

NEW MEXICO 
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXX - Issue 2 - January 29, 2019

COPYRIGHT © 2019
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7942; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

New Mexico Register

Volume XXX, Issue 2

January 29, 2019

Table of Contents

Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

Notice of Rule Making.....	86
----------------------------	----

Adopted Rules

A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

WORKFORCE SOLUTIONS DEPARTMENT

11.3.300 NMAC A/E Claims Administration.....	88
--	----

Other Material Related to Administrative Law

CULTURAL AFFAIRS, DEPARTMENT OF

Notice of Minor, Nonsubstantive Correction.....	89
---	----

PUBLIC REGULATION COMMISSION

Notice of Minor, Nonsubstantive Correction.....	89
---	----

This Page Intentionally Left Blank

Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.314.3 NMAC, *Medically Fragile Home and Community-Based Services Waiver Services*.

The Department is seeking approval of an amendment to the Medically Fragile Waiver from the Centers for Medicare and Medicaid Services (CMS) to increase provider rates for nursing RN, nursing LPN, occupational therapy, physical therapy, speech language pathology, and case management services and to add the home accessibility adaptations service, known as Environmental Modifications (EMODs) as a service included in the waiver. Environmental Modifications (EMODs) help to ensure health, welfare, and safety of the eligible recipient or enable the eligible recipient to function with greater independence in the home. The rule is being amended to align services and definitions with the amendment and to allow additional funding if a recipient's Individualized Service Plan (ISP) budget exceeds the capped dollar amount due to provider rate increases.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: January 29, 2019
Hearing Date: February 28, 2019
Adoption Date: Proposed as July 1, 2019
Technical Citations: 42 CFR 438 subparts A through J

The Department proposes the following rule amendments:

8.314.3 NMAC

Section 10

Subsection L - Language added to define the requirements for an environmental modification provider agency is added. An environmental modification provider agency must be bonded, licensed by the New Mexico Regulation and Licensing Department (RLD) and authorized by the Department of Health to complete the EMODs.

Section 13

Subsection I - Language added to define the scope of the EMODs service. EMODs include the purchase and installation of equipment or making physical adaptation to an eligible recipient's residence that are necessary to ensure the health, welfare, and safety of the eligible recipient or enhance his or her access to the home environment and increase his or her ability to act independently.

Section 15

Subsection E - Language added to allow additional Individualized Service Plan (ISP) budget funding to be considered if the eligible recipient's ISP budget exceeds the capped dollar amount due to provider rate increases.

The register and proposed rule for these proposed amendments will be available on January 29, 2019 on the HSD web site at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective July 1, 2019. A public hearing to receive testimony on this rule will be held in

the Rio Grande Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico, 87505 on Thursday, February 28, 2019 at 9:00 a.m., Mountain Standard Time (MST).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to madrules@state.nm.us. Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. Mountain Standard Time (MST) on February 28, 2019. All written comments received will be posted as they are received on the HSD website at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

End of Notices of Rulemaking and Proposed Rules

This Page Intentionally Left Blank

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

WORKFORCE SOLUTIONS DEPARTMENT

This is an emergency short form amendment to 11.3.300 NMAC, Section 320, effective 1/9/2019.

Subsections A through E were not published as no changes were made.

11.3.300.320 WORK SEARCH REQUIREMENT:

F. In cases where the department determines a claimant is in a temporary lay-off status due to a government furlough or shutdown, the department may waive the work search requirements during the period of the temporary lay-off for all affected claimants.

[11.3.300.320 NMAC – Rp, 11.3.300.320 NMAC, 11/1/2018; A/E 1/9/2019]

End of Adopted Rules

Other Material Related to Administrative Law

**CULTURAL AFFAIRS,
DEPARTMENT OF**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The New Mexico Cultural Affairs Department gives Notice of a Minor, Nonsubstantive Correction.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all published and electronic copies of the following rule:

Subsection ZZ of 4.10.8.7 NMAC was re-numbered to Subsection YY.

A copy of this Notification was filed with the official version of the above rule.

**PUBLIC REGULATION
COMMISSION**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Public Regulation Commission gives Notice of Minor, Non-substantive Correction.

In compliance with and pursuant to the authority granted in Subsection D of section 14-4-3 NMSA 1978 of the State Rules Act, the following minor, non-substantive corrections to spelling, grammar, and format have been made to the published and electronic copies of the following rules:

18.60.5 NMAC - Pipeline Safety Excavation Damage Prevention:

Subsection L of 18.60.5.7 NMAC - Punctuation mark and the word "and" has been removed from the end of the sentence and replaced with an ending period punctuation mark.

A copy of this notice was filed with the official version of the above rule.

**End of Other
Material Related to
Administrative Law**

2019 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXX, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 15
Issue 2	January 17	January 29
Issue 3	January 31	February 12
Issue 4	February 14	February 26
Issue 5	February 28	March 12
Issue 6	March 14	March 26
Issue 7	March 28	April 9
Issue 8	April 11	April 23
Issue 9	April 25	May 14
Issue 10	May 16	May 28
Issue 11	May 30	June 11
Issue 12	June 13	June 25
Issue 13	July 5	July 16
Issue 14	July 18	July 30
Issue 15	August 1	August 13
Issue 16	August 15	August 27
Issue 17	August 29	September 10
Issue 18	September 12	September 24
Issue 19	September 26	October 15
Issue 20	October 17	October 29
Issue 21	October 31	November 12
Issue 22	November 14	November 26
Issue 23	December 5	December 17
Issue 24	December 19	December 31

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at: <http://www.nmcpr.state.nm.us>. For further information, call 505-476-7941.