



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.291.430 NMAC MEDICAL ASSISTANCE PROGRAMS CATEGORY OF AFFORDABLE CARE ELIGIBILITY

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
FINAL RULE

V. BACKGROUND SUMMARY

New Mexico Human Services Register Vol. 38, No. 22, dated August 14, 2015, issued the proposed rule, 8.291.430 NMAC, *Category of Affordable Care Eligibility*.

A public hearing was held on September 14, 2015, to receive public comments and testimony on this proposed rule. The Human Services Department (the Department) received no oral testimony or recorded comments, and one written set of comments.

Summary of Comments:

**8.291.430 –
General Comment**

The commenter stated that to implement Senate Bill 42 and address eligibility determinations for inmates, the Department must also propose rule changes for the following NMAC sections: 8.202.400.13(D)(3) JUL Medicaid, 8.230.400.13(B)(3) Full coverage for pregnant women, 8.232.400.17(D)(3) Children under 19 at 235% of the FPL or lower, 8.234.400.20(D)(3) SSI ineligibility, 8.235.400.20.23(D)(3) pregnancy or family planning services, 8.249.400.24(D)(3) Refugee Medical Assistance, 8.171.400.16 Premium Assistance for children, and 8.291.430.13(A)(5) Medicaid Eligibility Affordable Care.

Department Response: JUL Medicaid (COE 072), full coverage for pregnant women (COE 030), children under age 19 at 235% of the FPL or lower (COE 032), and premium assistance for children (COE 071/2) are no longer active Medical Assistance Programs (MAP) categories having been replaced by Affordable Care categories. No proposed rule changes are

needed for these categories. The Department will promulgate proposed rule changes for Social Security Income (SSI), family planning, and Refugee Medical Assistance rules at a later date.

Section 13

Subsection A Paragraph (5) (b)

The commenter requested the words “*of a public institution*” be inserted after “*inmate*” for linguistic consistency.

Department Response: The Department agrees with the commenter and has made the change in the final rule.

Subsection A Paragraph (5) (c)

The commenter requested clarification if the proposed rule is meant to apply to non-filers who also will not be claimed as dependents.

Department Response: The Department agrees with the commenter and has made the change in the final rule.

Section 14

Subsection B Paragraph (1)

The commenter requested that the word “*dependents*” be added to the title so that it is clear that the subsequent language applies to both tax filers and dependents.

Department Response: The Department agrees with the commenter and has made the change in the final rule.

Subsection B Paragraph (2)

The commenter requested that the proposed language regarding “*non-filers*” be revised to be consistent with federal regulations. Federal regulations do not use the term “*non-filer*”. Moreover, the federal regulations include step-siblings in the household which are not mentioned in the Department’s proposed rule.

Department Response: The Department agrees with the commenter and has made the changes in the final rule.

Subsection B Paragraphs (4) and (5)

The commenter requested that the Department remove these proposed amendments and relocate to Section 15 of the rule. The proposed language in Paragraphs (4) and (5) do not relate to the determination of the budget group; but rather that certain MAGI-based income is not to be included in the household calculation. A separate recommendation is to streamline the proposed language so it more clearly tracks the language of the corresponding federal regulation.

Department Response: The Department agrees with the commenter and has made both of the changes in the final rule.

The language in all other sections of the rule stands as proposed.

VI. RULE

The above referenced rule will be contained in the Medical Assistance Division Program Policy Manual. This final register and rule is available on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and the corresponding rule is also posted at on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/medical-assistance-division-1.aspx>. If you do not have internet access, a copy of the rules may be requested by contacting the Medical

Assistance Division in Santa Fe at 505-827-6252 or outside Santa Fe at 888-9972583, ext 7-6252.

VII. EFFECTIVE DATE

This rule will have an effective date November 16, 2015.

VIII. PUBLICATION

Publication of this rule approved by:

A handwritten signature in black ink, appearing to read "Brent Earnest", is written over a horizontal line.

BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT