



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



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

**II. SUBJECT**  
ELECTRONIC HEALTH RECORDS INCENTIVE PROGRAM

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

**IV. ACTION**  
PROPOSED RULES

**V. BACKGROUND SUMMARY**

The Human Services Department, Medical Assistance Division (MAD), is proposing changes to 8.300.22 NMAC, *Electronic Health Records Incentive Program* (Medicaid EHR).

The Department proposes to remove Paragraph (6) of Subsection B of 8.300.22.11 NMAC, *eligible recipient volume*. This will now allow an out-of-state Medicaid recipient to be counted in the recipient volume requirement. The original rule was based on the premise that it would be difficult to include out-of-state Medicaid recipients in the EHR incentive payment calculations. However, states have resolved verification issues. With this change, more New Mexico Medicaid providers will qualify for federal EHR incentive payments.

**VI. RULES**

This proposed rule refers to 8.300.22 NMAC, *Electronic Health Records Incentive Program*, of the Medical Assistance Program Policy Manual. This register and the proposed rule are available on the Medical Assistance Division web site at: [www.hsd.state.nm.us/mad/register/2012](http://www.hsd.state.nm.us/mad/register/2012). If you do not have Internet access, a copy of the rules may be requested by contacting the Medical Assistance Division at 505-827-3157.

**VII. EFFECTIVE DATE**

The Department proposes to implement these rules effective May 1, 2012.

**VIII. PUBLIC HEARING**

A public hearing to receive testimony on this proposed rule will be held at 9:00 a.m. on March 19, 2012 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 rules approved by:

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SIDONIE SQUIER, SECRETARY  
HUMAN SERVICES DEPARTMENT

**TITLE 8            SOCIAL SERVICES  
CHAPTER 300    MEDICAID GENERAL INFORMATION  
PART 22        ELECTRONIC HEALTH RECORDS INCENTIVE PROGRAM**

**8.300.22.8        MISSION STATEMENT:** ~~[To reduce the impact of poverty on people living in New Mexico and to assure low income and individuals with disabilities in New Mexico equal participation in the life of their communities.]~~ To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.  
[8.300.22.8 NMAC - N, 8-1-11; A, 5-1-12]

**8.300.22.11       ELIGIBLE RECIPIENT VOLUME:** An eligible professional provider and an eligible hospital must meet eligible recipient volume criteria to qualify for incentive payments. Eligible recipient volume criteria compliance will be verified by MAD through claims and encounter data and audits. Eligible recipient volume requirements represent Title XIX (medicaid) eligible recipients as a percent of total eligible recipients, except for an eligible professional provider practicing predominately in a FQHC or RHC, who may use "needy individuals" as defined below in calculating eligible recipient volume.

A. The CMS final rule provides two options for determining patient volume percentages. New Mexico MAD will allow both options, as described below:

(1) eligible recipient encounter method: medicaid eligible recipient encounters in any 90-day reporting period in the preceding calendar year divided by total eligible recipient encounters in same 90-day period; or

(2) unduplicated eligible recipient method: see formula below.

(total medicaid eligible recipients assigned to the provider in any representative continuous 90-day period in the preceding calendar year with at least one encounter in the year preceding the start of the 90-day period) + (unduplicated medicaid encounters in that same 90-day period) \*100 divided by (total eligible recipients assigned to the provider in the same 90 days with at least one encounter in the year preceding the start of the 90-day period) + (all unduplicated encounters in that same 90-day period).

B. Eligible recipient volume thresholds vary by type of provider and practice location.

(1) An eligible professional provider must meet a 30 percent medicaid eligible recipient volume threshold over a continuous 90-day period in the preceding calendar year. The only exception is for pediatricians, as discussed in 8.300.22.16 NMAC, below.

(2) With the exception of a children's hospital, which have no eligible recipient volume requirement, an eligible hospital must meet a 10 percent medicaid eligible recipient volume threshold over a continuous 90-day period in the preceding calendar year.

(3) An eligible professional provider practicing predominantly in an FQHC or RHC must meet 30 percent "needy individual" eligible recipient volume. To qualify as a "needy individual," patients must meet one of the following criteria:

(a) receives medicaid under an appropriate category of eligibility; or

(b) were furnished services at either no cost or reduced cost based on a sliding scale determined by the individual's ability to pay, or were furnished uncompensated care by the provider.

(4) A clinic or group practice may calculate eligible recipient volume using the clinic's or group's entire eligible recipient volume under the following conditions:

(a) the clinic or group practice's eligible recipient volume is appropriate as a eligible recipient volume methodology calculation for the eligible professional provider; and

(b) there is an auditable data source to support the eligible recipient volume determination; and

(c) all eligible professional providers in the clinic or group practice use the same methodology for the payment year; and

(d) the clinic or group practice does not limit eligible recipient volume in any way; and

(e) if an eligible professional provider works inside and outside of the clinic or practice, the eligible recipient volume calculation includes only those encounters associated with the clinic or group practice, and not the eligible professional provider's outside encounters.

(5) A pediatrician may qualify for a two-thirds incentive payment if their medicaid eligible recipient volume is 20-29 percent. To qualify as a pediatrician for the purpose of receiving a two-thirds payment under the medicaid EHR incentive program, the pediatrician must be enrolled as a pediatrician provider with MAD.

~~[(6) An eligible professional provider and an eligible hospital may not include out of state medicaid recipients for eligible recipient volume requirement purposes.]~~

**MAD-MR:**

**MEDICAID GENERAL INFORMATION  
ELECTRONIC HEALTH RECORDS INITIATIVE PROGRAM**

**EFF: Proposed**

[8.300.22.11 NMAC - N, 8-1-11; A, 5-1-12]