

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 248 MEDICAID ELIGIBILITY - MEDICARE DRUG COVERAGE (CATEGORY 048)**  
**PART 400        RECIPIENT POLICIES**

**8.248.400.1        ISSUING AGENCY:** New Mexico Human Services Department.  
[8.248.400.1 NMAC - N, 2-1-06]

**8.248.400.2        SCOPE:** The rule applies to the general public.  
[8.248.400.2 NMAC - N, 2-1-06]

**8.248.400.3        STATUTORY AUTHORITY:** The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. See NMSA 1978, 27-2-12 et. seq. ( Repl. Pamp. 1991). The legal basis for the low-income subsidy (LIS) program is the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Public Law 108-173.  
[8.248.400.3 NMAC - N, 2-1-06]

**8.248.400.4        DURATION:** Permanent.  
[8.248.400.4 NMAC - N, 2-1-06]

**8.248.400.5        EFFECTIVE DATE:** February 1, 2006, unless a later date is cited at the end of a section.  
[8.248.400.5 NMAC - N, 2-1-06]

**8.248.400.6        OBJECTIVE:** The objective of these regulations is to provide eligibility policy and procedures for the medicare part D - low-income subsidy program.  
[8.248.400.6 NMAC - N, 2-1-06]

**8.248.400.7        DEFINITIONS:** [RESERVED]

**8.248.400.8        [RESERVED]**

**8.248.400.9        LOW-INCOME SUBSIDY FOR MEDICARE PART D ELIGIBLES:** Applicants/recipients who meet certain income and other non-financial requirements can be eligible for the low-income subsidy (LIS) under medicare part D.  
[8.248.400.9 NMAC - N, 2-1-06]

**8.248.400.10       BASIS FOR DEFINING THE GROUP:**  
A. Medicare recipients who are eligible for part D medicare coverage under the MMA of 2003 may be eligible for the low-income subsidy program. Eligibility is based on financial criteria, both income and resources, of applicant and spouse (if any) for the appropriate family size.  
B. **Family size:** The following persons are included in the family size:  
(1) the applicant;  
(2) the applicant's spouse, if living with the applicant; and  
(3) any persons who are related by blood, marriage, or adoption, who are living with the applicant and spouse and who are dependent on the applicant or spouse for at least one half of their financial support.  
[8.248.400.10 NMAC - N, 2-1-06]

**8.248.400.11       GENERAL RECIPIENT REQUIREMENTS:**  
A. **Medicare:** Applicants must be eligible for and receiving part A or part B medicare benefits.  
B. **Residence:** To be eligible for the low-income subsidy, an applicant/recipient must be physically present in New Mexico on the date of application or final determination of eligibility and must have demonstrated intent to remain in the state. Eligibility for the low-income subsidy (LIS) will transfer to New Mexico if determined by the social security administration (SSA) in another state. If eligibility was determined by another state (not SSA), eligibility must be re-determined in New Mexico.  
[8.248.400.11 NMAC - N, 2-1-06]

**8.248.400.12 SPECIAL RECIPIENT REQUIREMENTS:** Applicants/recipients must be enrolled in a part D prescription drug plan (PDP) or a medicare advantage prescription drug (MA-PD) plan.  
[8.248.400.12 NMAC - N, 2-1-06]

**8.248.400.13 RECIPIENT RIGHTS AND RESPONSIBILITIES:** An applicant/recipient is responsible for establishing his eligibility for the LIS.

A. As part of this responsibility, the applicant/recipient must provide required information and documents or take the actions necessary to establish eligibility. Failure to do so must result in a decision that eligibility does not exist.

B. An applicant/recipient must also grant the human services department (HSD) permission to contact other persons, agencies or sources of information that are necessary to establish eligibility.

C. An applicant can voluntarily withdraw an application any time prior to the determination of eligibility. The ISD office advises an applicant that withdrawing an application has no effect upon his right to apply for assistance in the future.

[8.248.400.13 NMAC - N, 2-1-06]

**8.248.400.14 REPORTING REQUIREMENTS:** A LIS recipient must report to the local ISD office any change in his circumstances that might affect eligibility within ten (10) days of the change.

[8.248.400.14 NMAC - N, 2-1-06]

**HISTORY OF 8.248.400 NMAC:** [RESERVED]