

**MEDICAL ASSISTANCE PROGRAM ELIGIBILITY – PREGNANCY OR FAMILY PLANNING  
SERVICES**

**RECIPIENT REQUIREMENTS  
Tribal Consultation Version 9.18.13**

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 235 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - PREGNANCY OR FAMILY  
PLANNING SERVICES**  
**PART 400 RECIPIENT REQUIREMENTS**

**8.235.400.1 ISSUING AGENCY:** New Mexico Human Services Department (HSD).  
 [8.235.400.1 NMAC - Rp, 8.235.400.1 NMAC, 1-1-14]

**8.235.400.2 SCOPE:** The rule applies to the general public.  
 [8.235.400.2 NMAC - Rp, 8.235.400.2 NMAC, 1-1-14]

**8.235.400.3 STATUTORY AUTHORITY:** The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.  
 [8.235.400.3 NMAC - Rp, 8.235.400.3 NMAC, 1-1-14]

**8.235.400.4 DURATION:** Permanent.  
 [8.235.400.4 NMAC - Rp, 8.235.400.4 NMAC, 1-1-14]

**8.235.400.5 EFFECTIVE DATE:** January 1, 2014, unless a later date is cited at the end of a section.  
 [8.235.400.5 NMAC - Rp, 8.235.400.5 NMAC, 1-1-14]

**8.235.400.6 OBJECTIVE:** The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility, 8.200 NMAC, *Medicaid Eligibility – General Recipient Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions, 8.100 NMAC, *General Provisions for Public Assistance Programs*.  
 [8.235.400.6 NMAC - Rp, 8.235.400.6 NMAC, 1-1-14]

**8.235.400.7 DEFINITIONS:** [RESERVED]

**8.235.400.8 MISSION:** 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.  
 [8.235.400.8 NMAC - N, 1-1-14]

**8.235.400.9 WHO IS AN ELIGIBLE RECIPIENT:**

- A. To be eligible, an individual must meet specific eligibility requirements:
- (1) for pregnancy or family planning medicaid services requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC for citizenship or alien status, enumeration, residence, non-concurrent receipt of assistance, and applications for other benefits;
  - (2) an individual must assign medical support rights to HSD and agrees to cooperate with third party liability responsibilities pursuant to 8.200.430 NMAC; and
  - (3) appropriate to the size of the budget group countable gross income must be less than 185 percent of the federal poverty limit pursuant to 8.200.520 NMAC and 8.235.500 NMAC.
- B. Individuals may have other creditable health insurance coverage.
- C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.  
 [8.235.400.9 NMAC - Rp, 8.235.400.9 NMAC, 1-1-14]

**8.235.400.10 BASIS FOR DEFINING THE GROUP:** At the time of application, an applicant or a re-determining eligible recipient and ISD shall identify everyone who is to be considered for inclusion in the assistance unit and budget group. The composition of the assistance unit and budget group is based on the relationship of the household members to the dependent child for whom the application is being made. Each member of the assistance unit and budget group, including an unborn child, is counted as one in the household size.

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[8.235.400.10 NMAC - Rp, 8.235.400.10 NMAC, 1-1-14]

**8.235.400.11** [RESERVED]

**8.235.400.12 ENUMERATION:** Refer to 8.200.410.10 NMAC.

[8.235.400.12 NMAC - Rp, 8.235.400.12 NMAC, 1-1-14]

**8.235.400.13 CITIZENSHIP:** Refer to 8.200.410.11 NMAC.

[8.235.400.13 NMAC - Rp, 8.235.400.13 NMAC, 1-1-14]

**8.235.400.14 RESIDENCE:** Refer to 8.200.410.12 NMAC.

[8.235.400.14 NMAC - Rp, 8.235.400.14 NMAC, 1-1-14]

**8.235.400.15 EMPLOYMENT, TRAINING AND WORK REGISTRATION:** Registration or participation in employment assistance programs are not an eligibility factor.

[8.235.400.15 NMAC - Rp, 8.235.400.15 NMAC, 1-1-14]

**8.235.400.16 SPECIAL RECIPIENT REQUIREMENTS:** Refer to 8.235.400.9 NMAC.

[8.235.400.16 NMAC - Rp, 8.235.400.16 NMAC, 1-1-14]

**8.235.400.17 AGE:** To be eligible for pregnancy-related medicaid, specific age requirements are not a factor. For family planning and related services medicaid there is not an age limit for men and women.

[8.235.400.17 NMAC - Rp, 8.235.400.17 NMAC, 1-1-14]

**8.235.400.18 PRESUMPTIVE ELIGIBILITY:** Refer to 8.200.400.11 NMAC.

[8.235.400.18 NMAC - Rp, 8.235.400.18 NMAC, 1-1-14]

**8.235.400.19 RECIPIENT RIGHTS AND RESPONSIBILITIES:** Refer to 8.200.430 NMAC.

[8.235.400.19 NMAC - Rp, 8.235.400.19 NMAC, 1-1-14]

**8.235.400.20 ASSIGNMENTS OF MEDICAL SUPPORT:** Refer to 8.200.420.12 NMAC.

[8.235.400.20 NMAC - Rp, 8.235.400.20 NMAC, 1-1-14]

**8.235.400.21 ELIGIBLE ASSISTANCE UNIT:**

A. The assistance unit includes an individual who applies and who is determined eligible.

B. Each unborn child is counted as one in the eligibility determination process as if the child was born and living with the mother.

[8.235.400.21 NMAC - N, 1-1-14]

**8.235.400.22 BUDGET GROUP:** The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for an supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(1) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and

(2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) an SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or conservator of a child;

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- (6) an alien sponsor to the assistance unit; and
- (7) a sibling to a sibling.

[8.235.400.22 NMAC - N, 1-1-14]

**8.235.400.23 LIVING IN THE HOME:**

A. **Living in the home with a relative:** To be included in the assistance unit, a child must be living, or considered to be living, in the home of:

- (1) a natural or an adoptive parent; there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process; or
- (2) a specified relative who is related within the fifth degree of relationship by blood, marriage or adoption and assumes responsibility for the day-to-day care and control of the child; the determination of whether an individual functions as the specified relative shall be made by the specified relative unless other information known to the worker clearly indicates otherwise.

B. **A child considered to be living in the home:** A child is considered to be part of the assistance unit as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

- (1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; and
- (2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. **Extended living in the home:** An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

- (1) Extended living in the home includes:
  - (a) an individual attending college or a boarding school; or
  - (b) an individual receiving treatment in a Title XIX medicaid facility (including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long term care medicaid, should be evaluated; until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. **Temporary absence - extended living in the home:** An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

- (1) an individual not living in the home due to an emergency who is expected to return to the household within 60 calendar days, continues to be a member of the household;
- (2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or
- (3) a child residing in a detention center:
  - (a) continues to be a member of the household if he or she resides fewer than 60 calendar days, regardless of adjudication as an inmate of a public institution; or
  - (b) the individual is not eligible for medicaid enrollment if he or she resides 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

[8.235.400.23 NMAC - N, 1-1-14]

**HISTORY OF 8.235.400 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-1-88.

**MAD-MR:**

**EFF DATE: proposed**

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MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3-31-89.  
MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-8-89.  
MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-28-89.  
MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12-29-89.  
MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3-1-91.  
MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92.

**History of Repealed Material:**

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6-5-92 - Repealed effective 2-1-95.  
8.235.400 NMAC, Recipient Policies, filed 6-13-03 - Repealed effective 1-1-14.