A prior authorization specifies the approved number of service units that a provider is authorized to furnish to a MAP eligible recipient and the date the service must be provided.

(a) A prior authorization does not guarantee that an individual is eligible for a specific MAD service. A provider must verify that individuals are eligible for a specific MAD service at the time the service is furnished.

(b) Information on the specific service or procedure that requires a prior authorization for a specific provider type are contained in the applicable

MAD rules and the UR instructions for that provider type or service.

(c) A service that has been approved by MAD or its designee does not prevent a later denial of payment if the service has been determined to be not medically necessary or if the individual was not eligible for the service.

(d) A prior authorization review is used to authorize service for a MAP eligible recipient before a service is furnished. A request for a retroactive prior authorization may be approved only under the following circumstances:

(i) approval is made as part of the process of determining MAD eligibility for certain categories, such as a MAD institutional care or home and community-based services waiver (HCBSW) programs. In these situations, the determination of medical necessity for an institutional LOC of the service is a factor in establishing MAD eligibility and may be made after the MAP eligible recipient receives NF or HCBSW services;

(ii) the service is furnished before the determination of the effective date of the recipient's MAP eligibility for a MAD service or the servicing provider's MAD PPA; a retrospective request for a prior authorization is based on retrospective recipient or provider eligibility must be received in writing by MAD or its designee within 30 calendar days of the date of the eligibility determination;

(iii) in cases of medical emergency; a medical emergency is defined as a medical condition, manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could be reasonably expected to result in one of the following: an individual's death; placement of an individual's health in serious jeopardy; serious impairment of bodily functions; or serious dysfunction of any bodily organ or part;

(iv) a service that is furnished to a medicare recipient who is also eligible for a MAD service and medicare has denied payment for a reason that is not based on medical necessity; requests for a retroactive prior authorization must be accompanied by a copy of the document from medicare that denied payment and states the reason for denial; a service denied payment by medicare because of lack of medical necessity is not covered by MAD.

(3) Concurrent review: A concurrent review is conducted while the service is being furnished. A continued stay or continued service review is concurrent review for medical necessity.

(4) Prepayment review: A prepayment review is conducted after a service has been furnished and a claim for payment has been filed by the provider. If a service is not a covered MAD benefit or not medically necessary, payment for that service will be denied.

(5) Retrospective review: A retrospective review is conducted after the claim has been processed and payment is made. Information from the paid claim is compared with the provider records detailing the service and medical necessity.

(a) If MAD determines the service specified on the claim was not performed or, was not a covered benefit or was not medically necessary, the MAD payment is recouped.

(b) Retrospective review involves the review of a specific portion or the entire record of service. Depending on the service, validation of either or both the diagnosis or procedure, validation of diagnostic related groups (DRGs), and quality of care are examples of indicators or issues which may be reviewed.

(c) A retrospective review may be conducted by MAD or its designee on a random or selective basis. In addition to reviews performed by a MAD staff or its designee, MAD

analyzes statistical data to determine utilization patterns. Specific areas of overutilization may be identified that result in recoupment or repayment from either or both a provider or the assignment of a MAP eligible recipient to a MAD medical management designated provider.

(d) A selective or scheduled review is conducted to focus on the overutilization and underutilization of a specific service or provider. The service or procedure selected for this focused retrospective review is identified by MAD as potential or actual problems.

E. Denial of payment: If a service or procedure is not medically necessary or not a covered MAD service, MAD may deny a provider'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.

F. Review of decisions: A provider who 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 who is not satisfied with the reconsideration determination may request a [HSD] HCA provider administrative hearing; see 8.352.3 NMAC. [8.310.2.14 NMAC - Rp, 8.310.2.15 NMAC, 1/1/2014; A, 7/1/2025]

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.312.2 NMAC, Sections 7, 8, 10, 11, 13, 15, 16, 18, 19, 23, 24, and 25, effective 8/1/2025.

8.312.2.7 DEFINITIONS:

A. "Authorized representative" means the individual

designated to represent and act on the claimant's behalf. The eligible recipient or managed care organization (MCO) member's authorized representative must provide formal documentation authorizing the named individual or individuals to access the identified case information for a specified purpose and time frame. An authorized representative may be an attorney representing a person or household, a person acting under the authority of a valid power of attorney, a guardian ad litem, or any other individual or individuals designated in writing by the eligible recipient or MCO member.

B. "Designee" means a state agency or an institution MAD has designated to be responsible for:

(1) conducting a preadmission screening and annual resident review (PASRR) level 1 screening to identify if a medical assistance program (MAP) eligible recipient or a MCO member has a mental illness or an intellectual disability; or

(2) conducting a PASRR level 2 evaluation.

**C. [~~"DOH-
DDSD"~~] "HCA DDSD"** means the developmental disabilities support division of the [~~department of health~~] health care authority, which conducts the PASRR level II evaluation for a MAP eligible recipient or a MCO member that has been identified through a PASRR level 1 screen.

D. [~~"HSD"] HCA administrative hearing~~" or "fair hearing" means an informal evidentiary hearing that is conducted by the [~~HSD fair hearings bureau (FHB)] HCA office of fair hearings so that evidence may be presented as it relates to an adverse action taken, or intended to be taken, by MAD, the MCO or their designees.~~

E. "MAD" means the medical assistance division, which administers medicaid and other medical assistance programs (MAP) under [HSD] HCA.

F. "MAP" means the medical assistance programs administered by MAD.

G. “MCO” means a member’s [HSD] HCA contracted managed care organization.

H. “Member” means a MAP eligible recipient enrolled in a [HSD] HCA contracted MCO. Once a member requests a [HSD] HCA administrative hearing, the member is referred to as a claimant.

I. “Notice of action” means the notice issued by MAD, the MCO or their designees of their intent to take an adverse action against an eligible recipient or a member in the form an adverse determination is made with regard to the preadmission or annual resident review requirements.

J. “Nursing facility (NF)” means a MAD enrolled, and as appropriate, a MCO contracted, nursing facility which meets the requirements as described in 8.312.2 NMAC. The NF completes a PASRR level one screen for a MAP eligible recipient or a MCO member. [8.312.2.7 NMAC - Rp, 8.312.2.7 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.8 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.] We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.~~

[8.312.2.8 NMAC - Rp, 8.312.2.8 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.10 ELIGIBLE PROVIDERS: Health care to eligible recipients or members is furnished by a variety of providers and provider groups. The reimbursement and billing for these services is administered by MAD. Upon approval of a New Mexico MAD 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 must be enrolled before submitting a claim for payment to the MAD claims processing contractors or the MCO. MAD makes available on the [HSD/MAD] HCA/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by [HSD] HCA or its authorized agents, including program rules, billing instructions, utilization review (UR) instructions, and other pertinent materials. When enrolled, a provider receives [instruction] instructions on how to access these documents. It is the provider’s responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider must contact [HSD] HCA or its authorized agents to obtain answers to questions related to the material. To be eligible for reimbursement, a provider 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 using electronic funds transfer (EFT) only. Eligible providers include:

A. nursing facilities (NF) which:

(1) are currently licensed and certified by the department of health (DOH) to meet MAD nursing facility conditions of participation; see 42 CFR Part 483, as amended;

(2) comply with the eligible recipient or MCO member resident’s personal funds rules;

(3) comply with MAD, its UR or the MCO UR processes and agree to operate in accordance with all MAD NMAC rules, including the performance of discharge planning;

(4) comply with the NMAC MAD rules for the pre-admission screening and resident review (PASRR) of mentally ill and intellectually disabled program;

(5) ensure the required nurse aide training is implemented; and

(6) ensure that facilities with 60 or more MAD beds certify a minimum of four distinct beds in the medicare program;

B. the above requirements can be waived if the NF meets one of the following conditions:

(1) the NF is located in a rural area and is unable to attract therapists as required by the medicare program. For a waiver to be granted under this condition, the provider must prove that good faith efforts to hire or contract with the required therapists have been made;

(2) the NF has obtained a waiver of the registered nurse (RN) staffing requirement from DOH, in accordance with applicable federal regulations; or

(3) the NF is one of two or more NFs in the same town owned or operated by the same owner/manager and one of the other facilities is medicare-certified; in addition, the NF must demonstrate on a yearly basis that the waiver does not hinder access to medicare part A services for eligible recipients or members and that the facility is using, to the best of its ability, corridor billings to medicare for part B services(s); if medicare removes the ability to do corridor billing, the waiver automatically ceases.

(a) Any requests for a waiver must contain sufficient documentation to support the request and must be submitted in writing to MAD;

(b) medicare is the primary payer for NF services covered under the medicare program; NF services must be provided within the scope of the practice and licensure for each provider; and must be in compliance with the statutes, rules and regulations of the applicable practice and with the New Mexico administrative code (NMAC) MAD rules.

[8.312.2.10 NMAC - Rp, 8.312.2.10 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.11 PROVIDER RESPONSIBILITIES:

A. A provider who furnishes services to a medicaid or other health care program eligible recipient or member must comply with all federal and state laws, regulations, and executive orders relevant to the provision of services as specified in the MAD PPA. A provider also must conform to MAD program rules and instructions as specified in the MAD NMAC rule manual and its appendices, and program directions and billing instructions, as updated. A provider 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 must verify that an individual is eligible for a specific health care program administered by [HSD] HCA and its authorized agents, and must verify the recipient's enrollment status at the time services are furnished. A provider must determine if an eligible recipient or member has other health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an eligible recipient or member.

C. When services are billed to and paid by a MAD fee-for-service coordinated services contractor authorized by [HSD] HCA, under an administrative services contract, the provider 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.
[8.312.2.11 NMAC - Rp, 8.312.2.11 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.13 COVERED SERVICES:

A. MAD covers NF services identified as allowable costs; see 8.312.3 NMAC.

B. MAD covers

physical, occupational and speech therapy services furnished to an eligible recipient or member residing in a NF in the following manner:

(1) if the eligible recipient or member is also eligible for medicare and the NF does part B billing, the co-payment or deductible is processed by MAD or the MCO for services is paid by MAD or the MCO;

(2) if the eligible recipient or member receives high NF level services, services are included in the MAD facility rate; or

(3) if eligible, the recipient or member receives low NF level services, services are billed separately by participating therapy providers.

C. MAD covers a NF per diem add-on for ventilator services in long-term and skilled nursing facilities in New Mexico.

(1) The per diem add-on costs of providing services to the ventilator dependent resident or member shall be maintained separately (as a distinct part) of each facility's annual cost report.

(2) Ventilator dependent per diem add-on rates will cover skilled nursing care services and will be all-inclusive.

(3) Ventilator dependent per diem add-on services must be prior authorized by the MCO. The resident's or member's clinical condition shall be reviewed every 90 days to determine if the resident's or member's medical condition continues to warrant services at the ventilator dependent NF rate. Prior authorization (PA) through the MCO spans a 90-day maximum time period. The NF is required to resubmit requests for continued stay prior to expiration of the current PA. If a resident or member no longer requires the use of a ventilator, the provider shall not receive additional reimbursement beyond the New Mexico medicaid nursing home per diem rate determined for the facility.

(4) Long-term and skilled nursing facilities in New Mexico must be certified by

the department of health to provide ventilator services.

(5) Eligible ventilator dependent recipients residing in a NF must meet the following criteria:

(a) Have a health condition that requires close medical supervision defined as 24 hours a day of licensed nursing care along with specialized services or equipment;

(b) Require mechanical ventilation greater than or equal to six hours a day;

(c) Have tracheostomy (with daily care) and require mechanical ventilation for a portion of each day for stabilization;

(d) Require continuous pulse oximetry monitoring to check the stability of oxygen saturation levels;

(e) Require respiratory assessment and daily documentation by a licensed respiratory therapist or registered nurse;

(f) Have a provider's order for respiratory care to include suctioning as needed;

(g) Have tracheostomy care with suctioning and room air mist or oxygen as needed, and one of the four treatment procedures listed below:

(i) total parenteral nutrition;

(ii) inpatient physical, occupational, or speech therapy;

(iii) tube feeding (nasogastric or gastrostomy); or

(iv) inhalation therapy treatments every shift and a minimum of four times per 24-hour period.

(h) The recipient's diagnosis must be consistent with ICD diagnosis codes for ventilator dependency;

(i) The skilled nursing facility must be approved for ventilator care; and

(i)

Providers must be specially trained and competent in respiratory and vent care.

[8.312.2.13 NMAC - Rp, 8.312.2.13 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.15 ELIGIBLE RECIPIENT AND MEMBER PERSONAL FUND ACCOUNTS:

A. As a condition for MAD provider participation, each NF must establish and maintain an acceptable system of accounting for an eligible recipient or member resident's personal funds when an eligible recipient or member requests that ~~[his or her]~~ their personal funds be cared for by the facility. See 42 CFR Section 483.10(c) and see 7.9.2.22 NMAC.

(1) Requests for a NF to care or not care for an eligible recipient or member resident's funds must be made in writing and secured by a request to handle recipient or member funds form or letter signed by the eligible recipient or member or ~~[his or her]~~ their authorized representative. The form or letter is kept in the eligible recipient or member's file at the facility.

(2) An eligible recipient or member's personal fund consists of a monthly maintenance allowable, established by MAD. If the eligible recipient or member resident receives any income in excess of this allowance, the excess is applied to the cost of the eligible recipient or member resident's medical care at the NF. This excess is reported as a medical care credit to the facility by the local county income support division (ISD) office, when applicable.

(3) A NF must have procedures on the handling of eligible recipient or member residents' funds. These procedures must not allow the facility to commingle eligible recipient or member residents' funds with facility funds.

(4) A NF should use these applicable federal statutes, regulations and state rules

to develop procedures for handling eligible recipient or member resident's funds.

(5) An eligible recipient or member resident has the right to manage ~~[his or her]~~ their financial affairs and no NF can require an eligible recipient or member resident to deposit ~~[his or her]~~ their personal funds with the NF.

(6) A NF must purchase a surety bond or furnish self-insurance to ensure the security of all personal funds deposited with the NF.

(7) Failure of a NF to furnish an acceptable accounting system constitutes a deficiency that must be corrected by the provider and verified by DOH survey teams.

B. Fund custodians:

A NF must designate a full-time employee and an alternate to serve as fund custodians for handling an eligible recipient or member resident's money on a daily basis; see 7.9.2.22 NMAC.

(1) Another individual, other than those employees who have daily responsibility for the fund, must do the following:

(a) reconcile balances of each eligible recipient or member accounts with the collective bank account;

(b) periodically audit and reconcile the petty cash fund; and

(c) authorize checks for the withdrawal of funds from the bank account.

(2) A NF must ensure that there is a full, complete and separate accounting, based on generally accepted accounting principles, of each eligible recipient or member resident's personal funds entrusted to ~~[his or her]~~ their NF on the eligible recipient or member resident's behalf.

C. Bank account: A NF must establish a bank account for the deposit of all money for each eligible recipient or member resident who requests the NF to handle ~~[his or her]~~ their funds. An eligible recipient or member resident's personal funds

are to be held separately and not commingled with the NF funds; see 7.9.2.22 NMAC.

(1) A NF must deposit an eligible recipient or member's personal funds of more than \$50 in an interest bearing account that is separate from any of the NF operating accounts and which credits all interest earned on the eligible recipient or member resident's account to that account. An eligible recipient or member resident must have convenient access to these funds.

(2) A NF must maintain an eligible recipient or member resident's personal funds up to \$50 in an interest bearing account or a petty cash fund that is separate from any of the NF operating accounts. An eligible recipient or member resident must have convenient access to these funds.

(3) Individual financial records must be available on the request of an eligible recipient or member resident or ~~[his or her]~~ their authorized representative.

(4) Within 30 calendar days of the death of an eligible recipient or member resident whose personal funds are deposited with the facility, a NF must convey the deceased eligible recipient or member resident's funds and a final accounting of these funds to the individual or probate jurisdiction administering the deceased eligible recipient or member resident's estate.

D. Establishment of individual accounts: A NF must establish accounts for each eligible recipient or member resident in which all transactions can be recorded. Accounts can be maintained in a general ledger book, card file or loose leaf binder; see 7.9.2.22 NMAC.

(1) For money received, the source, amount and date must be recorded. The NF must provide the eligible recipient or member resident or ~~[his or her]~~ their authorized representative receipts for the money. The NF still retains a copy of the deposit in the eligible recipient or member resident's individual account file.

(2) The purpose, amount and date of all disbursements to or on behalf of an eligible recipient or member resident must be recorded. All money spent either on behalf of the eligible recipient or member resident or withdrawn by the eligible recipient or member resident or ~~his or her~~ their authorized representative must be validated by receipts or signatures on each eligible recipient or member resident's individual ledger sheet.

(3) The NF must notify each eligible recipient or member resident when the account balance is \$200 less than the supplemental security income (SSI) resource limit for one person specified in Subparagraph (a) of Paragraph (3) of Subsection B of Section 1611 of the Social Security Act. If the amount of the account and the value of the eligible recipient or member resident's other nonexempt resources reach the SSI resource limit for one person, the eligible recipient or member resident can lose eligibility for a medical assistance program (MAP) or SSI.

E. Personal fund reconciliation: The NF must balance each eligible recipient or member resident's individual accounts, the collective bank accounts and the petty cash fund at least once each month. The NF must furnish each eligible recipient or member resident or ~~his or her~~ their authorized representative with an accounting of the eligible recipient or member residents' funds at least quarterly. Copies of each eligible recipient or member resident's individual account records can be used to furnish this information; see 7.9.2.22 NMAC.

F. Petty cash fund: The NF must maintain a cash fund in the facility to accommodate the small cash requirements of an eligible recipient or member resident. \$5 or less per each eligible recipient or member resident may be adequate. The amount of money kept in the petty cash fund is determined by the number of NF residents using the service and the frequency and availability of bank service. A petty cash fund ledger must be established

to record all actions regarding money in this fund; see 7.9.2.22 NMAC.

(1) To establish the fund, the NF must withdraw money from the collective bank account and keep it in a locked cash box.

(2) To use the petty cash fund, the following procedures should be established:

(a) an eligible recipient or member resident or ~~his or her~~ their authorized representative request small amounts of spending money;

(b) the amount disbursed is entered on each eligible recipient resident's individual ledger record; and

(c) the eligible recipient or member resident or ~~his or her~~ their authorized representative signs an account record and receives a receipt.

(3) To replenish the petty cash fund, the following procedures should be used.

(a) The money left in the cash box is counted and added to the total of all disbursements made since the last replenishment; and the total of the disbursements plus cash on hand equals the beginning amount.

(b) Money equal to the amount of disbursements is withdrawn from the collective bank account.

(4) To reconcile the fund, the following procedures should be used once each month:

(a) count money at hand; and

(b) total cash disbursed either from receipts or each eligible recipient or member resident's individual account records; the cash on hand plus total disbursements equals petty cash total.

(5) To close each eligible recipient or member resident account, the NF should do the following:

(a) enter date of and reason for closing the account;

(b) write a check against the collective bank account for the balance shown on each eligible recipient or member resident's individual account record;

(c) get signature of the eligible recipient resident or ~~his or her~~ their authorized representative on the eligible recipient or member resident's individual account record, as receipt of payment; and

(d) notify the local ISD office if closure is caused by death of an eligible recipient or member resident so that prompt action can be taken to terminate assistance; within 30 calendar days of the death of an eligible recipient or member resident who has no relatives; the NF conveys the eligible recipient or member resident's funds and a final accounting of the funds to the individual or probate jurisdiction administering the eligible recipient or member resident's estate; see 42 CFR Section 483.10(c)(6).

G. Retention of records: All account records are retained for at least six years or, in case of an audit, until the audit is completed.

H. Non-acceptable uses of residents' personal funds: Non-acceptable uses of an eligible recipient or member resident's personal funds include the following:

(1) payment or charges for services or items covered by MAD or medicare specified as allowable costs; see 8.312.3 NMAC;

(2) difference between the NF's billed charge and the MAD payment; and

(3) payment for services or supplies routinely furnished by the NF, such as linens or nightgowns;

(4) a NF cannot impose charges against eligible recipient resident's personal funds for any item or service for which payment is made by MAD or for any item the eligible recipient or member resident or ~~his or her~~ their authorized representative did not request;

(5) a NF must not require eligible recipient or member resident or ~~his or her~~ their authorized representative to request any item or service as a condition of admission or continued stay;

(6) a NF must inform an eligible recipient or member resident or ~~his or her~~ their authorized representative who requests non-covered items or services that there is a charge for the item and the amount of the charge.

I. Monitoring of residents' personal funds: NFs must make all files and records involving an eligible recipient or member resident's personal funds available for inspection by authorized state or federal auditors. DOH survey teams verify that a NF has established systems to account for an eligible recipient or member resident's personal funds, including the components described above. Failure to furnish an acceptable accounting system constitutes a deficiency that must be corrected; see 7.9.2.22 NMAC.

[8.312.2.15 NMAC - Rp, 8.312.2.15 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.16 RESERVE BED DAYS: MAD pays to hold or reserve a bed for an eligible recipient or member resident in a NF to allow for the eligible recipient or member resident to make a brief home visit, for acclimation to a new environment, or for hospitalization according to the limits and conditions outlined below.

A. Coverage of reserve bed days: MAD covers six reserve bed days per calendar year for every long term care eligible recipient or member resident for hospitalization without prior approval. MAD covers three reserve bed days per calendar year for a brief home visit without prior approval. MAD covers an additional six reserve bed days per calendar year with prior approval to support an eligible recipient or member resident to adjust to a new environment as part of the discharge plan.

(1) An eligible recipient or member resident's discharge plan must clearly state the objectives, including how the home visits or visits to alternative placement relate to discharge implementation.

(2) The prior approval request must include the eligible recipient or member resident's name, MAP identification number, requested approval dates, copy of the discharge plan, name and address for individuals who will care for the eligible recipient or member resident during the visit or placement and a written medical order for trial placement.

B. Documentation of reserve bed days: When an eligible recipient or member resident is discharged from a NF for any reason, appropriate documentation must be placed in the eligible recipient or member resident's chart. A medical order must be obtained if the eligible recipient or member resident is hospitalized, requests a home visit or a trial placement.

C. Re-admission review: A new level of care (LOC) determination must be performed by MAD, its UR contractor or the MCO if an eligible recipient or member resident is gone from ~~this or her~~ their NF for more than three midnights. A NF notification form must be completed, including information on the reason for the eligible recipient or member resident's absence, outcome of the leave and any other pertinent information concerning the leave; see the MAD managed care policy manual.

D. Reimbursement and billing for reserve bed days: Reimbursement for reserve bed days to the NF is limited to the rate applicable for LOC medically necessary for the eligible recipient or member resident, as determined and approved by MAD, its UR contractor or the MCO. The reserve bed day reimbursement is equal to 50% of the regular payment rate for MAD fee-for-service or as otherwise negotiated between the NF provider and the MCO. Billing for reserve bed days is based on the nursing

census, which runs from midnight to midnight. MAD or the MCO pays for the admission day but not for the discharge day.

[8.312.2.16 NMAC - Rp, 8.312.2.16 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.18 PRE-ADMISSION SCREENING AND RESIDENT REVIEW (PASRR) OF MENTALLY ILL AND INTELLECTUALLY DISABLED INDIVIDUALS: As part of the initial NF communication form for a new admission or as part of a subsequent specified review as determined by PASRR, or a significant change review as indicated by the minimum data set (MDS) for an eligible recipient or member resident with identified mental illness or is intellectually disabled, the NF must complete a level I PASRR screening. See Omnibus Reconciliation Acts of 1987 and 1990 as codified at 42 CFR Section 483.100 Subpart C. See also P.L. 104-315 which amends title XIX of the Social Security Act effective October 19, 1996. This requirement applies to all applicants or residents, regardless of payment source.

A. Pre-admission screens not required: Pre-admission screens do not need to be performed on the following eligible recipient or member resident:

(1) when admitted from the hospital whose attending physicians certify before admission to the NF that the eligible recipient or member resident is likely to require NF care for less than 30 days (as determined by PASRR review of ~~the his or her~~ their level I screen data which was done prior to NF admission);

(2) when readmitted to NFs from a hospital to which ~~he or she was~~ they were transferred for the purpose of receiving care; and

(3) when transferred from one NF to another without an intervening hospital stay.

B. Purpose of the screens: The purpose of the PASRR

screen is to determine whether residents have a mental illness or an intellectual disability, need the level of services furnished in a NF and need specialized services based on the mental illness or intellectual disability. A NF performs the level I screen which identifies an eligible recipient or member resident who has a mental illness or an intellectual disability. When an eligible recipient or member resident is identified, the NF refers ~~him or her~~ them to the ~~DOH~~ HCA DDS for a PASRR level II evaluation.

C. Level II screen determination: The PASRR level II screen determines the following:

(1) the eligible recipient or member resident's total needs are such that ~~his or her~~ their needs can be met in an appropriate community setting;

(2) the eligible recipient or member resident's total needs are such that they can be met only on an inpatient basis, which can include the option of placement in a home and community-based service waiver program, but for which inpatient care is necessary;

(3) if inpatient care is appropriate and desired, the NF is an appropriate institutional setting for meeting those needs; or

(4) if inpatient care is appropriate and desired but the NF is not the appropriate setting for meeting the eligible recipient or member resident's needs, another setting, such as an intermediate care facility for individuals with intellectual disabilities (ICF-IID) can be indicated.

D. Right to an administrative hearing: An individual who has been adversely affected by the preadmission screening or resident review screening is entitled to a ~~[HSD]~~ HCA administrative hearing. See 8.354.2 NMAC for a detailed description of this specific type of ~~[HSD]~~ HCA administrative hearings.

(1) An eligible recipient or member or ~~his or her~~ their authorized representative may request a ~~[HSD]~~ HCA administrative hearing.

(2) MAD, the MCO or their designees do not pay fees or costs, including attorney's fees, incurred by the individual or ~~his or her~~ their authorized representative as a result of a ~~[HSD]~~ HCA pre-hearing conference or a ~~[HSD]~~ HCA administrative hearing, or if ~~he or she files~~ they file an appeal of the ~~[HSD]~~ HCA administrative hearing final decision.

E. Restriction on reimbursement for medicaid residents:

A NF is not reimbursed for any service furnished to an eligible recipient or member resident when pre-admission screens, subsequent specified reviews or significant change reviews are not performed in a timely manner. MAD or the MCO pays only for services furnished after the screens or reviews are performed and will recoup amounts paid to a NF during periods of noncompliance. MAD or the MCO payment for services does not begin until a level II screening has been performed, if applicable.

[8.312.2.18 NMAC - Rp, 8.312.2.18 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.19 MINIMUM DATA SET:

A. A long term care facility participating in the medicare and is an enrolled MAD provider is required to conduct a comprehensive, accurate, standardized, reproducible assessment of each eligible recipient or member resident's functional capacity. See Sections 4201 (a) (3) and 4211 (a)(3) of the Omnibus Reconciliation Act (OBRA) of 1987.

B. The capacity assessment describes the resident's ability to perform daily life functions and any significant impairment in functional capacity. The assessment is based on a uniform MDS of core elements and common definitions specified by the secretary of the federal health and human services department. A NF is required to use the most current iteration of the MDS. A section of the MDS requires a NF to identify eligible recipient or member residents who may be

interested in transitioning back to ~~his or her~~ their community.

(1) The resident assessment instrument (RAI) is specified by the state. State RAIs include at least the health care financing administration MDS, triggers, resident assessment protocols (RAPs) and utilization guidelines.

(2) On a date to be specified by the federal government, NFs will be required to encode the MDS in machine-readable form. After that date, all MDS reporting will be done electronically. [8.312.2.19 NMAC - Rp, 8.312.2.19 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.23 RESIDENT RIGHTS TO REQUEST AN ADMINISTRATIVE HEARING:

An eligible recipient or member resident who believes that the NF has erroneously determined that ~~he or she~~ they should be transferred or discharged may request a ~~[HSD]~~ HCA administrative hearing. A NF must provide an eligible recipient or member resident notice of the proposed transfer or discharge. The notice must inform the eligible recipient or member resident of ~~his or her~~ their right to request a hearing, the method by which a hearing can be requested and ~~his or her~~ their right to present evidence in person or through ~~his or her~~ their authorized representative; see 8.354.2 NMAC and the MAD MCO policy manual. [8.312.2.23 NMAC - Rp, 8.312.2.23 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.24 PRIOR APPROVAL AND UTILIZATION REVIEW:

All MAD services are subject to utilization review for medical necessity, inspection of care, and program compliance. Reviews can be performed before services are furnished, after services are furnished, and before payment is made, or after payment is made; see 8.310.2 NMAC. The provider must contact ~~[HSD]~~ HCA or its authorized agents to request UR instructions. It is the provider's responsibility to access

these instructions or ask for paper 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.

A. Prior approval:

Certain procedures or services can require prior approval from MAD, the MCO or their designee. Services for which prior approval was obtained remain subject to UR at any point in the payment process.

B. Eligibility

determination: Prior authorization of services does not guarantee that an individual is eligible for MAD services or other health care programs. A provider must verify that an individual is eligible for a specific program at the time services are furnished and must determine if the eligible recipient or member has other health insurance.

C. Reconsideration:

A provider who disagrees with a prior approval request denial or other review decisions can request a reconsideration of utilization review; see 8.350.2 NMAC.

[8.312.2.24 NMAC - Rp, 8.312.2.24 NMAC, 8/1/2014; A/E, 3/1/2025; A, 8/1/2025]

8.312.2.25

REIMBURSEMENT: A NF provider must submit claims for reimbursement on the long term care turn around document (TAD) or its successor; see 8.302.2 NMAC.

A. MAD reimburses a NF at the lesser of the following:

- (1) the NF's billed charges;
- (2) the prospective reimbursement rates constrained by the ceilings established by MAD; see 8.312.3 NMAC; and
- (3) the NF's billed charge must be its usual and customary charge for services; "usual and customary charge" refers to the amount which the individual provider charges the general public in the majority of cases for a specific procedure or service.

B. Reimbursement limitations: Payments are made only

to a MAD enrolled, and as appropriate a [HSD] HCA MCO contracted NF. Payments to a NF are limited to those service costs which are included as allowable costs under approved provisions of the medicaid state plan or the MAD alternative benefit; see 8.312.3 NMAC. All claims for payment from MAD or the MCO are subject to utilization review and control.

C. Reimbursement methodology: See 8.312.3 NMAC for a detailed description of this methodology.

[8.312.2.25 NMAC - Rp, 8.312.2.25 NMAC, 8/1/2014; A, 8/1/2025]

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 30 EDUCATIONAL STANDARDS – GENERAL REQUIREMENTS PART 19 PURPLE STAR PUBLIC SCHOOLS PROGRAM

6.30.19.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.30.19.1 NMAC – N, 6/24/2025]

6.30.19.2 SCOPE: All school districts and charter schools.
[6.30.19.2 NMAC – N, 6/24/2025]

6.30.19.3 STATUTORY AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2, and 22-13-34 NMSA 1978.
[6.30.19.3 NMAC – N, 6/24/2025]

6.30.19.4 DURATION: Permanent.
[6.30.19.4 NMAC – N, 6/24/2025]

6.30.19.5 EFFECTIVE DATE: June 24, 2025, unless a later date is cited in the history note at the end of a section.
[6.30.19.5 NMAC – N, 6/24/2025]

6.30.19.6 OBJECTIVE: This rule provides the criteria and

application process for New Mexico's purple star public schools program, which provides a mechanism for schools to ease the transition of students of military families into new schools by providing academic, social and emotional support to those students or, for schools that do not serve military-connected students, those schools that want to recognize and celebrate military service and the accomplishments of active military and veterans.

[6.30.19.6 NMAC – N, 6/24/2025]

6.30.19.7 DEFINITIONS:

A. "Military-connected student" means a student enrolled in a school district or charter school who is a dependent of a current or former member of the United States military, New Mexico National Guard, or reserve force in the United States military or who was a dependent of a member of the United States military, New Mexico National Guard, or reserve force in the United States military who was killed in the line of duty.

B. "Military point of contact (MPOC)" means an individual, who may be a school counselor, teacher, administrator, or a school educational support staff member, who supports highly mobile students.

C. "Purple star public school" means a school approved by the department that meets the criteria established in Section 22-13-34 NMSA 1978 and Sections 9 or 10 of this rule.

D. "School-based student-led transition program" means an initiative planned and carried out by students to support the successful integration and adjustment of new students, particularly during times of transition. This program promotes peer connection, inclusion, and leadership.
[6.30.19.7 NMAC – N, 6/24/2025]

6.30.19.8 APPLICATION AND RENEWAL:

A. Schools seeking designation as a New Mexico purple star public school shall submit

an application available on the department's website.

B. Schools shall maintain records demonstrating completion and maintenance of the required program elements and shall provide those records to department staff upon request.

C. The purple star public school designation is valid for three school years. After three years, schools shall reapply to the department to maintain New Mexico's purple star public school designation.

D. Schools not successfully designated purple star public schools after their application is submitted may reapply.
[6.30.19.8 NMAC – N, 6/24/2025]

6.30.19.9 PROGRAM ELEMENTS FOR PURPLE STAR PUBLIC SCHOOLS WITH ACTIVE-DUTY MILITARY

FAMILIES: A public school that enrolls military-connected students shall submit to the department with their purple star school application evidence the school has fulfilled the following requirements:

A. The public school applicant shall designate a staff member to serve as the school MPOC.

(1) The MPOC shall complete professional development provided by the school on the unique needs of military students and families utilizing training materials from the military child education coalition website.

(2) The MPOC shall support military-connected students and their families by:

(a) serving as the point of contact and working collaboratively between military connected students, their families, the school, and military personnel;

(b) maintaining familiarity with enrollment and withdrawal procedures, records transfer, existing community and installation resources, and student supports; and

(c) providing additional resources for school personnel on issues related to

military-connected students.

B. The public school applicant shall include a page on the school website for resources and information for military families, which may include:

(1) Relocation information, such as overview of school environment, extracurricular activities, tutoring, student codes of conduct, and key staff contacts such as the MPOC;

(2) Details on enrollment and registration procedures, including:

(a) enrollment for military families;

(b) transfer information;

(c) documentation checklist for student records, transcripts, and residency; and

(d) eligibility requirements for free state funded public school pre-kindergarten;

(3) Withdrawal procedures;

(4) Information on the interstate compact on educational opportunity for military children;

(5) Information on special education services and Section 504 of the rehabilitation act of 1973;

(6) Information on available student counseling and support services; and

(7) Opportunities for parental involvement and engagement.

C. The public school applicant shall provide a list of resources describing the available academic, social and emotional supports to assist military-connected students which may include, but are not limited to the following:

(1) academic advisement and interventions;

(2) school-based, student-led transition programs;

(3) peer-support systems;

(4) new student orientation to the school environment and procedures;

(5) social events or welcoming activities organized throughout the school year to help military-connected students and families learn about the school culture, routines, and surrounding community; and

(6) military recognition events.

D. The public school applicant shall submit a resolution supporting military students to its local school board or charter school governing council and the public school's application to become a purple star public school.

[6.30.19.9 NMAC – N, 6/24/2025]

6.30.19.10 PROGRAM ELEMENTS FOR PURPLE STAR PUBLIC SCHOOLS WITHOUT ACTIVE-DUTY MILITARY

FAMILIES: A school that does not enroll military-connected students may apply to be a purple star public school by:

A. emphasizing the importance and honor of military service, which may include: **veterans day assemblies, armed forces day celebrations**, hosting patriotic events, letter-writing campaigns, care package drives, partnerships with veterans organizations, inviting local military personnel to speak, maintaining a wall of honor, recognizing military appreciation month, and producing public service announcements that highlight the value of military service;

B. recognizing the service to the country, accomplishments of veterans active-duty and reserve military personnel, and the national guard personnel in their communities;

C. sponsoring special events recognizing military service;

D. celebrating students who have committed to serving in the military; and

E. submitting a resolution to the local school board or charter school governing council supporting students of military

families, and the public school's application to become a purple star public school.
[6.30.19.10 NMAC – N, 6/24/2025]

History of 6.30.19 NMAC:
[RESERVED]

PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.35.2 NMAC, Sections 10, 11, 13, 14, and 15, effective June 24, 2025.

6.35.2.10

IMPLEMENTATION OF THE INDIAN EDUCATION ACT:

A. The secretary and the assistant secretary shall:

(1)

collaborate, in cooperation with the Indian education advisory council, state and federal departments and agencies, and tribal governments to identify ways such entities can assist the department in the implementation of the Indian Education Act; and

(2)

convene semiannual government-to-government meetings for the purpose of receiving input on education of American Indian and Alaska Native students.

B. The assistant secretary shall:

(1)

work to expand appropriate Indian education for American Indian and Alaska Native students in preschool through grade 20;

(2)

coordinate with appropriate administrators and divisions to ensure that department administrators make implementation of the Indian Education Act a priority;

(3)

in accordance with the rules of the department and after consulting with the Indian education advisory council and determining the resources available within the department:

(a)

provide assistance, including advice on allocation of resources, to school districts and Indian nations, tribes, and pueblos to improve services

to meet the educational needs of American Indian and Alaska Native students based on current published indigenous best practices in education;

(b)

provide assistance to school districts and Indian nations, tribes, and pueblos in New Mexico in the planning, development, implementation, and evaluation of curricula in native languages, culture, and history designed for all students, including American Indian and Alaska Native students, as approved by Indian nations, tribes, and pueblos in New Mexico;

(c)

develop or select for implementation a challenging, sequential, culturally relevant curriculum to provide instruction to American Indian and Alaska Native students in pre-kindergarten through sixth grade to prepare them for pre-advanced placement and advanced placement coursework in grades seven through 12;

(d)

provide assistance to school districts, post-secondary institutions, and Indian nations, tribes, and pueblos in New Mexico to develop curricula and instructional materials in native languages, culture, and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the Indian nation, tribe, or pueblo;

(e)

conduct indigenous research and evaluation for effective curricula for American Indian and Alaska Native students;

(f)

collaborate with the department to provide distance learning for American Indian and Alaska Native students in public schools to the maximum limits of the department's abilities;

(g)

establish, support, and maintain an Indian education advisory council;

(h)

enter into agreements with each Indian nation, tribe, or pueblo in New

Mexico or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve American Indian and Alaska Native students;

(i)

seek funds to establish and maintain an Indian education office in the northwest corner of the state, or other geographical location, to: implement agreements with each Indian nation, tribe, or pueblo in New Mexico or its authorized educational entity; monitor the progress of American Indian and Alaska Native students; and coordinate technical assistance at the public pre-kindergarten to post-secondary institutions that serve American Indian and Alaska Native students;

(j)

seek funds to establish, develop, and implement culturally relevant support services for the purposes of increasing the number of American Indian and Alaska Native teachers, administrators, and principals and providing continued professional development, including training in cultural competency, for educational assistants, teachers, and principals serving American Indian and Alaska Native students; in conjunction with the Indian education advisory council, the assistant secretary shall:

(i)

support recruitment and retention of highly qualified teachers and administrators;

(ii)

identify academic transition programs;

(iii)

identify academic financial support;

(iv)

support teacher preparation;

(v)

support teacher induction; and

(vi)

support professional development;

(k)

develop curricula to provide instruction in tribal history and government and develop plans to implement these subjects into history and government courses in school districts throughout the state;

(l) ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section 22-10A-19.1 NMSA 1978;

(m) encourage participation in cultural competency training by educational assistants, teachers, and principals serving American Indian and Alaska Native students; and

(n) develop a plan to establish a post-secondary investment system for American Indian and Alaska Native students to which parents, Indian nations, tribes, pueblos, and the state may contribute.

(4) require school districts to obtain a signature of approval by the tribal governments in New Mexico or their government designees residing within school district boundaries, verifying that the Indian nations, tribes, or pueblos agree to Indian education policies and procedures pursuant to federal requirements.

(a) If the district is unable to obtain the required signatures, the district ~~[must]~~ shall submit a written, signed explanation of the reasons.

(b) Tribal governments declining to provide a signature of approval will be afforded the opportunity to submit a written, signed explanation of the reasons for the refusal.

(c) A tribal leader or authorized designee of an Indian nation, tribe, or pueblo that has students attending a school district's schools may file a written complaint with the United States department of education regarding any action of the school district pursuant to, or relevant to, the school district's Indian policies and procedures in accordance with Subpart G of 34 CFR Part 222. [6.35.2.10 NMAC - Rp, 6.35.2.10 NMAC, 7/1/2020; A, 6/24/2025]

6.35.2.11 AMERICAN INDIAN/ALASKA NATIVE STUDENT NEEDS ASSESSMENT:

A. Beginning in the 2020-2021 school year, a historically defined Indian impacted school district shall:

(1) by October 15, and every three years thereafter, conduct an American Indian/Alaska Native student needs assessment to determine what supports are needed in school, at home, and in the community to help American Indian and Alaska Native students succeed in school, graduate with a diploma of excellence, and be prepared to enter post-secondary education or the workplace;

(2) seek best practices for conducting an American Indian/Alaska Native student needs assessment that is appropriate for localized needs, to include school, home, and the community;

(3) conduct a tribal consultation with ~~[toeal]~~ all Indian nations, tribes, and pueblos ~~[located within the school district boundaries]~~ located within the boundaries of the state of New Mexico whose students are enrolled in the district to prioritize and address the needs identified in the American Indian/Alaska Native student needs assessment;

(4) prioritize in its school district budget the needs of American Indian and Alaska Native students and closing the achievement gap between American Indian and Alaska Native students and all other student groups through the use of state and federal funding for American Indian and Alaska Native students, at-risk students, or economically disadvantaged students;

(5) apply for appropriate financial assistance, which may include state, federal, or private grants, to assist with meeting the requirements of 6.35.2.11 NMAC;

(6) develop an accountability tool, which shall be reevaluated annually, that measures the success or failure of a public school's efforts pursuant to the systemic framework provided for in 6.35.2.12 NMAC;

(7) hold a public meeting with members of the

district's American Indian and Alaska Native students' tribal leadership, parents, and the Indian education division at least twice during each school year, once by November 30 and once by April 30, to report on the American Indian/Alaska Native student needs assessment and the historically defined Indian impacted school district's evaluation of progress; and

(8) conduct, submit to the department, and publish on its website an annual review on the evaluation of progress to determine if amendments are needed to the systemic framework or accountability tool.

B. A historically defined Indian impacted school district or an Indian nation, tribe, or pueblo may request amendments to the systemic framework or accountability tool as the result of the annual review on the evaluation of progress.

C. A historically defined Indian impacted school district shall reevaluate the American Indian/Alaska Native student needs assessment every three years, or more frequently if determined necessary because of a change in American Indian or Alaska Native student enrollment within the historically defined Indian impacted school district.

D. The American Indian/Alaska Native student needs assessment may be incorporated into a historically defined Indian impact school district's existing school improvement structure.

E. Annually, the department shall:

(1) when approving school district budgets, consider whether a historically defined Indian impacted school district's budget accomplishes the prioritized needs from the American Indian/Alaska Native student needs assessment; and

(2) require the historically defined Indian impacted school district to submit a written statement to the department, which will be published on the

department's website, detailing the ways in which the historically defined Indian impacted school district's budget successfully met or failed to meet the prioritized needs from the most recent American Indian/Alaska Native student needs assessment. The historically defined Indian impacted school district shall also submit the written statement to any Indian nation, tribe, or pueblo located within the exterior boundaries of the historically defined Indian impacted school district. Prior to April 15 of each year, the historically defined Indian impacted school district shall submit to the department the written statement, along with its operating budget, for the ensuing fiscal year. The date for the submission of the written statement for each historically defined Indian impacted school district as required by this paragraph may be extended to a later date by the secretary.

[6.35.2.11 NMAC - N, 7/1/2020; A, 6/24/2025]

6.35.2.13 TRIBAL EDUCATION STATUS REPORT (TESR):

A. ~~[Beginning in school year 2020-2021]~~ Annually, by September 30, each school district with tribal lands located within its boundaries shall provide an annual districtwide tribal education status report to all Indian nations, tribes, and pueblos located within the school district boundaries and to the assistant secretary.

B. ~~[Beginning in school year 2020-2021]~~ Annually, by September 30, each school district adjacent to tribal lands may provide an annual districtwide tribal education status report to all Indian nations, tribes and pueblos with tribal lands adjacent to the school district's boundaries and to the assistant secretary.

C. A charter school with enrolled Native American students shall follow the same TESR provisions as the school district in which the charter school is physically located.

[E] D. A report provided in

accordance with Subsections A, ~~[or]~~ B, ~~or~~ C, of this section shall include the following information based upon data from the immediately preceding school year:

- (1) student achievement as measured by a statewide test approved by the department, with results disaggregated by ethnicity; any cell with an n-size of 9 or fewer shall be masked;
- (2) school safety;
- (3) the graduation rate;
- (4) attendance;
- (5) parent and community involvement;
- (6) educational programs targeting American Indian or Alaska Native students;
- (7) financial reports;
- (8) current status of federal Indian education policies and procedures;
- (9) school district initiatives to decrease the number of student dropouts and increase attendance;
- (10) public school use of variable school calendars;
- (11) school district consultations with district Indian education committees, school-site parent advisory councils, and tribal, municipal, and Indian organizations;
- (12) indigenous research and evaluation measures and results for effective curricula for American Indian and Alaska Native students; and
- (13) access to native language programs.

[D] E. The division shall submit a statewide tribal education report to all New Mexico Indian nations, tribes, and pueblos on or before November 15 of each year. The report will incorporate data submitted to the assistant secretary in accordance with Subsections A and B of this section and will further include reports by organizational units within the department regarding activities they are engaged in with Indian

nations, tribes, and pueblos related to the education of American Indian and Alaska Native students.

[6.35.2.13 NMAC - Rp, 6.35.2.11 NMAC, 7/1/2020; A, 6/24/2025]

6.35.2.14 AWARDS:

A. The fund shall consist of all appropriations, gifts, grants, donations, and income from investment of the fund.

B. Awards from the fund shall be used to support and advance the ~~[purposes]~~ provisions of the ~~[act]~~ Indian Education Act. Awards may include allocation-based and competitive funding.

[E] C. The recommendations of the advisory council, together with the recommendations of the assistant secretary, shall be provided to the secretary. The secretary shall make the final determination of projects approved for grant awards.

~~[C.]~~ At least annually, the department will establish and disseminate procedures for submission of requests for information and applications for grants from the fund, including the requirements that:

- ~~(1)~~ requests for information and applications identify the program and goal to be achieved relevant to the act;
- ~~(2)~~ requests for information and applications describe how the program will be sustained beyond the fiscal years being funded; and
- ~~(3)~~ requests for information and applications describe how the effectiveness of the programs supported by the grant will be measured and reported to the department.]

D. The assistant secretary shall consult with the advisory committee regarding priorities for funding and the request for information and application process.

E. Allocation-based awards to pueblos, tribes, and nations shall not revert. If allocation-based awards are made available to school districts, charter schools, BIE schools,

and tribally controlled schools, then any unspent funds shall revert to the division at the end of the fiscal year in which the grant was awarded, unless otherwise prescribed in New Mexico state law.

[F.]—The grant agreements shall include provisions for periodic expenditure reports to the division, including a final expenditure report, and for reports measuring the effectiveness of the programs supported by the grants.]

F. If allocation-based awards are made available, then school districts, charter schools, BIE schools, and tribally controlled schools seeking an allocation-based award from the fund shall submit to the department applications that include information on the goals to be achieved relative to the Indian Education Act, program sustainability, and program evaluation measures. Applications shall be submitted in the manner and time specified by the assistant secretary. Allocation-based awards for school districts, charter schools, BIE schools, and tribally controlled schools shall be determined by the assistant secretary.

[G.]—All activities shall be completed no later than June 30 of the fiscal year for which the award is made available. Recipients shall submit requests for reimbursement or invoices for accounts payable no later than July 7 following the close of the fiscal year for which the award is made available.]

G. Allocation-based awards to pueblos, tribes, and nations shall consist of a fixed award amount and an amount dependent on the counts of students in pre-K-12 public schools from the 80-day reporting period of the previous year. Eighty percent of allocation-based funds shall be reserved for fixed award amounts; twenty percent of allocation-based funds shall be dependent on student counts. Allocation-based awards shall include a factor for students with disabilities and may include other factors as determined by the assistant secretary. Funding will be made available no later than September 1 and shall not be on a reimbursement

basis. Pueblos, tribes, and nations shall submit to the department an implementation plan that describes in detail how funds shall be spent to improve educational outcomes for students in a manner consistent with the Indian Education Act.

H. School districts, charter schools, BIE schools, and tribally controlled schools receiving an allocation-based award from the fund shall complete all grant activities no later than June 30 of the fiscal year for which the award is made available, unless otherwise prescribed in New Mexico state law.

I. The division may offer competitive awards each fiscal year, subject to the availability of funds. Pueblos, tribes, nations, school districts, charter schools, BIE schools, tribally controlled schools, tribal colleges, and state universities may be eligible for competitive awards. Competitive awards shall be on a reimbursement basis. Any qualified entity seeking a competitive award from the division shall submit to the department an application that includes information on the goals to be achieved relative to the Indian Education Act, program sustainability, and program evaluation measures. Applications shall be submitted in the manner and time specified by the assistant secretary. Competitive awards shall include a factor for students with disabilities and may include other factors as determined by the assistant secretary. Pueblos, tribes, and nations that receive a competitive award shall submit to the department an implementation plan that describes in detail how funds shall be spent to improve educational outcomes for students in a manner consistent with the Indian Education Act.

J. Unspent competitive award funds shall revert to the division at the end of the fiscal year in which the grant was awarded, unless otherwise prescribed in New Mexico state law.

K. Pueblos, tribes, nations, school districts, charter schools, BIE schools, tribally controlled schools, tribal colleges, and state universities that receive

funding shall be required to complete grant assurances, as determined by the assistant secretary. Grant assurances shall include, but are not limited to, provisions of periodic expenditure reports to the division, including those reports required under Subsection K of this section, and provision of reports measuring the effectiveness of the programs supported by the grants.

L. Pueblos, tribes, nations, school districts, charter schools, BIE schools, and tribally controlled schools that receive award funding will submit to the assistant secretary a mid-year report no later than January 30 and a final report no later than June 30 of each year. The report shall address efforts made by grantees to improve educational outcomes for American Indian and Alaska Native students. The report shall meet the guidelines set forth by the assistant secretary, consistent with the provisions of the Indian Education Act.

[6.35.2.14 NMAC - Rp, 6.35.2.12 NMAC, 7/1/2020; A, 6/24/2025]

6.35.2.15 SEVERABILITY:

In the event that any one or more of the sections of this rule, in whole or in part, should be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining sections of this rule shall not in any way be affected or impaired.

[6.35.2.15 NMAC - N, 6/24/2025]

PUBLIC REGULATION COMMISSION

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES CHAPTER 9 ELECTRIC SERVICES PART 571 RENEWABLE ENERGY FOR RURAL ELECTRIC COOPERATIVES

17.9.571.1 ISSUING AGENCY: New Mexico public regulation commission.
[17.9.571.1 NMAC - N, 6/24/2025]

17.9.571.2 SCOPE: This rule applies to all cooperatives, rural electric cooperatives, distribution cooperatives, and generation and transmission cooperatives under the commission's jurisdiction.
[17.9.571.2 NMAC - N, 6/24/2025]

17.9.571.3 STATUTORY AUTHORITY: Sections 62-15-1 to -37 NMSA 1978 of the Rural Electric Cooperative Act, and Section 62-16-8 NMSA 1978 of the Renewable Energy Act.
[17.9.571.3 NMAC - N, 6/24/2025]

17.9.571.4 DURATION: Permanent.
[17.9.571.4 NMAC - N, 6/24/2025]

17.9.571.5 EFFECTIVE DATE: June 24, 2025, unless a later date is cited at the end of a section.
[17.9.571.5 NMAC - N, 6/24/2025]

17.9.571.6 OBJECTIVE: The objective of this rule is to implement the renewable energy provisions of the Rural Electric Cooperative Act, the voluntary tariff provisions of the Renewable Energy Act, and to bring significant economic development and environmental benefits to New Mexico.
[17.9.571.6 NMAC - N, 6/24/2025]

17.9.571.7 DEFINITIONS: Unless otherwise specified, as used in this rule:

A. Definitions
beginning with "A": [RESERVED]
B. Definitions
beginning with "B": [RESERVED]
C. Definitions
beginning with "C": "cooperative" means an electric utility that is organized under the Rural Electric Cooperative Act or the laws of another state as a cooperative nonprofit membership corporation; cooperative is synonymous with rural electric cooperative.

D. Definitions
beginning with "D": "distribution cooperative" means an electric utility, with distribution facilities, that purchases wholesale power and delivers it to consumers in

New Mexico and that is organized as a cooperative under the Rural Electric Cooperative Act or the laws of another state; a distribution cooperative is a rural electric cooperative, and may have generation facilities, transmission facilities, or both, but it is not a generation and transmission cooperative.

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

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

G. Definitions
beginning with "G": "generation and transmission cooperative" means an electric utility, with generation facilities, transmission facilities, or both, but without distribution facilities, that sells electric power to member cooperatives in New Mexico and that is organized as a rural electric cooperative under the Rural Electric Cooperative Act or the laws of another state; a generation and transmission cooperative is a cooperative, but it is not a distribution cooperative.

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

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

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

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

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

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

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

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

P. Definitions
beginning with "P": "plan year" means the calendar year for which approval is sought.

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

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

(1)
"renewable energy certificate" or "REC" is as that term is defined in Section 62-15-37 NMSA 1978;

(2)
"renewable portfolio standard" or "RPS" means the minimum percentage of retail sales of renewable energy by a distribution cooperative to customers in New Mexico that is required by the Rural Electric Cooperative Act; and

(3) "rural electric cooperative" means an electric utility that is organized under the Rural Electric Cooperative Act or the laws of another state as a cooperative nonprofit membership corporation; rural electric cooperative is synonymous with cooperative.

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

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

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

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

W. Definitions
beginning with "W": "WREGIS" means the western renewable energy generation information system.

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

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

Z. Definitions
beginning with "Z": [RESERVED]
[17.9.571.7 NMAC - N, 6/24/2025]

17.9.571.8 RENEWABLE PORTFOLIO STANDARD:

A. A distribution cooperative shall meet the RPS to include renewable energy in its electric energy supply portfolio as demonstrated by the retirement of RECs.

B. No later than January 1, 2025, renewable energy shall comprise no less than forty percent of a distribution cooperative's total retail sales in New Mexico.

C. No later than January 1, 2030, renewable energy shall comprise no less than fifty percent of a distribution cooperative's total retail sales in New Mexico.

D. No later than January 1, 2050, a distribution cooperative shall provide New Mexico retail customers with

electricity generated from at least eighty percent renewable energy resources, provided that:

(1) achieving the eighty percent RPS is technically feasible;

(2) the distribution cooperative is able to provide reliable electric service while implementing the eighty percent RPS; and

(3) implementing the eighty percent RPS shall not cause electric service to become unaffordable.

E. Renewable energy resources that are in a distribution cooperative's energy supply portfolio on January 1, 2008, shall be counted in determining compliance with Section 62-15-34 NMSA 1978 and this rule.

F. Demonstration of compliance:

(1) A distribution cooperative shall demonstrate compliance with the RPS by retiring RECs associated with renewable energy assigned to the distribution cooperative.

(2) A generation and transmission cooperative shall be responsible for meeting the RPS for all energy it supplies to its member distribution cooperatives in New Mexico.

(3) Energy from renewable energy resources that a generation and transmission cooperative supplies in compliance with the RPS shall be verified at the point where the generation and transmission cooperative produces or takes delivery of the energy on behalf of the member distribution cooperatives that the generation and transmission cooperative serves. [17.9.571.8 NMAC - N, 6/24/2025]

17.9.571.9 ZERO CARBON RESOURCE STANDARD:

A. No later than January 1, 2050, a distribution cooperative shall provide New Mexico retail customers with electricity generated from one hundred percent zero carbon resources, provided that:

(1) achieving the one hundred percent standard is technically feasible;

(2) the distribution cooperative is able to provide reliable electric service while implementing the one hundred percent standard; and

(3) implementing the one hundred percent standard shall not cause electric service to become unaffordable.

B. A generation and transmission cooperative shall be responsible for meeting the zero carbon resource standard for all energy it supplies to its member distribution cooperatives in New Mexico.

C. Energy from zero carbon resources that a generation and transmission cooperative supplies in compliance with the zero carbon resource standard shall be verified at the point where the generation and transmission cooperative produces or takes delivery of the energy on behalf of the member distribution cooperatives that the generation and transmission cooperative serves. [17.9.571.9 NMAC - N, 6/24/2025]

17.9.571.10 REASONABLE COST THRESHOLD:

A. If, in any given year, a distribution cooperative determines that the average annual leveled cost of renewable energy that would need to be procured or generated for purposes of compliance with the RPS would be greater than \$60.00 per megawatt-hour at the point of interconnection of the renewable energy resource with the transmission system, the distribution cooperative shall not be required to incur that excess cost.

(1) The reasonable cost threshold of \$60.00 per megawatt-hour shall be adjusted for inflation after 2020.

(2) Excused performance pursuant to the reasonable cost threshold in any given year shall not operate to delay compliance with the RPS in subsequent years.

B. The provisions of this subsection do not preclude a distribution cooperative from accepting a project with a cost that would exceed the inflation-adjusted reasonable cost threshold. [17.9.571.10 NMAC - N, 6/24/2025]

17.9.571.11 RENEWABLE ENERGY CERTIFICATES:

A. Renewable energy certificates:

(1) are owned by the generator of the renewable energy unless:

(a) the RECs are transferred to the purchaser of the energy through specific agreement with the generator;

(b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the RECs are owned by the distribution cooperative purchaser of the renewable energy unless retained by the generator through specific agreement with the distribution cooperative purchaser of the energy;

(c) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the purchaser of the energy owns the RECs for the term of such contract; or

(d) the generator is a community solar facility, excluding a native community solar project, as those terms are defined in the Community Solar Act, in which case the RECs are owned by the distribution cooperative to whose electric distribution system the community solar facility is interconnected;

(2) may be traded, sold, or otherwise transferred by their owner to any other party; such transfers and use of the certificate by a distribution cooperative for compliance with the renewable energy portfolio standard do not require physical delivery of the electric energy represented by the certificate to a distribution cooperative, so long as the electric energy represented by the certificate

was contracted for delivery in New Mexico, or consumed or generated by an end-use customer of the distribution cooperative in New Mexico, unless the commission determines that there is an active regional market for trading renewable energy and RECs in any region in which the distribution cooperative is located;

(3) that are used once by a distribution cooperative to satisfy the RPS and are retired, or that are traded, sold, or otherwise transferred by the distribution cooperative, shall not be further used by the distribution cooperative; and

(4) that are not used by a distribution cooperative to satisfy the RPS, or that are not traded, sold, or otherwise transferred by the distribution cooperative, may be carried forward for up to four years from the date of creation and, if not used by that time, shall be retired by the distribution cooperative.

B. A distribution cooperative is responsible for demonstrating that a REC used for compliance with the RPS is derived from eligible renewable energy resources and has not been retired, traded, sold, or otherwise transferred to another party.

C. A distribution cooperative shall maintain records sufficient to meet the requirements of 17.9.571.13 NMAC. A distribution cooperative shall maintain such records for a minimum of 10 years.

D. The acquisition, sale or transfer, and retirement of any RECs used to meet the RPS shall be registered with WREGIS or its direct successor(s), except as provided in Subsection E of 17.9.571.13 NMAC. Certificates whose retirement has been registered by a distribution cooperative with WREGIS shall be deemed to meet the requirements of Subsection B of 17.9.571.13 NMAC.

E. A REC representing electricity delivered to New Mexico and registered with a tracking system other than WREGIS may be used to meet the RPS so long as WREGIS lacks the capability to import the REC

from the other tracking system.

F. The requirement for registration and trading of RECs through WREGIS shall not constitute a finding by the commission that a regional renewable energy market is generally available.

G. Until such time as the commission has determined that there is a regional market for exchanging renewable energy and RECs that is generally available for all distribution cooperatives in the state, a distribution cooperative may seek approval from the commission to meet some or all of its RPS using individual RECs that represent energy generated by a renewable energy resource within a regional renewable energy market or trading system in any region where the distribution cooperative is located.

H. Any state having a mandatory RPS that accepts RECs for energy produced and delivered in New Mexico on a non-discriminatory basis for compliance with the state's RPS shall be deemed to be part of an active regional market for distribution cooperatives for the purposes of Paragraph (2) of Subsection A of 17.9.571.13 NMAC.

I. A non-WREGIS registered REC shall contain the following information:

(1) the name and contact information of the renewable energy generating facility owner or operator;

(2) the name and contact information of the distribution cooperative purchasing the REC;

(3) the type of generator technology and fuel type;

(4) the generating facility's physical location, nameplate capacity in MW, location and ID number of revenue meter, and date of commencement of commercial generation;

(5) the distribution cooperative to which the generating facility is interconnected;

(6) the control area operator for the generating facility; and

(7) the quantity in kWh and the date of the REC creation.
[17.9.571.11 NMAC - N, 6/24/2025]

17.9.571.12 VOLUNTARY RENEWABLE TARIFFS:

A. A distribution cooperative may offer its retail customers a voluntary program for purchasing renewable energy under rates and terms that are approved by the commission.

B. A distribution cooperative that offers its retail customers a voluntary program for purchasing renewable energy shall:

(1) report to the commission by April 30 of each year the demand for renewable energy pursuant to the voluntary program concerning the availability of renewable energy to the rural electric cooperative and the annual demand for renewable energy pursuant to their voluntary tariff; and

(2) comply with all requirements for the procurement of renewable energy set forth in the Rural Electric Cooperative Act.

[17.9.571.12 NMAC - N, 6/24/2025]

17.9.571.13 ANNUAL RENEWABLE ENERGY PORTFOLIO REPORT:

A. By April 30 of each year, a distribution cooperative shall file with the commission a report on its purchases and generation of renewable energy during the preceding calendar year.

B. The report shall include:

(1) an executive summary;

(2) the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the RPS;

(3) an explanation of steps taken to minimize costs, including competitive procurement and comparison of the price of electricity from renewable energy resources in the bids received by the distribution cooperative to

recent prices for such electricity elsewhere in the southwestern United States;

(4) an annual compliance plan for meeting the RPS for the following three years;

(5) all renewable energy generation or REC purchases and sales itemized by source;

(6) where applicable, a reconciliation of any banking of RECs by providing a beginning REC balance, the REC activity affecting the beginning REC balance, and an ending REC balance;

(7) where applicable, the impact of any existing multipliers on the number of available RECs, including any documentation regarding the regulatory approval of such multipliers;

(8) an attestation that, to the best of the distribution cooperative's knowledge, no RECs used for RPS compliance have been double-counted;

(9) a list of all RECs, including acquired, issued, or retired certificates;

(10) information, from WREGIS or its successor, on RECs acquired, sold, retired, transferred, or expired; and the information shall include reports from WREGIS or its successor which allow the commission to determine, by fuel type, the number of RECs in each calendar year:

(a) acquired;

(b) sold;

(c) retired;

(d) transferred; and

(e) expired;

(11) a table with the following data:

(a) total amount of RECs;

(b) total retail sales in megawatt-hours; and

(c) RPS compliance percentage achieved;

(12) the report to the distribution cooperative's membership including a summary of its purchases and generation of renewable energy during the preceding calendar year required by Subsection D of Section 62-15-34 NMSA 1978; and

(13) renewable energy and conservation fee information, pursuant to 17.9.571.16 NMAC, if applicable.

C. A distribution cooperative that is a member of a generation and transmission cooperative may file its annual report as part of a group filing package by the generation and transmission cooperative, provided that the distribution cooperative's filing requirements shall be identified separately from other cooperatives in the group.

D. Staff may request additional information or clarification from a distribution cooperative.

E. A distribution cooperative, or a generation and transmission cooperative filing on behalf of a distribution cooperative, shall serve its annual report on the commissioners, commissioners' advisors, office of general counsel, and staff.

[17.9.571.13 NMAC - N, 6/24/2025]

17.9.571.14 RENEWABLE ENERGY AND CONSERVATION FEE:

A. A distribution cooperative may collect from its customers a renewable energy and conservation fee of no more than one percent of a customer's bill.

(1) In no event shall a distribution cooperative annually collect more than \$75,000 from any single customer.

(2) Money collected through the renewable energy and conservation fee shall be segregated in a separate renewable energy and conservation account from other distribution cooperative funds, and it shall be expended only on programs or projects to promote the use of renewable energy, load management, or energy efficiency.

B. Each distribution cooperative that collects a renewable energy and conservation fee from its customers shall deduct from the fees paid to the state pursuant to Section 62-8-8 NMSA 1978 an amount equal to fifty percent of the amount of money collected through the renewable energy and conservation fee during the preceding calendar year. The money shall be included in the account with other money from the renewable energy and conservation fee and expended only on programs or projects to promote the use of renewable energy, load management, or energy efficiency.

C. In its annual report to the public regulation commission by April 30 pursuant to 17.9.571.15 NMAC, a distribution cooperative that collects a renewable energy and conservation fee from its customers shall include the information described below for the preceding calendar year:

(1) the total amount of money collected by the distribution cooperative from its customers during the preceding calendar year through the assessment of a renewable energy and conservation fee and the balance of funds in the distribution cooperative's renewable energy and conservation fund, as of January 1 and December 31 of the preceding calendar year;

(2) the amount of money withheld by the distribution cooperative from the inspection and supervision fees due to the state that was placed in the renewable energy and conservation fund as a partial match of the renewable energy and conservation fees collected during the preceding calendar year;

(3) the amount of money received by the distribution cooperative from any third party that was placed in the renewable energy and conservation fund;

(4) whether and to what extent the distribution cooperative will assess its customers for a renewable energy and conservation fee in the succeeding calendar year; and

(5) a summary of each renewable energy project, energy efficiency program, or load management program upon which money from the renewable energy and conservation fund was expended during the preceding calendar year, which includes:

(a) a description of the anticipated benefits to the distribution cooperative’s members from each project or program;

(b) the amount of money spent on each project or program; and

(c) the status of each project or program. [17.9.571.14 NMAC - N, 6/24/2025]

**HISTORY OF 17.9.571 NMAC:
[RESERVED]**

**TRANSPORTATION,
DEPARTMENT OF**

At its meeting on May 15, 2025, the New Mexico State Transportation Commission, by the request of the New Mexico Department of Transportation, repealed rule Safety Requirements, 18.3.4 NMAC, filed 7/01/2024, and replaced it with a new rule entitled Safety Requirements, 18.3.4 NMAC, adopted 5/15/2025 and effective 6/24/2025.

**TRANSPORTATION,
DEPARTMENT OF**

**TITLE 18
TRANSPORTATION AND
HIGHWAYS
CHAPTER 3 MOTOR
CARRIER GENERAL
PROVISIONS
PART 4 SAFETY
REQUIREMENTS**

**18.3.4.1 ISSUING
AGENCY:** New Mexico Department of Transportation.
[18.3.4.1 NMAC - Rp, 18.3.4.1 NMAC, 6/24/2025]

18.3.4.2 SCOPE: This rule applies to all motor carriers subject to the jurisdiction of the department.
[18.3.4.2 NMAC - Rp, 18.3.4.2 NMAC, 6/24/2025]

**18.3.4.3 STATUTORY
AUTHORITY:** Sections 65-2A-4, 65-2A-19 and 65-6-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.
[18.3.4.3 NMAC - Rp, 18.3.4.3 NMAC, 6/24/2025]

18.3.4.4 DURATION:
Permanent.
[18.3.4.4 NMAC - Rp, 18.3.4.4 NMAC, 6/24/2025]

**18.3.4.5 EFFECTIVE
DATE:** June 24, 2025, unless a later date is cited at the end of a section.
[18.3.4.5 NMAC - Rp, 18.3.4.5 NMAC, 6/24/2025]

18.3.4.6 OBJECTIVE: The purpose of this rule is to implement Sections 65-2A-19 and 65-6-4 NMSA 1978 by establishing safety requirements for drivers, motor vehicles, and motor carriers.
[18.3.4.6 NMAC - Rp, 18.3.4.6 NMAC, 6/24/2025]

18.3.4.7 DEFINITIONS:
As used in this rule:

A. CDL driver means a driver who is required by 49 CFR 383.3 or Section 66-5-59 NMSA 1978 to have a commercial driver’s license;

B. driver means a person who drives a motor vehicle as, for, or on behalf of a motor carrier;

C. MVD means the motor vehicle division of the New Mexico taxation and revenue department.
[18.3.4.7 NMAC - Rp, 18.3.4.7 NMAC, 6/24/2025]

**18.3.4.8 AVAILABILITY
OF CITED MATERIAL:** The sections of the code of federal regulations cited in this rule may be found on the government printing office website at <http://www.gpoaccess.gov/cfr/>.
[18.3.4.8 NMAC - Rp, 18.3.4.8 NMAC, 6/24/2025]

**18.3.4.9 SUBSTITUTION
OF TERMS ADOPTED FROM
FEDERAL LAW:** Wherever the following terms appear in a part or section of title 49 of the code of federal regulations (CFR), for purposes of this rule and as adopted by reference in this rule, these federal terms shall be read as if substituted by the terms provided below.

A. for the terms “commerce” and “interstate commerce”, substitute “intrastate commerce,” as it is defined in 49 CFR Section 390.5;

B. for the terms “commercial motor vehicle”, “bus”, “truck”, and “truck tractor”, substitute “motor vehicle,” as defined in Section 65-2A-3 NMSA 1978, except for when these terms are used in 49 CFR Section 391.21(b)(11). For purposes of this rule, the term “motor vehicle” shall not be understood to include any limitations based on gross combination weight rating, gross vehicle weight rating, or passenger seating capacity; and

C. for the abbreviation “FMCSA” (federal motor carrier safety administration), substitute “department of transportation” or “DOT”.
[18.3.4.9 NMAC - Rp, 18.3.4.9 NMAC, 6/24/2025]

**18.3.4.10 REQUIREMENTS
APPLICABLE TO ALL DRIVERS:** Motor carriers shall require and ensure that all drivers in their service, including themselves, comply with the duties and prohibitions of these rules.

**A. Drug and alcohol
programs and testing for drivers:** This rule adopts by reference 49 CFR Part 40 in its entirety, and 49 CFR Section 382, except for Sections 382.117 and 382.119.

B. Hours of service: Ambulance services shall adopt and enforce a policy governing hours of service for their drivers. For other motor carriers the following restrictions apply to:

(1) drivers operating for taxicab services, non-

emergency medical transportation services, specialized passenger services, and intrastate shuttle service with passenger capacity of 15 or less, a driver shall not drive the service vehicle for more than 12 hours out of any 24 hour period;

(2) all other drivers, this rule adopts by reference 49 CFR Part 395, except that section 395.1(e)(1) is amended to add: “or operates in intrastate commerce within a 150 air-mile radius of the normal work reporting location.”

C. Criminal and driver background reports: Prior to hiring or contracting with a potential driver, and every five years thereafter, all motor carriers shall obtain a national fingerprint based background check and a nationwide motor vehicle report (MVR) to review that candidate’s prior record for any relevant public safety violations. For household goods service carriers, a national fingerprint based background report is additionally required for each employee entering private dwellings. [18.3.4.10 NMAC - Rp, 18.3.4.10 NMAC, 6/24/2025]

18.3.4.11 REQUIREMENTS APPLICABLE ONLY TO CDL DRIVERS:

A. Commercial drivers’ licenses: This rule adopts by reference the New Mexico commercial driver’s license act, Sections 66-5-52 through 66-5-72 NMSA 1978.

B. Qualifications of drivers and longer combination vehicle (LCV) driver instructors: This rule adopts by reference 49 CFR Part 391, with the following changes:

(1) Section 391.11(b)(1) is amended to add: “or is 18 years old and drives only in intrastate commerce motor vehicles that are not required to be placarded for hazardous materials;”

(2) Section 391.15 is not adopted;

(3) Section 391.49(a) is amended to add: “or the director of MVD has granted a waiver to that person pursuant to 18.19.5.33 NMAC.”

C. Driving of commercial motor vehicles: This rule adopts by reference 49CFR Part 392 in its entirety.

D. Parts and accessories necessary for safe operation: This rule adopts by reference 49 CFR Part 393 in its entirety.

E. Inspection, repair and maintenance: This rule adopts by reference 49 CFR Part 396 in its entirety.

F. Transportation of hazardous material; driving and parking rules: This rule adopts by reference 49 CFR Part 397 in its entirety. [18.3.4.11 NMAC - Rp, 18.3.4.11 NMAC, 6/24/2025]

18.3.4.12 REQUIREMENTS APPLICABLE ONLY TO NON-CDL DRIVERS:

A. Operators’ licenses: is rule adopts by reference the licensing provisions of the New Mexico motor vehicle code, Sections 66-5-1 through 66-5-48, NMSA 1978.

B. Qualifications, investigations, inquiries, reporting, and records for all drivers of certificated motor carriers:

(1) Before allowing a transportation service driver to provide carriage, and every five years after hire:

(a) the prospective driver shall submit an application to the transportation service that includes the individual’s address, age, driver’s license number and state, and driving history;

(b) the transportation service shall obtain a local and national fingerprint based background check for the prospective driver that shall include:

(i) multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation and primary source search; and

(ii) a national sex offender registry; and
(iii) the transportation service shall obtain

and review a driving history research report for the prospective driver.

(2) A transportation service shall not permit a person to act as a transportation service driver who:

(a) has had more than three moving violations in the preceding three-year period or one violation in the preceding three-year period involving any attempt to evade law enforcement, reckless driving or driving on a suspended or revoked license;

(b) has been convicted within the past seven years of:

(i) a felony;

(ii) misdemeanor driving under the influence, reckless driving, leaving the scene of an accident or any other driving-related offense or any misdemeanor violent offense or sexual offense; or

(c) more than three misdemeanors of any kind;

(d) is identified by a national sex offender registry;

(e) does not possess a valid license; or

(f) is not at least 18 years old.

(3) Provided that passenger services may voluntarily adopt and implement other more stringent policies and procedures for passenger vehicles and drivers of passenger vehicles, including full or modified forms of federal safety policies and procedures.

C. Qualifications of drivers: This rule adopts by reference only the following specific sections of 49 CFR Part 391:

(1) general qualifications of drivers: Section 391.11(b)(8);

(2) application for employment: Section 391.21;

(3) investigations and inquiries: Section 391.23, except that Section 391.23(d)(2) the term “as

specified in section 390.15(b)(1) of this chapter” is substitute for this rule by the term, “in the uniform crash report form prescribed by the state of New Mexico”;

(4) annual inquiry and review of driving record: Section 391.25, except that:

(a) Subsections 391.25(a) and (b) are amended to delete: “Except as provided in subpart G of this part;”

(b) Section 391.25 shall not apply to volunteer drivers;

(5) record of violations: Section 391.27, except that section 391.27(a) is amended to delete: “Except as provided in subpart G of this part;”

(6) road test: Section 391.31, except that section 391.31(a) is amended to delete: “Except as provided in subpart G;”

(7) equivalent of road test: Section 391.33; except that an ambulance service may also accept from a person who seeks to drive an ambulance a copy of a certificate of completion from an emergency vehicle operator’s course approved by the emergency medical services (EMS) bureau of the department of health (DOH);

(8) physical qualifications for drivers: Section 391.41, except that drivers for ambulance are exempt from Section 391.41(a);

(9) medical examinations; certificate of physical examination: Section 391.43, except that for volunteer drivers of ambulance services only, the medical examiner (as defined in 49 CFR Section 390.5) shall perform a medical examination sufficient to enable the medical examiner to certify, in accordance with Subsection C of 18.19.5.33 NMAC, whether or not the driver has a condition that may interfere with the safe operation of an ambulance;

(10) persons who must be medically examined and certified: Section 391.45, except that this section shall not apply to volunteer drivers;

(11) general requirements for driver qualification files: Section 391.51, except that Subsections 391.51(b)(8) and (d)(5) are not adopted;

(12) driver investigation history file: Section 391.53, except that this section shall not apply to commuter services.

D. Driving of commercial motor vehicles: This rule adopts by reference the following sections of 49 CFR Part 392:

(1) ill or fatigued operator: Section 392.3;

(2) drugs and other substances: Section 392.4;

(3) alcohol prohibition: Section 392.5;

(4) emergency equipment, inspection and use: Section 392.8, except that this section is amended to substitute “Section 66-3-849 NMSA 1978”, certain vehicles to carry flares or other warning devices, for the federal reference to “Section 393.95”;

(5) inspection of cargo, cargo securement devices and systems: Section 392.9, except that this section shall only apply to a motor vehicle with a gross vehicle weight rating of 10,000 pounds or more;

(6) hazardous conditions; extreme caution: Section 392.14, except that this section shall not apply to ambulance services;

(7) use of seat belts: Section 392.16;

(8) obscured lamps or reflectors: Section 392.33;

(9) ignition of fuel; prevention: Section 392.50;

(10) safe operation, buses: Section 392.62;

(11) towing or pushing loaded buses: Section 392.63;

(12) riding within closed commercial motor vehicles without proper exits: Section 392;

(13) carbon monoxide; use of commercial motor vehicle when detected: Section 392.66;

(14) radar detectors; use and/or possession: Section 392.71.

E. Equipment for vehicles, seatbelts and child restraints: This rule adopts by reference Sections 66-3-801 through 66-3-901 NMSA 1978. In addition, passenger vehicles capable of transporting 15 or fewer persons including the driver shall provide a separate seat belt assembly for each passenger and shall ensure child restraint systems comply with all federal and state requirements.

F. Inspection, repair and maintenance for vehicles: This rule adopts by reference the following sections of 49 CFR Part 396:

(1) inspection, repair and maintenance: Section 396.3, but this section shall not apply to commuter services;

(2) lubrications: Section 396.5;

(3) driver vehicle inspection reports: Section 396.1;

(4) driver inspection: Section 396.13;

(5) periodic inspection: Section 396.17;

(6) inspector qualifications: Section 396.19;

(7) periodic inspection recordkeeping requirements: Section 396.21;

(8) equivalent to periodic inspection: Section 396.23(a);

(9) qualifications of brake inspectors: Section 396.25.

[18.3.4.12 NMAC - Rp, 18.3.4.12 NMAC, 6/24/2025]

18.3.4.13 IDENTIFICATION OF EQUIPMENT:

A. Issuance: The department shall assign an operating authority number to each motor carrier service when it issues an operating authority. Any operating authority number issued shall be displayed as required by this rule.

B. Display: The letters and numbers must be not less than one-half inch (1/2”) wide and not

less than two and one-half inches (2 1/2") high. The operating authority number will be displayed in the following manner: "NM 123".

(1) Placement

on limousines: The NM operating authority number must be distinctly displayed on the front and rear bumpers of each limousine operated in New Mexico.

(2) Placement

on all other motor vehicles: The name or d/b/a name of the motor carrier or commuter service and the NM operating authority number must be distinctly displayed and permanently affixed to the right and left doors, or sides of the power unit, of each motor vehicle operated in New Mexico, except that for motor vehicles leased or rented for authorized operations the required display need not be permanently affixed.

C. Exceptions:

(1) Interstate

motor carriers that display a federal operating authority number are not required to display the NM operating authority number.

(2) Intrastate

motor carriers that display a New Mexico safety identification number issued by the MVD are not required to display the NM operating authority number.

[18.3.4.13 NMAC - Rp, 18.3.4.13 NMAC, 6/24/2025]

18.3.4.14 EQUIPMENT STANDARDS:

A. Minimum

Equipment Standards: A motor carrier shall only use equipment for vehicles that is produced and constructed by a manufacturer of such equipment that regularly produces such equipment of guaranteed quality. The department may approve the use of non-guaranteed equipment only if the motor carrier submits a written request for use of such equipment accompanied by a verified statement from a reputable testing laboratory regularly engaged in the testing of the same equipment to certify that the equipment is appropriate for the intended purpose. The motor carrier

shall bear all costs of testing and certification.

B. Equipment, inspection, repair and maintenance for all certificated vehicles:

(1) A

transportation service shall not use a passenger vehicle that:

(a)

is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;

(b)

has fewer than four doors, except for shuttle service; or

(c)

is designed to carry more than eight passengers, including the driver.

(2) A

transportation service shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter.

(3) Provided

that passenger services may voluntarily adopt and implement other more stringent policies and procedures for passenger vehicles and drivers of passenger vehicles, including full or modified forms of federal safety policies and procedures. [18.3.4.14 NMAC - Rp, 18.3.4.14 NMAC, 6/24/2025]

18.3.4.15 AMBULANCE SERVICE WAIVER:

Pursuant to Section 65-6-4 NMSA 1978, and upon written request showing good cause, the department may waive the requirements of this rule with respect to individual ambulance service providers.

[18.3.4.15 - N, 6/10/25]

History of 18.3.4 NMAC:

Pre-NMAC history. The material in this rule was previously filed with the state records center as:

SCCMC Rule No. 3, Hours of Service, filed on 3/5/1982;
SCCMC Rule No. 6, Qualifications of Drivers, filed on 3/5/1982;
SCCMC Rule No. 7, Driving of

Motor Vehicles, filed on 3/5/1982;
SCCMC Rule No. 8, Emergency Equipment, filed on 3/5/1982;
SCCMC Rule No. 9, Securing of Load and Equipment, filed on 3/5/1982;
SCCMC Rule No. 11, Emergency Signals, filed on 3/5/1982;
SCCMC Rule No. 12, Head Lamps and Auxiliary Road Lighting Lamps, filed on 3/5/1982;
SCCMC Rule No. 13, Brakes, filed on 3/5/1982;
SCCMC Rule No. 14, Equipment Required on Certain Vehicles, filed on 3/5/1982;
SCCMC Rule No. 15, Windshields Must be Unobstructed and Equipped with Wipers, filed on 3/5/1982;
SCCMC Rule No. 16, Mirrors, filed on 3/5/1982;
SCCMC Rule No. 17, Horns and Warning Devices, filed on 3/5/1982;
SCCMC Rule No. 37, Slick Tires, filed on 3/5/1982;
SCCMC Rule No. 39, Identification of Equipment, filed on 3/5/1982;
SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3/14/1968;
SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9/21/1971;
SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6/14/1973;
SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2/5/1974;
SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4/17/1975;
SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9/19/1975;
SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4/15/1976;
SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1/25/1977;
SCC Rule 207, Emergency Rule Governing Motor Carriers of Property, filed on 12/28/1994;
SCC Rule 231, General Compliance Requirements, filed on 1/5/1993;
SCC Rule 231, General Compliance

Requirements, filed on 10/27/1993.
 SCC Rule 241, Records of Motor
 Transportation Entities, filed on
 1/5/1993.

History of repealed material.

SCC Rule 207, Emergency Rule
 Governing Motor Carriers of
 Property (filed 12/28/1994) repealed
 12/30/2002.

SCC Rule 231, General Compliance
 Requirements (filed 10/27/1993)
 repealed 12/30/2002.

SCC Rule 241 Records of Motor
 Transportation Entities (filed
 1/5/1993) repealed 12/30/2002.

18.3.4 NMAC, Qualifications of
 Drivers (filed 12/10/2002) repealed
 1/1/2005.

18.3.4 NMAC, Operating
 Requirements (filed 12/10/2002)
 repealed 1/1/2005.

18.3.4 NMAC, Operating
 Requirements (filed 12-16-2004)
 repealed 2/13/2015.

18.3.4 NMAC, Operating
 Requirements (filed 1/28/2015)
 repealed 7/1/2024.

18.3.4 NMAC, Safety Requirements
 (filed 6/13/2024) repealed 6/24/2025.

Other History:

That applicable portion of SCC
 Rule 231, General Compliance
 Requirements (filed 10/27/1993)
 replaced by 18.3.4 NMAC,
 Qualifications of Drivers effective
 12/30/2002;

SCC Rule 207, Emergency Rule
 Governing Motor Carriers of Property
 (filed 12/28/1994); that applicable
 portion of SCC Rule 231, General
 Compliance Requirements (filed
 10/27/1993); and SCC Rule 241
 Records of Motor Transportation
 Entities (filed 1/5/1993) all replaced
 by 18.3.5 NMAC, Operating
 Requirements, effective 12/30/2002;
 18.3.4 NMAC, Qualifications of
 Drivers (filed 12/10/2002) and 18.3.5
 NMAC, Operating Requirements
 (filed 12/10/2002) both replaced by
 18.3.4 NMAC, Safety Requirements,
 effective 1/1/2005.

18.3.4 NMAC, Safety Requirements
 (filed 12/16/2004) was replaced by
 18.3.4 NMAC, Safety Requirements,
 effective 2/13/2015.

18.3.4 NMAC, Safety Requirements
 (filed 1/28/2015) was replaced by
 18.3.4 NMAC, Safety Requirements,
 effective 7/1/2024.

18.34.4 NMAC, Safety Requirements
 (filed 6/13/2024) was replaced by
 18.3.4, Safety Requirements, effective
 6/24/2025.

End of Adopted Rules

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Other Material Related to Administrative Law

ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
STATE PARKS DIVISION

NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION

The Energy, Minerals and Natural Resources Department gives Notice of a Minor, Nonsubstantive Correction to 19.5.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Section 35, Subsection B, paragraph (3): There is deleted text “permit” that did not have surrounding brackets. Brackets were put in place.

Section 39, Subsections A, B & E: There is new text “... (see Subsection R of 19.5.17)...” before deleted text “[...Q of 19.5.7 NMAC...]” in every subsection that is incorrect as to format. The deleted and new text was corrected in each subsection to: “... [(see Subsection Q of 19.5.7 NMAC)] (see Subsection R of 19.5.1.7 NMAC)...”.

A copy of this Notification will be filed with the official version of the above amendment.

ENVIRONMENT,
DEPARTMENT OF

NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION

The Water Quality Control
Commission c/o New Mexico

Environment Department gives Notice of a Minor, Nonsubstantive Correction to 20.6.8 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Section 400, Subsection C:
Change ‘Section’
to ‘Subsection’ in item (xii) of
subparagraph (a) of paragraph (1);
Change ‘Sections’
to ‘Subsections’ in paragraph (2);
Change “Section
C(1)” to “Paragraph (1) of Subsection
C” in paragraph (2);
Change
“Paragraphs” to “Subsections” in
paragraph (3).

A copy of this Notification will be filed with the official version of the above amendment.

SUPERINTENDENT OF
INSURANCE, OFFICE OF

NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION

The Office of Superintendent of Insurance gives Notice of a Minor, Nonsubstantive Correction to 13.4.3 NMAC & 13.4.8 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rules, as follows:

13.4.3 NMAC

Section 7: There is a
subsection A without a subsection B.

the subsection A has been removed to conform to correct style and format.

13.4.8 NMAC

Section 5: The effective date was incorrectly changed to “April 1, 2025”. The effective date for the rule should have remained as “July 1, 2019”.

A copy of this Notification will be filed with each official version of the above rules.

End of Other Material
Related to Administrative
Law

2025 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXVI, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 3	January 14
Issue 2	January 16	January 28
Issue 3	January 30	February 11
Issue 4	February 13	February 25
Issue 5	February 27	March 11
Issue 6	March 13	March 25
Issue 7	March 27	April 8
Issue 8	April 10	April 22
Issue 9	April 24	May 6
Issue 10	May 8	May 20
Issue 11	May 22	June 10
Issue 12	June 12	June 24
Issue 13	June 26	July 15
Issue 14	July 17	July 29
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Issue 17	August 28	September 9
Issue 18	September 11	September 23
Issue 19	September 25	October 7
Issue 20	October 9	October 21
Issue 21	October 23	November 4
Issue 22	November 6	November 18
Issue 23	November 20	December 9
Issue 24	December 11	December 23

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. The New Mexico Register is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941