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New Mexico Register

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

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The New Mexico Register

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

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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) rules *8.200.400, Medicaid Eligibility - General Recipient Rules - General Medicaid Eligibility, 8.200.430, Medicaid Eligibility - General Recipient Rules - Recipient Rights and Responsibilities, and 8.296.400, Medicaid Eligibility - Other Adults - Recipient Requirements.*

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: March 26, 2019
Hearing Date: April 25, 2019
Adoption Date: Proposed as July 01, 2019
Technical Citations: 42 CFR 435.915, SSA 1916 and 1916A

The Department is proposing to amend the rules as follows:

8.200.400 NMAC

Section 14 is amended to delete Subsections D through G that limited retroactive Medicaid to one month for most managed care members.

Section 14 is amended to add a new Subsection D that allows for up to three months of retroactive Medicaid for most Medicaid categories: other adults, parent caretaker, supplemental security income (SSI), and SSI extensions, working disabled individuals (WDI), breast and cervical cancer (BCC), pregnant women, pregnancy-related services, children under age 19, family planning, specified low income beneficiaries (SLIMB), qualified individuals (QI1),

qualified disabled working individuals (QD), refugees, children, youth and families department (CYFD), and institutional care Medicaid.

Section 14 is amended to add a new Subsection E that lists Medicaid categories that historically have no retroactive Medicaid: emergency medical services for aliens (EMSA), home and community-based services waivers (HCBW), program for all-inclusive care for the elderly (PACE), qualified medicare beneficiaries (QMB), and transitional Medicaid.

Section 14 is amended to change Subsection H to subsection F with no language changes regarding deemed newborns.

8.200.430 NMAC

Section 16 subsection A is amended to remove language about co-payments as the Department does not have co-payments for Medicaid categories. Subsection D referencing co-payments is deleted.

8.296.400 NMAC

Section 9 Subsection E is deleted to remove language referencing premiums for Other Adults beginning July 01, 2019. The Department will not be implementing premiums for Other Adults.

The register and proposed rules for these proposed amendments will be available March 21, 2019 on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx>. If you do not have Internet access, a copy of the register and proposed rules may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective July 01, 2019. A public hearing to receive testimony on these rules will be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico, 87505 on April

25, 2019 at 10:00 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 at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5:00 p.m. MST on April 25, 2019. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. 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 rules. 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 505-827-6252. The Department requests at least ten (10) days advanced 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

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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.

HEALTH, DEPARTMENT OF

This is an emergency, short-form amendment to Subsection A of 7.34.4 NMAC, Section 8, effective March 1, 2019. Subsections B through W were not published as no changes were made.

7.34.4.8 PRODUCER LICENSING; GENERAL PROVISIONS:

A. The department may license two classes of producers:

(1) A qualified patient who holds a valid personal production license. A qualified patient who holds a valid personal production license is authorized to possess no more than four mature female plants and a combined total of 12 seedlings and male plants, and may possess no more than an adequate supply of usable cannabis, as specified in department rule. A personal production license holder may additionally obtain usable cannabis, seeds, or plants from licensed non-profit producers. The primary caregiver of a qualified patient who holds a personal production license may assist the qualified patient to produce medical cannabis at the designated licensed location that is identified on the personal production license; the primary caregiver may not independently produce medical cannabis.

(2) A non-profit producer that operates a facility and, at any one time, is limited to a combined total of no greater than [450] 2,500 mature female plants, seedlings and male plants, and an inventory of usable cannabis and seeds that reflects current patient needs, and that shall sell cannabis with a consistent unit price, without

volume discounts or promotional sales based on the quantity purchased. A non-profit producer shall not possess a quantity of either mature female plants or seedlings and male plants that exceeds the quantities authorized by their licensure and associated licensing fee. A licensed non-profit producer may sell and distribute usable cannabis to a person or entity authorized to possess and receive it. A licensed non-profit producer may obtain plants, seeds and usable cannabis from other licensed non-profit producers.

[7.34.4.8 NMAC - Rp, 7.34.4.8 NMAC, 2/27/2015; A, 2/29/2016; A/E, 3/1/2019]

End of Adopted Rules

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Submittal Deadlines and Publication Dates

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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
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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.

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