



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

8.314.5 NMAC, LONG TERM CARE SERVICES – WAIVERS, 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 46 Register 20 dated October 10, 2023, issued the proposed New Mexico Administrative Code (NMAC) rule 8.314.5 NMAC, Long Term Care Services – Waivers, 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: September 12, 2023

Hearing Date: October 13, 2023

Adoption Date: April 1, 2024

Technical Citations: 42 CFR Part 441

A public hearing was held on October 13, 2023, to receive public comments and testimony on this proposed rule. The Human Services Department (the Department) received two (2) comments.

Comment:

8.314.5.15(C)(10)(a), (xv) refers to the purchase and installation of grab. This needs to be removed as the purchase of grab bars is in violation of Center for Medicare and Medicaid Services (CMS) service requirements.

Department:

The commentor is correct. As per CMS guidance received at the renewal of the Developmental Disabilities Waiver (NM.0173.R00), the purchase and installation of grab bars are not a covered waiver service. The language has been updated to reflect that only the installation of grab bars is covered under environmental modification services.

Comment:

8.314.5.20 and 8.314.5.21 refer to rights for an administrative hearing. There are references to Department of Health (DOH) oversight of the fair hearing and continuation of benefit processes that needs to be removed. There also remains reference to the Outside Reviewer process that needs to be removed as the Outside Reviewer process is being discontinued.

Department:

References to the Outside Reviewer process were removed. References to the DOH were replaced with “Human Services Department (HSD)” as the HSD has oversight over the fair hearing and continuation of benefit processes.

VI. RULE

These amendments will be contained in 8.314.5 NMAC. The final register and rule language is 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

These rules will have an effective date of April 1, 2024.

VIII. PUBLICATION

Publication of this rule is approved by:

DocuSigned by:



KARFARMIJO, SECRETARY
HUMAN SERVICES DEPARTMENT