



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



**I. DEPARTMENT**  
NEW MEXICO HUMAN SERVICES DEPARTMENT

**II. SUBJECT**  
8.321.2 NMAC, SPECIALIZED BEHAVIORAL HEALTH PROVIDER ENROLLMENT  
AND REIMBURSEMENT

**III. PROGRAM AFFECTED**  
(TITLE XIX) MEDICAID

**IV. ACTION**  
EMERGENCY RULE

**V. BACKGROUND SUMMARY**

New Mexico Human Services Department (HSD) has filed an emergency rule for 8.321.2 NMAC, Specialized Behavioral Health Provider Enrollment and Reimbursement to ensure HSD is not in conflict with Federal Medicaid law, 42 C.F.R. § 431.52(b), which requires the provision of and payment for, covered services out-of-state when they are unavailable in-state.

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: March 14, 2023  
Adoption Date: March 1, 2023  
Technical Citations: 42 C.F.R. § 431.52(b)

**The Department has amended the rule as follows:**

**8.321.2.37 NMAC**

**Section A Eligible Agencies**

To ensure alignment with federal Medicaid requirements regarding payments for services furnished out-of-state, HSD is amending this section to allow Treatment Foster Care (TFC) to be

provided by an out-of-state TFC agency when the agency has equivalent accreditation and is licensed in their own state as a TFC agency.

## VI. RULES

These amendments will be contained in 8.321.2 NMAC. The emergency 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/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 March 1, 2023.

## VIII. PUBLICATION

Publication of this rule approved by:

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*Alex Castillo Smith*  
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KARI ARMIJO, ACTING SECRETARY  
HUMAN SERVICES DEPARTMENT