

**TITLE 7           HEALTH**  
**CHAPTER 30   FAMILY AND CHILDREN HEALTH CARE SERVICES**  
**PART 9         BIRTHING WORKFORCE RETENTION FUND**

**7.30.9.1           ISSUING AGENCY:** New Mexico Department of Health, Public Health Division, Family Health Bureau, Maternal/Child Health Program.

[7.30.9.1 NMAC - Rp, 7.30.9.1 NMAC, 6/30/2016]

**7.30.9.2           SCOPE:** These rules apply to certified nurse-midwives and physicians licensed in New Mexico who provide birthing services and apply for funds from the birthing workforce retention fund.

[7.30.9.2 NMAC - Rp, 7.30.9.2 NMAC, 6/30/2016]

**7.30.9.3           STATUTORY AUTHORITY:** The regulations set forth herein are promulgated by the secretary of the department of health by authority of Section 9-7-6E NMSA 1978, and implement Section 41-5-26.1 NMSA 1978.

[7.30.9.3 NMAC - Rp, 7.30.9.3 NMAC, 6/30/2016]

**7.30.9.4           DURATION:** Permanent.

[7.30.9.4 NMAC - Rp, 7.30.9.4 NMAC, 6/30/2016]

**7.30.9.5           EFFECTIVE DATE:** June 30, 2016, unless a later date is cited at the end of a section.

[7.30.9.5 NMAC - Rp, 7.30.9.5 NMAC, 6/30/2016]

**7.30.9.6           OBJECTIVE:** These rules are promulgated pursuant to statute for the purpose of establishing criteria for the application for and award of money from the birthing workforce retention fund.

[7.30.9.6 NMAC - Rp, 7.30.9.6 NMAC, 6/30/2016]

**7.30.9.7           DEFINITIONS:**

**A.**        “Certified nurse-midwife (CNM)” means an individual educated in the two disciplines of nursing and midwifery, who possesses evidence of American College of Nurse-Midwives Certification Council, Inc. (ACC) certification.

**B.**        “Department” means the New Mexico department of health.

**C.**        “Fund” means the birthing workforce retention fund, as established by Section 41-5-26.1 NMSA 1978, which provides malpractice insurance premium assistance to eligible awardees.

**D.**        “Indigent” means those individuals having a household income under two hundred thirty-five percent of federal poverty guidelines who are not covered by any private third-party health insurance and who are not eligible for medicaid coverage.

**E.**        “Physician” means a medical doctor licensed under the New Mexico Medical Practice Act to practice medicine in New Mexico.

**F.**        “Program” means the maternal/child health program of the family health bureau of the public health division of the New Mexico department of health.

**G.**        “Secretary” means the secretary of the department of health.

**H.**        “Tail coverage” means insurance coverage providing an extended reporting period for any claims related to conduct that occurred during the period covered by the claims-based medical malpractice policy after it has expired or been canceled.

[7.30.9.7 NMAC - Rp, 7.30.9.7 NMAC, 6/30/2016]

**7.30.9.8           ELIGIBILITY:** In order to be eligible for award of money from the fund, the applicant must:

**A.**        be a certified nurse-midwife licensed in New Mexico or a physician licensed in New Mexico;

**B.**        demonstrate need by showing that medicaid or indigent patients constitute at least one-half of the obstetric practice of the applicant;

**C.**        have a current malpractice liability insurance policy covering birthing services;

**D.**        show intent to continue his/her obstetrics practice in New Mexico during the period covered by the award; and

**E.**        provide attestation statement stating that award will not be used to provide premium assistance for tail coverage purchased upon applicant’s termination from his/her work practice.

[7.30.9.8 NMAC - Rp, 7.30.9.8 NMAC, 6/30/2016]

**7.30.9.9 APPLICATIONS:**

**A.** Requirements: The applicant shall present to the program, via mail or fax, a completed department application which is available on the department's website at <http://nmhealth.org/about/phd/fhb/mwp/or> by contacting the program at (505) 476-8907. Along with the application the applicant must submit:

- (1) a copy of the applicant's current New Mexico license to practice certified nurse-midwifery or medicine;
- (2) proof of the applicant's current malpractice liability insurance policy premium covering birthing services;
- (3) proof of both the number and the percentage of medicaid and indigent patients seen in the applicant's birthing practice in each of the previous two years;
- (4) proof of all payments and any funding the applicant received for delivery services for each of the previous two years; and
- (5) proof that the applicant provides both prenatal and birthing services in his/her practice.

**B.** Deadline for application: Deadline for application will be available through the program and will be listed on the application.

[7.30.9.9 NMAC - Rp, 7.30.9.9 NMAC, 6/30/2016]

**7.30.9.10 COMMITTEE TO REVIEW APPLICATIONS:** The secretary or the secretary's designee shall appoint a committee to evaluate applications and select awardees. The committee shall consist of such members as chosen by the secretary or the secretary's designee, including, at a minimum:

- A.** a member of the maternal child health program of the department; and
- B.** a member of the health systems bureau of the department.

[7.30.9.10 NMAC - Rp, 7.30.9.10 NMAC, 6/30/2016]

**7.30.9.11 EVALUATION OF APPLICATIONS:**

**A.** Basis for disbursal: Awards shall be disbursed based on the percentage of the CNM or physician's patients seen for birthing services who are covered by medicaid or are indigent, with a minimum of fifty percent of the practitioner's obstetric practice consisting of medicaid or indigent patients.

**B.** Criteria upon which the committee shall evaluate and prioritize the need of the applicant and the merits of the application:

- (1) the relative availability of birthing services for medicaid and indigent patients in the applicant's community, based on the department's annual study of geographic access to birthing care providers;
- (2) the number of medicaid and indigent patients seen in the practice for birthing services;
- (3) the ratio of the revenue received from deliveries to the liability insurance premium; and
- (4) the provision of comprehensive prenatal and delivery services to clients who present for them.

[7.30.9.11 NMAC - Rp, 7.30.9.11 NMAC 6/30/2016]

**7.30.9.12 PRIORITY OF AWARDS:** Priority for the award of money from the birthing workforce retention fund shall be in the following order:

- A.** to certified nurse-midwives; and
- B.** to family practice physicians and obstetricians.

[7.30.9.12 NMAC - Rp, 7.30.9.12 NMAC 6/30/2016]

**7.30.9.13 AWARDS:** Subject to availability of funds, each award shall be a minimum of five thousand dollars (\$5,000) and shall not exceed ten thousand dollars (\$10,000).

**A.** Awardees will be notified within 45 days after the application deadline.

**B.** Awardees shall submit proof of payment of a malpractice liability insurance policy covering birthing services to the program within nine months of receipt of the award.

[7.30.9.13 NMAC - Rp, 7.30.9.13 NMAC 6/30/2016]

**HISTORY OF 7.30.9 NMAC:**

**History of Repealed Material:**

7.30.9 NMAC, Birthing Workforce Retention Fund, filed 12/31/2008 - Repealed effective 6-30-2016.