

TITLE 8 SOCIAL SERVICES
CHAPTER 201 MEDICAID ELIGIBILITY - MEDICAID EXTENSION (CATEGORY 001, 003 and 004)
PART 400 RECIPIENT POLICIES

8.201.400.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.201.400.1 NMAC - Rp, 8.201.400.1 NMAC, 1/1/2019]

8.201.400.2 SCOPE: The rule applies to the general public.
[8.201.400.2 NMAC - Rp, 8.201.400.2 NMAC, 1/1/2019]

8.201.400.3 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 Sections 27-2-12 *et seq.*, NMSA 1978 (Repl. Pamp. 1991).
[8.201.400.3 NMAC - Rp, 8.201.400.3 NMAC, 1/1/2019]

8.201.400.4 DURATION: Permanent.
[8.201.400.4 NMAC - Rp, 8.201.400.4 NMAC, 1/1/2019]

8.201.400.5 EFFECTIVE DATE: January 1, 2019, unless a later date is cited at the end of the section.
[8.201.400.5 NMAC - Rp, 8.201.400.5 NMAC, 1/1/2019]

8.201.400.6 OBJECTIVE: The objective of these regulations is to provide eligibility policy and procedures for the medicaid program.
[8.201.400.6 NMAC - Rp, 8.201.400.6 NMAC, 1/1/2019]

8.201.400.7 DEFINITIONS: [RESERVED]

8.201.400.8 [RESERVED]

8.201.400.9 MEDICAID EXTENSION - CATEGORIES 001, 003 AND 004: Medicaid extension (categories 001, 003 and 004) provides coverage for certain groups of individuals who have lost eligibility for supplemental security income (SSI) for specified reasons.
[8.201.400.9 NMAC - Rp, 8.201.400.9 NMAC, 1/1/2019]

8.201.400.10 BASIS FOR DEFINING THE GROUP: Medicaid provides coverage for the following groups of applicants/recipients who have received supplemental security income (SSI) benefits and who have lost their SSI benefits for specified reasons.

A. Pickle and 503 lead cases:

(1) Individuals who were entitled to SSI benefits and who subsequently lose eligibility for SSI solely due to the cost-of-living increase (COLA) in Title II benefits are automatically extended medicaid effective the month after the termination of SSI. These cases are referred to as 503 leads. See Public Law 94-566, Section 503 (also known as the "Pickle Amendment").

(2) Individuals who lose SSI eligibility for any reason other than the COLA increases (Pickle cases) may be entitled to medicaid if the following conditions exist:

(a) the reason for loss of SSI no longer exists; and

(b) the adjusted income after applying the applicable income disregards is below the current SSI income ceiling federal benefit rate (FBR).

(3) Individuals who received both Title II and SSI benefits after April 1977 and who lost SSI eligibility, but would still be eligible for SSI if the Title II COLAs were deducted from countable income are eligible for medicaid extension. See *Lynch V. Rank*, 747 F.2d 528 (9th Cir. 1984). These individuals must meet the requirements for SSI eligibility after the Title II COLAs are deducted.

(a) To determine the countable Title II income, deduct the Title II COLAs received after the last SSI eligibility period using the FBR table compared with the current SSI income ceiling. See 8.200.520 NMAC, Income Standards.

(b) The social security administration (SSA) office identifies applicants/recipients as “Pickle” or “503 lead” cases and the human services department (HSD) disseminates this information to the appropriate income support division (ISD) office. The income support division (ISD) worker approves the case effective the month after the SSI termination.

(c) After identification as a 503 lead or a Pickle case, the SSA office generates a notice to individuals advising them of their right to apply for medicaid.

B. Early widow(er)s:

(1) Widow(er)s between 60 and 64 years of age, who meet the following requirements are eligible for medicaid extension, (Public Law 100-203, which amended Section 1634D of the Social Security Act):

(a) current Title II recipients who were entitled to and received SSI benefits;

(b) subsequently lost eligibility for SSI due to initial receipt of, or increase in, early widow’s or widower’s benefits; and

(c) are not entitled to medicare part A, hospital insurance.

(2) Medicaid coverage is extended until an applicant/recipient either becomes eligible for the hospital insurance under medicare part A or reaches 65 years of age, whichever is earlier.

(3) The ISD worker disregards a Title II widow(er)’s benefit for the purpose of determining eligibility.

C. Child insurance benefits:

(1) Individuals who lose SSI eligibility after July 1, 1987 as a result of entitlement to or receipt of an increase in Title II benefits for disabled adult children (DACs) are eligible for medicaid extension. [Public Law 99-643, Section 6].

(2) The SSA office identifies DACs systematically and HSD alerts the appropriate ISD office to approve the case effective the month after the SSI termination.

(a) Title II DAC benefit is disregarded in determining eligibility.

(b) Title II benefits are awarded from the account(s) of the individual’s parent(s) and, in most instances, can be identified by a claim suffix of “C” following the claim number;

D. Disabled widow(er)s and disabled surviving divorced spouses:

(1) Disabled widow(er)s and disabled surviving divorced spouses who lost SSI on or after January 1, 1991 due to receipt of Title II benefits resulting from the liberalization of the definition of disability. See Section 503 of OBRA 1990. To qualify for medicaid, these applicant/recipients must meet all of the following conditions:

(a) received SSI for the month prior to the month in which they began receiving the Title II benefits;

(b) would continue to be eligible for SSI if the amount of the Title II benefit were not counted as income; and

(c) are not entitled to medicare part A.

(2) These applicants/recipients lose eligibility for medicaid extension when they become entitled to medicare part A.

E. Nonpayment SSI status (E01): Non-institutionalized SSI recipients who lose SSI eligibility due to initial receipt of Title II benefits in an amount exactly equal to the current income ceiling of the SSI program are eligible for medicaid extension (“E01” pay status); medicaid can cover non-institutionalized individuals with a nonpayment SSI status. The ISD worker must verify that the following standards are met:

(1) individual does not reside in an institution. Individuals who appear on the computer system (SDX) in payment status “E01” with living arrangement (LA) code “D” are not eligible for medicaid extension. These individuals lost SSI eligibility because they became institutionalized and their remaining income exceeds the \$30 SSI FBR for institutionalized individuals. The ISD worker must evaluate eligibility under institutional care medicaid categories 081, 083 or 084;

(2) individual appears on the system with payment status code “E01” status;

(3) individual has unearned income equal to the current SSI income ceiling; and

(4) individual’s income comes from Title II benefits (source code “A” on the SDX).

F. Revolving SSI payment status “ping-pongs”: Individuals whose payment status “ping-pongs” back and forth between E01 and C01 status are eligible for medicaid extension.

(1) Revolving SSI eligibility due to payment of medicare Part B premiums by medicaid: The SSI recipient starts to receive Title II benefits and is entitled to medicare. The recipient is then entitled to medicaid payment of the part B medicare premium. This results in a recalculation of the Title II benefits. The recalculated Title II benefit equals the exact amount of the SSI income ceiling (SSI FBR). SSI payment status changes to E01 and medicaid stops paying the Part B premium. Without medicaid payment of the Part B premium, the Title II and (SSI) benefits are recomputed and the individual is eligible for SSI payments (C01). The scenario repeats, resulting in the ping-pong effect. Individuals initially eligible for medicaid extension under E01 status lose eligibility when their income exceeds the SSI income ceiling.

(2) Avoidance of revolving eligibility status: To avoid this situation, at the applicant/recipient's request, he or she can be eligible for medicaid as a medicaid extension case though eligibility can ping-pong back and forth between SSI payment status (C01) and SSI nonpayment status (E01).

(3) Referral process: The SSA refers these individuals to HSD using the "E01-C01 medicaid extension referral form." The ISD worker enters these applicants/recipients on the eligibility computer system as medicaid extension eligibles. SSA has already established that these individuals meet all SSI criteria except that their Title II benefit equals the exact amount of the SSI income ceiling.

G. Recipients ineligible for SSI cash benefits:

(1) Certain recipients of SSI who become ineligible for cash benefits are automatically extended medicaid benefits for an additional two months following the month in which the SSI case was closed. If the state is paying the recipient's medicare premiums (buy-in), this benefit is also continued during the period of extended benefits.

(2) Applicants/recipients automatically eligible for two months extended medicaid and buy-in as former SSI recipients are limited to those who lost SSI cash benefit for the following reasons:

- (a) E01-Eligible for benefits, but no payment is due based on the payment computation;
- (b) N01-Non-pay recipient's countable income exceeds Title XVI limitations;
- (c) N04-Non-pay non-excludable resources exceed Title XVI limitations;
- (d) N05-Non-pay recipient's gross income from self-employment exceeds Title XVI limitations;
- (e) N07-Non-pay recipient's disability ceased;
- (f) N08-Non-pay recipient's blindness ceased;
- (g) N12-Non-pay recipient voluntarily withdrew from the program;
- (h) N14-Non-pay aged claim denied for age;
- (i) N16-Non-pay disability claim denied. Applicant not disabled;
- (j) N19-Non-pay recipient has voluntarily terminated participation in the SSI program;
- (k) N27-Non-pay disability terminated due to substantial gainful activity (SGA);
- (l) N30-Non-pay slight impairment-medical consideration alone, no visual impairment;
- (m) N31-Non-pay capacity for SGA-customary past work, no visual impairment;
- (n) N32-Non-pay capacity for SGA-other work, no visual impairment;
- (o) N33-Non-pay engaging in SGA despite impairment, no visual impairment;
- (p) N34-Non-pay impairment is no longer severe at time of adjudication and did not last 12 months, no visual impairment;
- (q) N35-Non-pay impairment is severe at time of adjudication but not expected to last 12 months, no visual impairment;
- (r) N41-Non-pay slight impairment-medical condition alone, visual impairment;
- (s) N42-Non-pay capacity for SGA-customary work visual impairment;
- (t) N43-Non-pay capacity for SGA-other work, visual impairment, or impairment disabling for a period of less than 12 months;
- (u) N44-Non-pay engaging in SGA despite impairment, visual impairment.
- (v) N45-Non-pay impairment no longer severe at the time of adjudication and did not last 12 months, visual impairment;
- (w) N46-Non-pay impairment is severe at the time of adjudication but not expected to last 12 months, visual impairment;
- (x) N51-Non-pay impairment does not meet or equal listing (disabled child under 18 only);

(y) S07-Suspended-returned check for other than death, address, payee change, or death of representative payee;
 (z) S08-Suspended-representative payee development pending;
 (aa) S10-Suspended-adjudicative suspense (system generated);
 (bb) S21-Suspended-the recipient is presumptively disabled or blind and has received three months payments;
 (cc) T30-Terminated-received payments, but must be re-established to correct SSR;
 (dd) T31-Terminated-system generated termination (payment previously made).
 Recipient met denial or non-pay terminated criteria;
 (ee) T33-Terminated-manual termination (previous payment made).

(3) **Ex-Parte Review:** Individuals who lose SSI eligibility, who are automatically extended for two months, per one of the reasons in Subsection G of 8.201.400.10 NMAC, are automatically evaluated for another medicaid category of eligibility before their extension period expires. If determined eligible the new medicaid category begins the month following the two month extension period.
 [8.201.400.10 NMAC - Rp, 8.201.400.10 NMAC, 1/1/2019]

8.201.400.11 GENERAL RECIPIENT REQUIREMENTS:
 [8.201.400.11 NMAC - Rp, 8.201.400.11 NMAC, 1/1/2019]

8.201.400.12 ENUMERATION: An applicant/recipient must furnish his or her social security number in accordance with 8.200.410.10 NMAC.
 [8.201.400.12 NMAC - Rp, 8.201.400.12 NMAC, 1/1/2019]

8.201.400.13 CITIZENSHIP: Refer to Medical Assistance Program Manual Section 8.200.410.11 NMAC.
 [8.201.400.13 NMAC - Rp, 8.201.400.13 NMAC, 1/1/2019]

8.201.400.14 RESIDENCE: Applicants/recipients must be physically present in New Mexico and have demonstrated intent to remain in the state. If an applicant/recipient does not have the present mental capacity to declare intent, a parent, guardian, or adult child may assume responsibility for the declaration of intent. If an applicant/recipient does not have the present mental capacity to declare intent and there is no guardian or relative to assume responsibility for a declaration of intent, the state where the applicant/recipient is living is recognized as the state of residence. Temporary absence from the state does not prevent eligibility. A temporary absence exists when an applicant/recipient leaves the state for a specific purpose with a time-limited purpose and intends to return to New Mexico when that purpose has been accomplished. Applicants/recipients who are eligible for New Mexico medicaid are terminated if they move out of state.
 [8.201.400.14 NMAC - Rp, 8.201.400.14 NMAC, 1/1/2019]

8.201.400.15 NONCONCURRENT RECEIPT OF ASSISTANCE: To be eligible for medicaid extension under the 503 leads and Pickle group, an applicant/recipient must have been eligible for, and have received, both Title II and SSI benefits concurrently in any month that he/she is currently receiving Title II benefits.
 [8.201.400.15 NMAC - Rp, 8.201.400.15 NMAC, 1/1/2019]

8.201.400.16 SPECIAL RECIPIENT REQUIREMENTS: To be eligible for medicaid extension, an applicant/recipient must be aged, blind, or disabled as defined by the social security administration (SSA). This determination is made by SSA prior to applicable for medicaid extension.
 [8.201.400.16 NMAC - Rp, 8.201.400.16 NMAC, 1/1/2019]

8.201.400.17 AGE: Applicants/recipients for medicaid extension must meet the age requirements as specified in 8.201.400.10 NMAC, Basis for Defining the Group.
 [8.201.400.17 NMAC - Rp, 8.201.400.17 NMAC, 1/1/2019]

8.201.400.18 RECIPIENT RIGHTS AND RESPONSIBILITIES: An applicant/recipient is responsible for establishing his/her eligibility for medicaid. 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. An applicant/recipient must also grant HSD permission to contact other persons, agencies or sources of information which are necessary to establish eligibility.

[8.201.400.18 NMAC - Rp, 8.201.400.18 NMAC, 1/1/2019]

8.201.400.19 ASSIGNMENT OF MEDICAL SUPPORT: Refer to Medical Assistance Program Manual Subsection F of 8.200.420.12 NMAC.

[8.201.400.19 NMAC - Rp, 8.201.400.19 NMAC, 1/1/2019]

8.201.400.20 REPORTING REQUIREMENTS: Medicaid applicant/recipients must report any change in circumstances which may affect eligibility to the local income support division (ISD) office within 10 days of the change.

[8.201.400.20 NMAC - Rp, 8.201.400.20 NMAC, 1/1/2019]

HISTORY OF 8.201.400 NMAC:

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

ISD 370.0000, Procedures for Retroactive Supplemental Security Income (SSI) Medicaid and Medicaid Extension, filed 5/26/1980.

ISD 370.0000, Procedures for Retroactive Supplemental Security Income (SSI) Medicaid and Medicaid Extension, filed 1/26/1982.

MAD Rule 370.0000, Procedures for Retroactive Supplemental Security Income (SSI) Medicaid and Medicaid Extension, filed 12/1/1987.

MAD Rule 870, Retroactive Medicaid Coverage, filed 1/31/1990.

MAD Rule 870, Retroactive Medicaid Coverage, filed 3/11/1992.

MAD Rule 870, Retroactive Medicaid Coverage, filed 11/16/1994.

MAD Rule 372.0000, Medicaid Extension, 12/1/1987.

MAD Rule 872, Medicaid Extension, filed 1/31/1990.

MAD Rule 872, Medicaid Extension, filed 3/11/1992.

MAD Rule 872, Medicaid Extension, filed 8/20/1992.

MAD Rule 872, Medicaid Extension, filed 9/26/1994.

History of Repealed Material:

MAD Rule 872, Medicaid Extension, filed 9/26/1994 - Repealed effective 2/1/1995.

8.201.400 NMAC - Recipient Policies, filed 6/11/2203 - Repealed effective 1/1/2019.