



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

8.201.400 Medicaid Eligibility-Medicaid Extension Categories
8.215.400 SSI Methodology-Recipient Policies
8.281.400 Institutional Care-Recipient Policies

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
FINAL RULES

V. BACKGROUND SUMMARY

New Mexico Human Services Register Vol. 41, No, 30, dated October 16, 2018 issued proposed rules for *8.201.400 Medicaid Eligibility-Medicaid Extension Categories, 8.215.400 SSI Methodology-Recipient Policies, and 8.281.400 Institutional Care-Recipient Policies.*

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: October 16, 2018

Hearing Date: November 14, 2018

Technical Citations: SMD Letter, POMS, 42 CFR 435.1010

A public hearing was held on November 14, 2018 to receive public comments and testimony on the proposed rules. The Human Services Department (the Department) received one written comment and no oral comments.

Summary of Comments

One commenter provided the following written comments for proposed changes to 8.201.400 NMAC:

Termination of Supplemental Security Income (SSI) benefits and the resulting loss of Medicaid coverage can be catastrophic to recipients with disabilities, who often have intensive medical needs. Accordingly, the commenter applauds the decision by the Human Services Department, Medical Assistance Division (MAD) to extend Medicaid coverage to SSI beneficiaries for two months following termination of SSI benefits, and to create an ex parte process to determine whether beneficiaries remain eligible for Medicaid under an alternative category.

The commenter stated that provision of an ex parte process is consistent with Centers for Medicare & Medicaid Services (CMS) guidance (see *Letter to State Medicaid Directors*, issued April 22, 1997, accessible at <https://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD042297.pdf>), which identifies an obligation by State Medicaid programs to affirmatively exhaust all potential categories of Medicaid eligibility before terminating coverage.

The commenter asserted that under this obligation, the State must use all available information to determine a recipient's continued eligibility for Medicaid under an alternative category. If the information in the recipient's file is insufficient, the State must contact the recipient to obtain additional facts adequate to determine eligibility. When the State makes the eligibility determination, it must notify the recipient and, in the event of a finding of ineligibility, provide opportunity for appeal.

The commenter encouraged MAD to acknowledge in the proposed changes to NMAC 8.201.400 the State's obligation to collect additional information from beneficiaries when needed to make Medicaid eligibility determinations, to continue Medicaid coverage pending eligibility determinations, and to provide recipients with notice and the opportunity to appeal when decisions are rendered.

Response: If the Department is unsuccessful in doing an ex-parte renewal during the two-month SSI extension period, a Notice of Case Action (NOCA) will be issued with the extension closure date. The NOCA asks the recipient to submit an application, lists the ways that an application can be submitted, and contains appeal information. The Department normally does not include procedures in rules. The rule will be adopted as proposed.

VI. RULES

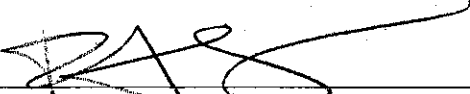
These amendments will be contained in 8.201.400 Medicaid Eligibility-Medicaid Extension Categories, 8.215.400 SSI Methodology-Recipient Policies, and 8.281.400 Institutional Care-Recipient Policies. The final register and rule languages are available on the HSD website at: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx>. If you do not have internet access, a copy of the final register and rules may be requested by contacting MAD in Santa Fe at 505-827-1337.

VII. EFFECTIVE DATE

These rules have an effective date of January 1, 2019.

VIII. PUBLICATION

Publication of these rules approved by:



BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT