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State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT
HUMAN SERVICES DEPARTMENT

II. SUBJECT
8.100.970 NMAC, GENERAL PROVISIONS FOR PUBLIC ASSISTANCE PROGRAMS,
OVERSIGHT – PROGRAM PARTICIPATION HEARINGS

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED RULE

V. BACKGROUND SUMMARY

The Human Services Department (the Department), through the Medical Assistance Division (MAD), issued emergency rule changes to New Mexico Administrative Code (NMAC) rule 8.100.970, *General Provisions for Public Assistance Programs, Oversight-Program Participation Hearings* on October 26, 2021 with an effective date of November 1, 2021. The Department is re-promulgating this rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

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 26, 2021
Hearing Date: November 30, 2021
Adoption Date: Proposed as March 1, 2022
Technical Citations: 45 CFR 155 subpart F

The Department is proposing to amend the rule as follows:

Background

New Mexico’s Health Insurance Exchange (NMHIX; aka beWellnm) is transitioning from utilizing the federal IT platform of Healthcare.gov to a state-based IT platform. Given this transition, HSD must collaborate with beWellnm on IT and program integration. One aspect of

program integration pertains to appeals rights for adverse actions impacting an enrollee's eligibility for qualified health plans through NMHIX, federal tax credits and cost-sharing reductions, and other issues pertaining to NMHIX coverage. While using the federal Healthcare.gov platform, NMHIX has been working with the federal government on such appeals, when necessary. With the move to a state-based platform, NMHIX has requested that HSD take on the role of providing first tier appeals of adverse actions by enrollees. Thus, HSD must promulgate rules pertinent to providing those appeals for NMHIX enrollees or potential enrollees.

The Department is proposing to amend the rule as follows:

8.100.970 – NMAC-General Provisions for Public Assistance Programs – Oversight-Program Participation Hearings.

This rule is being updated to integrate functions of providing first tier appeals for New Mexicans purchasing coverage through New Mexico's Health Insurance Exchange (NMHIX; aka beWellnm).

VI. RULE

This proposed rule change will be contained in 8.100.970 NMAC, *General Provisions for Public Assistance Programs, Oversight-Program Participation Hearings*. This register and the proposed rule are available on the HSD website at:

<https://www.hsd.state.nm.us/lookingforinformation/register/> and <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notice-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>.

If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

VII. EFFECTIVE DATE

The Department proposes to implement this rule effective March 1, 2022.

VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held **via conference call** on November 30, 2021 at 10:00 a.m., Mountain Time (MT). **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

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 the MAD in Santa Fe at (505) 827-1337. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by 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.

IX. ADDRESS

Interested persons may address written comments to:

Human Services Department
Office of the Secretary
ATTN: 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 p.m. MT on November 30, 2021. 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 <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

X. PUBLICATION

Publication of this rule approved by:

DocuSigned by:

David Scrase

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DAVID R. SCRASE, M.D., SECRETARY
HUMAN SERVICES DEPARTMENT