



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

8.314.5 NMAC, DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES WAIVER

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

FINAL RULE

V. BACKGROUND SUMMARY

The New Mexico Human Services Register Volume 44, Register 33, dated November 9, 2021, issued the proposed New Mexico Administrative Code (NMAC) rule 8.314.5 NMAC, *Developmental Disabilities Home and Community-Based Services Waiver*.

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: November 9, 2021

Hearing Date: December 13, 2021

Adoption Date: April 1, 2022

Technical Citations: 42 CFR 438 subparts A through J; 42 CFR 441 subpart G

A public hearing was held on December 13, 2021 to receive public comments and testimony on this proposed rule. The Human Services Department (the Department) received two written comments and did not receive any oral comments. This rule is being implemented as proposed.

The Department proposes the following amendments to the rule as a result of public comment:

Section 10 Subsection D This section was updated with language to clarify that the 6 years' experience replaces a 4-year degree only and a Case Manager should have a high school diploma or GED.

Section 10 Subsection O Correction made to citation of NMAC section 8.314.5.10.

Section 11 Subsection D (4) This section was reinstated to include the requirement that a Case Management Agency disclose to DDS and to the people they serve any familial relationships between employees/subcontract case managers and providers.

Section 15 Subsection C (3) This section was updated with language regarding informing the participant of telehealth service and technology as part of the Individual Service Plan (ISP) process.

Section 15 Subsection C (4) This section was updated with language regarding informing the participant of telehealth service and technology as part of the ISP process.

Section 15 Subsection C (7) Correction made to citation of the Individuals with Disabilities Education Act (IDEA).

Amendments have been made throughout the rule to comply with formatting requirements.

VI. RULES

These amendments will be contained in 8.314.5 NMAC. The final register and rule languages are available on the HSD website at:

<https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/lookingforinformation/medical-assistance-division-1/> and <https://www.hsd.state.nm.us/providers/rules-nm-administrative-code/>. If you do not have internet access, a copy of the final register and rules may be requested by contacting the Medical Assistance Division at (505) 827-1337.

VII. EFFECTIVE DATE

This rule will have an effective date of April 1, 2022.

VIII. PUBLICATION

Publication of this rule approved by:

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David Scrase
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DAVID R. CRASE, M.D., SECRETARY
HUMAN SERVICES DEPARTMENT