

This is an amendment to 8.290.600 NMAC, Sections 6, 7, 10, 11, 12 and 14, which will be effective on November 1, 2007. The Chapter name has also been amended.

**CHAPTER 290 MEDICAID ELIGIBILITY - HOME AND ~~[COMMUNITY-BASED WAIVER SERVICES]~~  
COMMUNITY-BASED SERVICES WAIVER (CATEGORIES 090, 091, 092, 093, 094, 095 AND 096)**

**8.290.600.6 OBJECTIVE:** The objective of these regulations is to provide eligibility ~~[policy and procedures]~~  
criteria for the medicaid program.  
[2/1/95; 8.290.600.6 NMAC - Rn, 8 NMAC 4.WAV.000.6, 5/1/02; A, 11/1/07]

**8.290.600.7 DEFINITIONS:** ~~[RESERVED]~~ See 8.290.400.7 NMAC.  
[8.290.500.7 NMAC - N, 11/1/07]

**8.290.600.10 BENEFIT DETERMINATION:** Application for the waiver programs is made using the "application/redetermination of eligibility for medical assistance of aged, blind, and disabled individuals" (form MAD 381). Upon notification by the appropriate program manager that an unduplicated recipient (UDR) is available for waiver services, applicants are registered on the ISD2 system. Applications must be acted upon and notice of approval, denial, or delay sent out within ~~[thirty (30)]~~ 30 days from the date of application, or within ~~[sixty (60)]~~ 60 days if a disability determination is required from the DDC. The applicant/recipient must assist in completing the application, may complete the form ~~[him/herself]~~ himself, or may receive help from a relative, friend, guardian, or other designated representative. To avoid a conflict of interest, a case manager or any other medicaid provider may not complete the application or be a designated representative.

A. **Representatives applying on behalf of individuals:** If a representative makes application on behalf of the applicant/recipient, that representative will continue to be relied upon for information regarding the applicant's/recipient's circumstances. The ISD worker will send all notices to the applicant/recipient in care of the representative.

B. **Additional forms:** The following forms are also required as part of the application process:  
(1) the applicant/recipient or representative must complete and sign the primary freedom of choice of case management agency form at the time of allocation; and  
(2) the applicant/recipient or representative must sign the applicant's statement of understanding at the time waiver services are declined or terminated.

C. **Additional information furnished during application:** The ISD worker provides an explanation of the waiver programs, including, but not limited to, income and resource limits and possible alternatives, such as institutionalization. The ISD worker refers potentially eligible applicants/recipients to the social security administration to apply for supplemental security income (SSI) benefits. If a disability decision by the DDC is required, but has not been made, the ISD worker must follow established procedures to refer the case for evaluation.  
[2/1/95; 1/1/97; 8.290.600.10 NMAC - Rn, 8 NMAC 4.WAV.620 & A, 5/1/02; A, 11/1/07]

**8.290.600.11 INITIAL BENEFITS:**

A. The application for home and community-based ~~[Waiver Services]~~ services waiver is approved when the following factors of eligibility have been met: financial, non-financial, and level of care. An application will be initiated when the ISD worker is notified by the appropriate program manager that a UDR position is available for the registrant (with the exception of the AIDS waiver). After the individualized service plan has been in effect for ~~[thirty (30) days]~~ 30 days or if it can be reasonably anticipated that services will be in effect for 30 days, the application is approved effective the first day of the month of the start date of the individualized service plan, unless income/resources deemed to a minor child from ~~[his/her]~~ his parents results in the child's ineligibility for the initial month. The eligibility start date is based on the date of application or the start date of the ISP, whichever is later. See 8.290.500.17 NMAC, DEEMING RESOURCES, and 8.290.500.21 NMAC, DEEMED INCOME.

B. **Notice of determination:** Applicants determined to be ineligible for waiver services are notified of the reason for the denial and provided with an explanation of appeal rights.

C. Applicants determined to be eligible for waiver services are notified of the approval.  
[2/1/95; 1/1/97; 8.290.600.11 NMAC - Rn, 8 NMAC 4.WAV.623 & A, 5/1/02; A, 11/1/07]

**8.290.600.12 ONGOING BENEFITS:**

A. **Regular reviews:** A complete redetermination of eligibility must be performed annually by the ISD worker for each open case. The redetermination includes contact with the applicant/recipient or ~~[his/her]~~ his representative to review financial and non-financial eligibility.

B. **Additional reviews:** Additional reviews are scheduled by the ISD worker depending upon the likelihood that the applicant's/recipient's income, resources or medical condition will change. The following are examples of frequently encountered changes which affect eligibility:

- (1) social security cost-of-living increases;
- (2) VA cost-of-living increases;
- (3) rental income may be sporadic and require review every three ~~(3)~~ months; and
- (4) level of care review.

[2/1/95, 1/1/97; 8.290.600.12 NMAC - Rn, 8 NMAC 4.WAV.624 & A, 5/1/02; A, 11/1/07]

**8.290.600.14 CHANGES IN ELIGIBILITY:** If the recipient ceases to meet any of the eligibility criteria, the case is closed following provision of advance notice as appropriate. See 8.200.430.9 NMAC and following subsections for information about notices and hearing rights.

A. **Non-provision of waiver services:** To continue to be eligible for waiver services, an applicant/recipient must be receiving waiver services, EPSDT or salud managed care services, other than case management, [42 CFR Section 435.217]. If waiver services are no longer being provided (e.g., a suspension) and are not expected to be provided for ~~[sixty (60)]~~ 60 consecutive days, the recipient is **ineligible** for the waiver category and the case must be closed after appropriate notice is provided by the ISD worker.

B. **Admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF-MR):** If a waiver recipient enters an acute care hospital, a nursing facility, or an ICF-MR and remains for more than ~~[sixty (60)]~~ 60 consecutive days, the waiver case must be closed and an application for institutional care medicaid must be processed. The recipient is not required to complete a new application if the periodic review on the waiver case is not due in either the month of entry into the institution or the following month. If the waiver recipient is institutionalized within less than ~~[sixty (60)]~~ 60 consecutive days and still receives waiver services within that time frame, the waiver case is not closed and an application for institutional care medicaid need not be processed.

C. **Reporting changes in circumstances:** The primary responsibility for reporting changes in the recipient's circumstances rests with the recipient ~~[and/or]~~ and representative. At the initial eligibility determination and all on-going eligibility redeterminations, the ISD worker must explain the reporting responsibilities requirement to the applicant/recipient ~~[and/or]~~ and representative and document that such explanation was given. In the event that waiver services cease to be provided, the case manager or the waiver program manager (or designee) must immediately notify the income support division office of that fact by telephone. The telephone call is to be followed by a written notice to the ISD worker.

[2/1/95; 1/1/97; 8.290.600.14 NMAC - Rn, 8 NMAC 4.WAV.630 & A, 5/1/02; A, 11/1/07]