



State of New Mexico  
Human Services Department  
**Human Services Register**



**I. DEPARTMENT**

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

**II. SUBJECT**

8.200.410.11 NMAC – MEDICAID ELIGIBILITY – GENERAL RECIPIENT RULES -  
CITIZENSHIP

**III. PROGRAM AFFECTED**

(TITLE XIX) MEDICAID

**IV. ACTION**

EMERGENCY RULE

**V. BACKGROUND SUMMARY**

The Human Services Department (HSD) has filed an emergency rule at 8.200.410.11 NMAC to prevent the possibility of an unintended change to eligibility for certain New Mexico residents and to protect the public health, safety and welfare. The emergency rules will reinstate language related to Medicaid citizenship and immigration requirements as described below.

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 18, 2018

Adoption Date: Proposed and filed as January 18, 2018

Technical Citations: 42 CFR 435.4, 435.406, 435.956, 8 USC Section 1641, SHO# 10-006

**Summary of Revisions:**

- Language was reinstated at Paragraph (4) of Subsection A of Section 8.200.410.11 NMAC to include non-citizens lawfully admitted for permanent residence or who are permanently residing in the United States under Color of Law (PRUCOL).
- Language was reinstated at Subparagraph (l) of Paragraph (1) of Subsection B of Section 8.200.410.11 NMAC to exempt battered non-citizens from the five-year bar.

- Language was reinstated at Subparagraph (a) of Paragraph (2) of Subsection B of Section 8.200.410.11 NMAC to clarify that a qualified non-citizen includes a non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act.
- Language was reinstated at Subparagraph (i) of Paragraph (2) of Subsection B of Section 8.200.410.11 NMAC to include battered women and non-citizen children of battered parents in the definition of a qualified non-citizen.
- Language was reinstated at Subparagraph (a) of Paragraph (3) of Subsection B of Section 8.200.410.11 NMAC to clarify that children under age 21 and pregnant women are considered lawfully present if they are qualified non-citizens.
- The word “aliens” was changed to “non-citizens” at Subparagraph (d) of Paragraph (3) of Subsection B of Section 8.200.410.11 NMAC for consistency throughout the rule.
- Language was reinstated at Subparagraph (h) of Paragraph (3) of Subsection B of Section 8.200.410.11 NMAC to clarify that children under age 21 and pregnant women are considered lawfully present if they are non-citizens who are lawfully present in the Commonwealth of the Northern Mariana Islands under 48 USC Section 1806(e)

## **VI. REGULATIONS**

These regulations will be contained in 8.200.410.11 NMAC of the Medical Assistance Division Program Manual. The register and proposed rule language are available on the HSD website at: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx>. If you do not have Internet access, a copy of the register and rule may be requested by contacting MAD at 505-827-6252.

## **VII. EFFECTIVE DATE**

The original proposed effective date for this emergency change was November 16, 2017. However, due to a rule filing issue the new effective date is January 18, 2018. Because the Department anticipated the November 16, 2017 effective date, the Department has, in fact, followed the provisions of this rule effective November 16, 2017. The change to the rule is temporary. The Department will repromulgate this section of the rule in full within six months of the final effective date and publication in accordance with the New Mexico State Rules Act.

## **VIII. PUBLICATION**

Publication of this rule approved by:



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BRENT EARNEST, SECRETARY  
HUMAN SERVICES DEPARTMENT