

TITLE 2 PUBLIC FINANCE
CHAPTER 81 RETIREE HEALTH CARE FUNDS
PART 6 ELIGIBLE RETIREE SPOUSE, DOMESTIC PARTNER AND DEPENDENT BENEFIT
COVERAGE ENROLLMENT

2.81.6.1 ISSUING AGENCY: New Mexico Retiree Health Care Authority ("NMRHCA").
[2.81.6.1 NMAC - Rp, 2.81.6.1 NMAC, 1/1/2017]

2.81.6.2 SCOPE: This rule applies to all eligible retirees, eligible spouses, eligible domestic partners, and eligible dependents authorized to participate in the NMRHCA coverages.
[2.81.6.2 NMAC - Rp, 2.81.6.2 NMAC, 1/1/2017]

2.81.6.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the Retiree Health Care Act, Sections 10-7C-1 to 16 NMSA 1978.
[2.81.6.3 NMAC - Rp, 2.81.6.3 NMAC, 1/1/2017]

2.81.6.4 DURATION: Permanent.
[2.81.6.4 NMAC - Rp, 2.81.6.4 NMAC, 1/1/2017]

2.81.6.5 EFFECTIVE DATE: January 1, 2017 unless a later date is cited at the end of a section.
[2.81.6.5 NMAC - Rp, 2.81.6.5 NMAC, 1/1/2017]

2.81.6.6 OBJECTIVE: The objective of this rule is to establish the enrollment policy for eligible retirees, eligible spouses, eligible domestic partners, and dependents authorized to participate in the NMRHCA's coverage. The objective is to establish rules for new eligible retiree, spouse, domestic partners, and dependent enrollment, change in status enrollment for eligible dependents and new dependent enrollment. The objective of this rule is to clarify when proof of medical insurability will be required in these cases, requiring certain documentation of retirees, spouses, domestic partners, and those claiming improper loss of coverages.
[2.81.6.6 NMAC - Rp, 2.81.6.6 NMAC, 1/1/2017]

2.81.6.7 DEFINITIONS:

A. "Act" means the Retiree Health Care Act (Sections 10-7C-1 to 16 NMSA 1978).

B. "Domestic partner" means a person at least 18 years of age, not married or a member of another domestic partnership, who is in an exclusive committed relationship with and for the benefit of the retiree member, and who has shared a primary residence with the retiree member for twelve or more consecutive months, is jointly responsible with the retiree member for each other's common welfare, shares joint financial obligations with the retiree member, and does not have a blood relationship with the retiree member such as to preclude marriage between them under New Mexico law.

C. "Open enrollment period" means any of the periods commencing January 1, 2017, and ending January 31, 2017, or commencing on January 1 and ending on January 31 of every odd-numbered year thereafter, in which an eligible retiree, eligible spouse, eligible domestic partner or dependents authorized to participate in NMRHCA's coverage may enroll into NMRHCA programs and outside of such periods an eligible retiree, eligible spouse, eligible domestic partner or eligible dependent may enroll into NMRHCA programs only upon the occurrence of a qualifying event as provided in 26 U.S.C. Section 125, as amended, and the regulations promulgated thereunder.

D. "Termination of domestic partnership" means the cessation of the joint and mutually responsible financial and exclusive committed relationship required for a domestic partnership.
[2.81.6.7 NMAC - Rp, 2.81.6.7 NMAC, 1/1/2017]

2.81.6.8 REQUIREMENTS FOR ENROLLMENT IN COVERAGES: An eligible retiree, spouse, domestic partner or dependent shall be enrolled pursuant to his/her actual status at the time of enrollment or at any time thereafter when a change in status occurs. A retiree may add eligible dependents at the time of acquiring them. A retiree may enroll himself/herself only, and any eligible dependents, or no eligible dependents. Each such enrollee's status must be the same for all lines of coverage (i.e. single, two party or family). An eligible spouse, domestic partner or dependent of a retiree may not be enrolled unless the eligible retiree is enrolled, except as otherwise provided by court order pursuant to the Mandatory Medical Support Act Sections 40-4C-1 to 14 NMSA

1978. A spouse, domestic partner or dependent of a deceased eligible retiree receiving a survivor's pension benefit may enroll separately. Any eligible retiree, spouse, domestic partner or dependent desiring to enroll for coverages shall meet the following requirements:

A. Spouse, domestic partner and dependent enrollment/medical insurability: An eligible retiree, spouse, domestic partner or dependent may enroll without evidence of medical insurability only during an open enrollment period.

B. Eligible retiree, spouse, domestic partner, dependent change in status/enrollment: Where an eligible retiree, spouse, domestic partner or dependent was receiving or eligible to receive group health benefit coverages through a third party and because of a change in status they lose the coverage and become ineligible for the coverage the eligible retiree, spouse, domestic partner or dependent may be enrolled without evidence of medical insurability if enrolled during an open enrollment period. If the loss of coverage due to the change in status was not caused by any neglect or wrong doing by the eligible retiree, spouse, domestic partner or dependent, they may enroll at any time so long as they do so within 31 calendar days of the change of status. If an eligible retiree is employed by an employer offering its employees a basic plan of benefits, the coverage provided by the NMRHCA plan shall be secondary regardless of whether the retiree enrolls in his employer's plan.

C. Domestic partner enrollment: An eligible domestic partner may enroll upon the submittal of sworn statements of domestic partnership executed by both domestic partners on a form approved by the board.

D. Prohibition against duplicate coverage: An eligible retiree, spouse, domestic partner or dependent is prohibited from having duplicate coverage from the NMRHCA for any line of coverage. An eligible retiree, spouse, domestic partner or dependent is also prohibited from having retiree coverage and dependent coverage at the same time from the NMRHCA for any line of coverage.

E. More than one eligible retiree in a family: Where an eligible retiree, spouse, domestic partner or dependent are all three or two of them eligible retirees, either may enroll into coverage as the eligible retiree and the other be treated as an eligible spouse, domestic partner or dependent.

F. Participation requirements for eligible retiree, spouse, domestic partner or dependent enrollment: An eligible retiree, spouse, domestic partner or dependent is not permitted to enroll for a particular line of coverage unless the minimum participation level as determined by the NMRHCA is met.

G. Switching coverage: The eligible retiree, spouse, domestic partner or dependent shall all select the same line or lines of coverage and shall only be permitted to switch, add or delete coverages during an open enrollment period.

H. Dropping coverage: An eligible retiree, spouse, domestic partner or dependent (except for dental or vision coverages) may drop any line of coverage at any time at their discretion. If they drop a line of coverage, they cannot re-enroll except as this rule permits. Members of the same family shall not be allowed to carry different lines of coverage.

I. Dental or vision/dropping coverage: Once enrolled in dental or vision coverages an eligible retiree, spouse, domestic partner or dependent may drop such coverages any time after enrollment. However, once a NMRHCA participant drops dental or vision coverage, that individual may not reenroll in that line of coverage until the open enrollment period immediately following the fourth anniversary of such dropped coverage. The four year waiting period does not apply to an involuntary loss of coverage and such eligible retiree, spouse, domestic partner or dependent may reenroll in that line of coverage during the next open enrollment period.

J. Proper documentation: Proper documentation, including evidence of medical insurability where required, must be provided by the eligible retiree, spouse, domestic partner or dependent seeking coverage within thirty-one days of the application for coverage. Coverage may be rejected where adequate proof and documentation satisfactory to the NMRHCA is not submitted in a timely manner. In the event such documentation is not timely submitted, the coverage shall not be effective and any contribution paid by the retiree, spouse, domestic partner or dependent shall be returned without interest.

K. Eligible spouse, domestic partner dependent/open enrollment: During an open enrollment period of eligible spouses, domestic partners, and dependents may be enrolled without evidence of medical insurability. A new spouse, domestic partner or newborn dependent of an eligible retiree is eligible for coverage from date of birth, the date of marriage or date of submission of affidavit of domestic partnership, respectively, without providing evidence of medical insurability if the eligible retiree submits the required contribution and proper documentation within 31 calendar days of the birth, marriage or commencement of domestic partnership. Newly eligible dependents are also eligible for coverage from the date that a court order establishes their dependent status without providing evidence of medical insurability, if the eligible retiree submits the required contribution and proper documentation within 31 calendar days of the court order. In the event they fail to enroll within this period of time, they may not do so without providing evidence of medical insurability unless they subsequently enroll

during an open enrollment period. Those persons considered to be a new eligible spouse, domestic partner or dependent are persons becoming related to the eligible retiree by marriage, establishment of a domestic partnership, the birth of a child, establishment of legal guardianship status and other similar situations where he or she becomes a new family member and is otherwise an eligible spouse, domestic partner or dependent under these rules.

L. Eligible retiree, dependent, domestic partner or spouse/same coverage as eligible retiree: The eligible spouse, domestic partner or dependent has no greater coverage than the eligible retiree participant and the eligible spouse, domestic partner or dependent can maintain coverage only to the extent that the eligible retiree participant maintains his/her coverage.

M. Re-enrollment of eligible dependent student: In those situations in which the eligible retiree maintains dependent coverage on an eligible dependent child under Paragraph (3) of Subsection F of Section 10-7C-4 NMSA 1978 and the child student loses coverage because the child no longer qualifies as a full time student and at some later time the child again becomes a full time student and the student otherwise qualifies as an eligible dependent, the child may re-enroll at a time other than during an open enrollment period an eligible dependent, without evidence of medical insurability if notification and proper documentation is provided within 31 days of the change in status.

N. Certificate of eligibility: On certification by the executive director of the public schools insurance authority, the executive director of the public employees retirement association, the executive director of the educational retirement association or the certifying official designated by board rule of an independent public employer or other public entity, eligible retirees, spouses, domestic partners and dependents will be permitted to enroll in coverages within 31 days without proof of medical insurability. Certification shall be on a form approved by the executive director of the NMRHCA.

O. Retirement documentation: Employees contemplating retirement are responsible for submitting documentation prior to retirement so as to assure no break in coverage occurs.

P. Prohibition of split coverages: Retirees who have spouses or domestic partners who are employed by employers who offer or provide an employer benefits plan may choose to be covered by the spouses or domestic partner's employers' plan of benefits or the retiree may choose to be covered by the plan of benefits offered by the NMRHCA. Provided, however, the entire family shall be required to select to be covered under either the NMRHCA or the spouse's employer. Any responsibility for continued coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be the responsibility of either the NMRHCA or the spouse or domestic partner employer coverage selected.

Q. Coverage after marriage dissolution: Where there is a dissolution of marriage by decree which results in either of the former spouses no longer being eligible for coverage, that spouse shall be eligible only for such continuation of coverage as is required by COBRA.

R. Termination of domestic partnership: Eligibility for benefit coverage shall terminate for the non-retiree member of the domestic partnership upon the termination of the domestic partnership. The retiree member must notify the NMRHCA of the termination of his/her domestic partnership in writing, which must include the name of the former domestic partner and the effective date of the termination of the partnership, within 31 days of the termination.

[2.81.6.8 NMAC - Rp, 2.81.6.8 NMAC, 1/1/2017]

2.81.6.9 ENROLLMENT AND ELIGIBILITY/ CONFLICT BETWEEN NMRHCA-CARRIER AGREEMENTS, NMRHCA RULES AND REGULATIONS, INDEMNITY POLICIES, HMO INDIVIDUAL SUBSCRIBER AGREEMENTS AND NMRHCA POLICY MISCOMMUNICATIONS:

A. Carrier contracts: As to questions of enrollment and eligibility, in the event there is a conflict between the carrier contract with the NMRHCA and this rule the rule will prevail.

B. Miscommunication: As to questions of enrollment and eligibility, if miscommunication occurred, the party negligently communicating shall initiate action to correct the error.

C. Dispute resolution: As to questions of enrollment and eligibility, disputes not resolved between the retiree and the NMRHCA or its contractors shall be submitted to and resolved by the NMRHCA executive director. Any aggrieved person may within 30 days of the executive director's decision, appeal such to the NMRHCA board and its decision shall be final, except as otherwise provided by law.

[2.81.6.9 NMAC - Rp, 2.81.6.9 NMAC, 1/1/2017]

2.81.6.10 ENROLLMENT IN OPTIONAL, VOLUNTARY, OR SUPPLEMENTAL PLANS: Eligible retirees, and their spouses, domestic partners, and dependents, may enroll in optional, voluntary, or supplemental plans such as dental, vision, and life without enrolling in an NMRHCA medical plan of benefits. The eligible

retirees and their spouses, domestic partners, and dependents enrolling in such optional, voluntary, and supplemental plans shall pay a monthly premium which will cover the total cost for each benefit plan they elect to receive.
[2.81.6.10 NMAC - Rp, 2.81.6.10 NMAC, 1/1/2017]

HISTORY OF 2.81.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

RHCA Rule 90-6, Retiree, Spouse and Dependent Benefit Coverage Enrollment, 6/5/1990.

History of Repealed Material:

2.81.6 NMAC, Eligible Retiree, Spouse, Domestic Partner and Dependent Benefit Coverage Enrollment, filed 12/12/2002 - Repealed effective 1/1/2017.

Other History:

2 NMAC 81.6, Retiree Spouse and Dependent Benefit Coverage Enrollment, filed 6/02/1998 is renumbered, reformatted and amended to 2.81.6 NMAC, effective 12/30/2002.