State of New Mexico
Human Services Department
Human Services Register

I. DEPARTMENT
NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT
NEWBORN ELIGIBILITY
12 MONTHS CONTINUOUS ELIGIBILITY
AND
FAMILY PLANNING

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED REGULATIONS

V. BACKGROUND SUMMARY
The Human Services Department is proposing a change to Newborn Medicaid (Category 031). The Children's Health Insurance Program Reauthorization Act (CHIPRA) eliminates the Medicaid requirement that to receive coverage the newborn has to live with the mother.

Additionally, the 12 month continuous eligibility provision is being revised to clarify that it does not apply when there is a death of a household member, the member or family moves out of state, or a child turns 19 years of age. Medicaid Eligibility – Pregnancy or Family Planning Services Category (Category 035) is being revised to remove language of age restriction and creditable health coverage.

VI. REGULATIONS
These proposed rule changes refer to Sections 10 and 14 of 8.200.400 NMAC, Section 14 of 8.232.600 NMAC and Sections 12 of 8.235.600 NMAC of the Medical Assistance Eligibility Manual. This register and the attached proposed changes are available on the Medical Assistance Division web site at www.hsd.state.nm.us.mad/registers/2011. If you do not have Internet access, a copy of the regulations may be requested by contacting the Medical Assistance Division at 827-3156.

VII. EFFECTIVE DATE
The Department proposes to implement these regulations effective October 15, 2011.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed regulations will be held at 9:00 a.m. on Wednesday, August 31, 2011 in the South Park Conference Room 2055 S. Pacheco, Ste 500-590, Santa Fe, NM.

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 Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3156. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the Medical Assistance Division 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 or recorded comments to:

Sidonie Squier., Secretary
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

X. PUBLICATION

Publication of these regulations approved by:

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SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 200 MEDICAID ELIGIBILITY - GENERAL RECIPIENT POLICIES
PART 400 GENERAL MEDICAID ELIGIBILITY

8.200.400.10 BASIS FOR DEFINING GROUP: Individuals are eligible for medicaid if they meet the specific criteria for one of the eligibility categories. In New Mexico, other medical assistance programs for individuals who do not qualify for medicaid are available, such as the children's medical services program (category 007) administered by the New Mexico department of health.

A. **Assistance groups:** The HSD income support division (ISD) determines eligibility for individuals applying for medicaid.

(1) Category 002 provides medicaid for families with dependent child(ren) for individuals who meet July 16, 1996 AFDC related eligibility criteria.

(2) Category 027 provides four months of medicaid if category 002 medicaid eligibility is lost due to increased child support.

(3) Transitional medicaid (category 028) extends medicaid benefits up to 12 months for families who lose category 002 medicaid eligibility due to increased earnings or loss of the earned income disregard.

(4) Category 033 provides medicaid for individuals who are ineligible for category 002 medicaid due to income or resources deemed from a stepparent, grandparent, or sibling.

B. **Medical assistance for women and children:** ISD caseworkers establish eligibility for medical assistance for women and children (MAWC) categories. For these categories, medicaid coverage does not depend on one or both parents being dead, absent, disabled, or unemployed. Children and pregnant women in intact families may be eligible for these medicaid categories.

(1) **Category 030:** This category provides the full range of medicaid coverage for pregnant women in families meeting AFDC income and resource standards.

(2) **Category 031:** This category provides 12 months of medicaid coverage for babies born to mothers who, at the time of the birth, were either eligible for or receiving New Mexico medicaid or were deemed to have been eligible for and receiving New Mexico medicaid. To receive the full 12 months of coverage, all of the following criteria must be met:

(a) [~~The~~] the mother remains eligible for New Mexico medicaid (or would be eligible if she were still pregnant);

(b) [~~The baby remains with the mother~~] the mother was approved for emergency medical services for aliens for the birth and delivery of the infant: and

(c) [~~Both mother and baby~~] the infant continue to reside in New Mexico.

(3) **Category 032:** This category provides medicaid coverage to children who are under 19 years of age in families with incomes under 235 percent of federal income poverty guidelines. Uninsured children in families with income between 185-235 percent of FPL are eligible for the [~~state~~] children's health insurance program [~~SCHIP~~] CHIP. Certain additional eligibility criteria are applicable under [~~SCHIP~~] CHIP, as well as co-payment requirements. Native American children are exempt from co-payments.

(4) **Category 035:** This category provides medicaid coverage for pregnancy-related services for pregnant women and family planning and related services for men and women in families whose income is below 185 percent of the federal income poverty level. There is no resource test for this category.

C. **Supplemental security income:** Eligibility for supplemental security income (SSI) is determined by the social security administration. This program provides cash assistance and medicaid for eligible aged (category 001), blind (category 003) or disabled (category 004) recipients. ISD [~~offices~~] caseworkers determine medicaid eligibility for individuals who are ineligible for SSI due to income or resources deemed from stepparents (category 034).

D. **Medicaid extension:** Medicaid extension provides medicaid coverage for individuals who lose eligibility for SSI due to a cost of living increase in social security benefits and to individuals who lose SSI for other specific reasons. Under the "Pickle Amendment" to the Social Security Act, medicaid coverage is extended to individuals who lose SSI for any reason which no longer exists and who meet SSI eligibility criteria when social security cost-of-living increases are disregarded.

(1) Individuals who meet the following requirements may also be eligible for medicaid extension:

(a) widow(er)s between 60 and 64 years of age who lose SSI eligibility due to receipt of or increase in early widow(er)s' Title II benefits; eligibility ends when an individual becomes eligible for part A medicare or reaches age 65;

(b) certain disabled adult children (DACs) who lose SSI eligibility due to receipt of or increase

in Title II DAC benefits;

(c) certain disabled widow(er)s and disabled surviving divorced spouses who lose SSI eligibility due to receipt of or increase in disabled widow(er)s or disabled surviving divorced spouse's Title II benefit; medicaid eligibility ends when individuals become eligible for part A medicare;

(d) non-institutionalized individuals who lose SSI eligibility because the amount of their initial Title II benefits exactly equals the income ceiling for the SSI program; and

(e) certain individuals who become ineligible for SSI cash benefits and, therefore, medicaid as well, may receive up to two months of extended medicaid benefits while they apply for another category of medicaid.

(2) Medicaid extension categories include individuals who are 65 years and older (category 001), individuals who are less than 65 years of age and blind (category 003) and individuals who are less than 65 years of age and disabled (category 004).

E. **Institutional care medicaid:** ISD [~~offices~~] caseworkers establish eligibility for institutional care medicaid. Individuals who are aged (category 081), blind (category 083) or disabled (category 084) must require institutional care in nursing facilities (NFs), intermediate care facilities for the mentally retarded (ICF-MRs), or acute care hospitals and meet all SSI eligibility criteria, except income, to be eligible for these medicaid categories.

F. **Home and community-based waiver services:** ISD [~~offices~~] caseworkers establish the financial eligibility for individuals who apply for medicaid under one of the home and community-based waiver programs. Individuals must meet the resource, income, and level of care standards for institutional care; however, these individuals receive services at home. Mi via is a self-directed waiver encompassing the five waiver categories. It is available as a possible option to the traditional case management services provided in the five waiver programs. The waiver programs are listed below:

(1) acquired immunodeficiency syndrome (AIDS) and AIDS-related condition (ARC) waiver. (category 090);

(2) disabled and elderly waiver - aged (category 091), blind (category 093), disabled (category 094);

(3) medically fragile waiver (category 095); and

(4) developmental disabilities waiver (category 096); and

(5) brain injury (category 092) under the mi via waiver.

G. **Qualified medicare beneficiaries:** Medicaid covers the payment of medicare premiums as well as deductible and coinsurance amounts for medicare-covered services under the qualified medicare beneficiaries (QMB) program for individuals who meet certain income and resource standards (category 040). To be eligible, an individual must have or be conditionally eligible for medicare hospital insurance (medicare part A).

H. **Qualified disabled working individuals:** Medicaid covers the payment of part A medicare premiums under the qualified disabled working individuals (QDs) program for individuals who lose entitlement to free part A medicare due to gainful employment (category 042). To be eligible, individuals must meet the social security administration’s definition of disability and be enrolled for premium part A. These individuals must also meet certain income and resource standards. They are not entitled to additional medicaid benefits and do not receive medicaid cards.

I. **Specified low-income medicare beneficiaries:** Medicaid covers the payment of medicare part B premiums under the specified low-income medicare beneficiaries (SLIMB) program for individuals who meet certain income and resource standards (category 945). To be eligible, individuals must already have medicare part A. They are not entitled to additional medicaid benefits and do not receive medicaid cards.

J. **Medical assistance for refugees:** Low-income refugees may be eligible for medical and cash assistance. Eligibility for refugee assistance programs is determined by the ISD [~~offices~~] caseworker. To be eligible for cash assistance and medical coverage (category 019) or medical coverage only (category 049), a refugee must meet the income criteria for AFDC programs. Refugee medical assistance is limited to an eight-month period starting with the month a refugee enters the United States. Refugee medical assistance is approved only in the following instances:

(1) refugees meet the AFDC standard of need when the earned income disregard is applied;

(2) refugees meet all criteria for refugee cash assistance but wish to receive only refugee medical assistance;

(3) refugees receive a four month refugee medical assistance extension when eligibility for refugee cash assistance is lost due to earned income; or

(4) refugee spends-down to the AFDC standard of need (category 059).

K. **Emergency medical services for aliens:** Medicaid covers emergency services for certain noncitizens who are undocumented or who do not meet the qualifying immigration criteria specified in 8.200.410.11

NMAC, *citizenship*, but who meet all eligibility criteria for one of the categories noted in 8.285.400 NMAC, *Recipient Policies*, except for citizenship or legal alien status. These individuals must receive emergency services from a medicaid provider and then go to an ISD office for an evaluation of medicaid eligibility. Once an eligibility determination is made, the individual must notify the servicing provider so that the claim can be submitted to MAD's designee for the emergency services evaluation and claim payment.

L. **Children, youth, and families medicaid:** Medicaid covers children in state foster care programs (category 006, category 046, category 066, category 086) and in adoption subsidy situations (category 017, category 037, and category 047) when the child's income is below the AFDC need standard for one person. Medicaid also covers children who are the full or partial responsibility of the children, youth, and families department (CYFD) such as category 060 and category 061. The eligibility determination for these categories is made by CYFD.

M. **Working disabled individuals:** The working disabled individuals (WDI) program (category 043) covers disabled individuals who are either employed, or who lost eligibility for supplemental security income (SSI) and medicaid due to the initial receipt of social security disability insurance (SSDI) and who do not yet qualify for medicare.

N. **Breast and cervical cancer:** The breast and cervical cancer (BCC) program (category 052) covers uninsured women, under the age of 65 who have been screened and diagnosed as having breast or cervical cancer, including pre-cancerous conditions by a contracted provider for the centers for disease control and prevention's national breast and cervical cancer early detection program (NBCCEDP).

O. **State coverage insurance:** The state coverage insurance (SCI) program (category 062) covers uninsured adults ages 19-64 who: have no other health insurance and are not eligible for other government insurance programs; have income levels up to 200 percent of the federal poverty limit (FPL); comply with income and eligibility requirements as specified in 8.262.400 NMAC, *Recipient Policies*, 8.262.500 NMAC, *Income and Resource Standards*, and 8.262.600 NMAC; *Benefit Description*, are employed by an employer who purchases an SCI employer group policy or who participate in an individual policy.

P. **Medicare part D - low income subsidy:** The subsidy program (category 048) available to individuals enrolled in part D of medicare and whose gross income is less than 150 percent of the federal poverty level (FPL). This subsidy helps pay the cost of premiums, deductibles, and co-payments.

Q. **Program of all-inclusive care for the elderly:** The program of all-inclusive care for the elderly (PACE), (categories 081, 083, and 084) covers all acute and long-term care needs of adults age 55 years or older who meet level of care requirements for medicaid nursing facility care.

R. **Mi via waiver:** The waiver provides self-directed services to waiver recipients who are disabled or elderly (D&E), developmentally disabled (DD), medically fragile (MF), those diagnosed with acquired immunodeficiency syndrome (AIDS), and those diagnosed with certain brain injuries (BI).

[2-1-95; 1-1-97; 4-1-98; 6-30-98; 3-1-99; 8.200.400.10 NMAC - Rn, 8 NMAC 4.MAD.402 & A, 7-1-01; A, 7-1-02; A, 10-1-02; A, 7-1-05; A, 2-1-06; A, 12-1-06; A/E, 12-1-06; A, 12-1-08; A, 7-1-11; A, 10-15-11]

8.200.400.14 12 MONTHS CONTINUOUS ELIGIBILITY FOR CHILDREN: Children eligible for medicaid under category of eligibility: 032, 072, HCBS waivers, IV-E, and SSI-004, and 003 will remain eligible for a period of 12 months, regardless of changes in income. This provision applies even if it is reported that the family income exceeds the applicable federal income poverty guidelines. The 12 months of continuous medicaid starts with the month of approval or redetermination and is separate from any months of presumptive or retroactive eligibility. This provision does not apply [~~to children who move out of state during the 12-month period~~] when there is a death of a household member, the member or the family moves out of state, or the child turns 19 years of age.

[8.200.400.14 NMAC - N/E, 10-1-09; A, 10/30/09; A. 10/15/11]

TITLE 8 SOCIAL SERVICES
CHAPTER 232 MEDICAID ELIGIBILITY - CHILDREN UNDER 19: 185 PERCENT OR 235 PERCENT OF POVERTY GUIDELINES - CATEGORY 032
PART 600 BENEFIT DESCRIPTION

8.232.600.14 CHANGES IN ELIGIBILITY:

A. **Eligibility termination when age limit reached:** If a recipient's eligibility ends because he/she turns 19 years of age and the recipient is receiving inpatient services in an acute care hospital on the date he/she turns 19 years of age, the recipient's eligibility continues until the end of that admission. If the recipient is an inpatient in a free-standing psychiatric facility or other residential facility, the recipient's eligibility continues until the end of the month in which the recipient turns 19 years of age. The income support division worker verifies that the closure is caused by the recipient's turning 19 years of age and terminates medicaid eligibility at the end of the applicable time period.

B. **Ongoing eligibility:** A redetermination of eligibility is made every 12 months. Changes in eligibility status will be effective the first day of the following month.

C. **Continuous eligibility:** Eligibility will continue for the 12-month certification period, regardless of changes in income[~~, as long as the recipient retains New Mexico residency and is less than 19 years of age~~]. This provision applies even if it is reported that the family income exceeds the applicable federal income poverty guidelines. The 12 months of continuous medicaid starts with the month of approval or redetermination and is separate from any months of presumptive or retroactive eligibility. <u>This provision does not apply when there is a death of a household member, the member or the family moves out of state or the child turns 19 years of age.</u>

[2/1/95; 4/1/95; 6/30/98; 8.232.600.14 NMAC - Rn, 8 NMAC 4.KID.630 & A, 7/1/04; A, 7/1/06; A/E, 10/1/09; A, 10/30/09; A, 10/15/11]

TITLE 8 SOCIAL SERVICES
CHAPTER 235 MEDICAID ELIGIBILITY - PREGNANCY OR FAMILY PLANNING SERVICES (CATEGORY 035)
PART 600 BENEFIT DESCRIPTION

8.235.600.12 ONGOING BENEFITS:

A. **Pregnancy-related services:** A woman eligible for pregnancy-related services remains eligible throughout her pregnancy and for two months after the month of delivery or after the month in which the pregnancy terminates. Changes in household income do not affect her eligibility during this period. No periodic reviews are required during this period. After the two-month post partum period, the woman will automatically be converted to family planning services [~~if she meets the age requirement and has no other creditable health insurance~~].

B. **Family planning services:** A woman who is eligible for family planning and related services or who is automatically converted to family planning and related services after her pregnancy-related services end remains eligible for 12 months. No periodic reviews are required during this period. Changes in household income do not affect her eligibility during this period. If the woman should become pregnant during this period, she should contact her income support division caseworker to explore eligibility for other medicaid categories. A man who is eligible for family planning and related services remains eligible for 12 months. If the recipient moves out of state or requests case closure, he/she loses eligibility.

[2/1/95; 6/30/98; 8.235.600.12 NMAC - Rn, 8 NMAC 4.PSO.624 & A, 6/1/04; A, 5/1/08; A, 7-1-11; A, 10-15-11]