



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

8.206.400 NMAC Medicaid Eligibility

8.291.410 NMAC Affordable Care General Recipient Requirements

8.291.430 NMAC Affordable Care Financial Responsibility

8.293.500 NMAC Pregnant Women Income and Resource Standards

8.295.400 NMAC Children Under 19 Recipient Requirements

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

PROPOSED RULES

V. BACKGROUND SUMMARY

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend New Mexico Administrative Code (NMAC) rules: 8.206.400, 8.291.410, 8.291.430, 8.293.500, and 8.295.400. The Department is taking this opportunity to amend the rules for consistency of standard word usage which does not alter the manner in which eligibility is determined. Specific proposed changes:

8.206.400 NMAC Section 9 – the proposed amendment clarifies that Medical Assistance Programs (MAP) eligibility for this category is limited only to former New Mexico foster care recipients and does not include former foster care recipients from other states.

8.291.410 NMAC Section 18 – the proposed amendment implements a 90-day reconsideration period for recipients whose MAP eligibility closes due to failure to recertify or provide requested verification. The amended language allows for recipients to provide the requested verification or renewal form to have eligibility reinstated back to the closure month without requiring a new application.

8.291.430 NMAC

Section 14 – the proposed amendment will remove “*by another taxpayer outside of the household*” to provide clarification of the exceptions for an individual who is a tax dependent.

Section 15 – the proposed amendment provides clarification that federal deductions will only be utilized when it makes a difference whether an applicant may or may not qualify for a specific MAP category of eligibility.

8.293.500 NMAC Section 13 – the proposed amendment will allow an income disregard for an applicant whose countable income is at or above the income standard applying for the Affordable Care Act (ACA) MAP category of eligibility for pregnant women.

8.295.400 NMAC Section 12 – the proposed new language addresses the requirement that an applicant or recertifying recipient 18 years of age who is applying for ACA MAP category of Children’s Medicaid eligibility must meet school attendance requirements.

VI. RULES

These proposed rules will be contained in the following corresponding NMAC rules of: 8.206.400, 291.410, 8.291.430, 8.293.500, and 8.295.400. This register and the proposed rules are available on the HSD website at:

<http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> . If you do not have internet access, a copy of the proposed rules may be requested by contacting MAD at 505-476-6875.

VII. EFFECTIVE DATE

The Department proposes to implement these rules effective March 16, 2015.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed rules will be held in the Rio Grande Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on February 16, 2015 at 11:30 a.m. Mountain Standard Time (MST).

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 MAD 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 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by MAD 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 comments to:

Brent Earnest, Secretary Designate
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 476-6875. Interested persons may also address comments via electronic mail to: KathyA.Wheeler@state.nm.us. **Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MST on February 16, 2015.** Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

X. PUBLICATION

Publication of these rules approved by:

A handwritten signature in black ink, appearing to read 'Brent Earnest', is written over a horizontal line.

BRENT EARNEST, SECRETARY DESIGNATE
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 295 MEDICAID ELIGIBILITY - CHILDREN UNDER 19
PART 400 RECIPIENT REQUIREMENTS

8.295.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.295.400.1 NMAC - Rp, 8.295.400.1 NMAC, 1-1-14]

8.295.400.2 SCOPE: The rule applies to the general public.
[8.295.400.2 NMAC - Rp, 8.295.400.2 NMAC, 1-1-14]

8.295.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX and XXI of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.295.400.3 NMAC - Rp, 8.295.400.3 NMAC, 1-1-14]

8.295.400.4 DURATION: Permanent.
[8.295.400.4 NMAC - Rp, 8.295.400.4 NMAC, 1-1-14]

8.295.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.295.400.5 NMAC - Rp, 8.295.400.5 NMAC, 1-1-14]

8.295.400.6 OBJECTIVE: The objective of this rule is to provide eligibility guidelines when determining eligibility for the medical assistance division (MAD) medicaid program and other health care programs it administers. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.
[8.295.400.6 NMAC - Rp, 8.295.400.6 NMAC, 1-1-14]

8.295.400.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
[8.295.400.7 NMAC - Rp, 8.295.400.7 NMAC, 1-1-14]

8.295.400.8 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.
[8.295.400.8 NMAC - Rp, 8.295.400.8 NMAC, 1-1-14]

8.295.400.9 WHO CAN BE A RECIPIENT: To be eligible, [a-child] [an applicant](#) must meet specific [eligibility] [medical assistance programs \(MAP\)](#) requirements:
A. an individual under 19 years of age; and
B. an individual who meets ACA eligibility requirements pursuant to 8.291.400 through 2.291.430 NMAC.
[8.295.400.9 NMAC - Rp, 8.295.400.9 NMAC, 1-1-14]

8.295.400.10 BASIS FOR DEFINING THE ASSISTANCE UNIT AND BUDGET GROUP: To be considered in a child assistance unit, an individual must apply and be determined eligible. Individuals living with the [child] [applicant](#) who meet criteria in 8.291.430 NMAC are included in the budget group.
[8.295.400.10 NMAC - Rp, 8.295.400.10 NMAC, 1-1-14]

8.295.400.11 CHILDRENS HEALTH INSURANCE PROGRAM (CHIP):
A. A budget group that includes [a-child] [the applicant](#) and has countable income between the following federal income poverty limits (FPL) is considered to be eligible for the CHIP:
(1) if the [child] [applicant](#) in the assistance unit is under the age of six and the assistance unit and budget group's countable income is between 240 and 300 percent of FPL for the countable household size; or
(2) if the assistance unit consists of [a-child] [the applicant](#) age six or over and the assistance unit's and budget group's countable income is between 190 and 240 percent of FPL for the countable household size.
B. In order to be eligible for CHIP, the [child] [applicant](#) in the assistance unit cannot have other qualified health plan (QHP) coverage. Individuals who have voluntarily dropped a QHP will be eligible for inclusion in the assistance unit in the month the individual no longer has a QHP.

[8.295.400.11 NMAC - Rp, 8.295.400.11 NMAC, 1-1-14]

8.295.400.12 SCHOOL ATTENDANCE REQUIREMENT: School attendance is required for an applicant or eligible recipient who is 18 years of age or older. There is no school requirement for an applicant or eligible recipient under the age of 18. The applicant or eligible recipient 18 years of age must be a full-time student at a certified educational facility or participating and fully complying with a home-schooling program approved by the New Mexico Public Education Department. Whether the applicant or eligible recipient is considered a full-time student and meeting full-time attendance requirements is based on the standards of the educational facility or program in which the applicant is enrolled. An applicant or recipient who has received a general equivalency development (GED) certificate or are early high school graduates is considered to have met school attendance requirements and will continue to be MAP eligible up to age 19.

A. (1) School Attendance Evaluations: School attendance requirements are evaluated only at the time of MAP application or recertification.

B. Unsatisfactory attendance:

(1) The applicant or eligible recipient shall be considered not meeting the school attendance requirement when he or she:

(a) is not enrolled in school;

(b) has accumulated three unexcused absences in a grading period, but not on the same day;

(c) has dropped out of school during the current grading period; or

(d) has three or more unexcused absences during the time period covered by a current school attendance plan.

(2) **Reporting requirement:** Within 10 calendar days of the date it becomes known, the parent, specified relative, or caretaker must report to ISD if the applicant or eligible recipient is not enrolled in school, has accumulated three unexcused absences during the current grading period, or has dropped out of school.

(3) **Failure to meet:** failure to meet the school attendance requirements with good cause the applicant or recipient will be ineligible for MAP enrollment.

(4) **Good cause:** An applicant or eligible recipient with unsatisfactory school attendance or enrollment shall be warranted good cause based on the following circumstances:

(a) periods of personal illness or convalescence;

(b) family emergencies, for a period not to exceed 30 calendar days;

(c) participation in or attendance at cultural and religious activities as long as the applicant or eligible recipient has parental consent; or

(d) the applicant or eligible recipient is a minor parent with a child under 12 weeks of age.

E. Regaining eligibility: In order for the recipient to regain eligibility, changes in school attendance must be reported by the parent/caretaker. Eligibility may be regained when:

(1) he or she has attended school with no unexcused absences for 30 calendar days, or for the remainder of the semester if the semester is less than 30 calendar days, provided he or she intends to re-enroll the following semester.

(2) circumstances of good cause apply as listed in this Section Subsection B Paragraph (4) of this rule; or

(3) during the summer months the recipient is promoted, attends summer school, intends to re-enroll the following semester or graduates.

[8.295.400.12 NMAC -N, xx-xx-15]

HISTORY OF 8.295.400 NMAC:

History of Repealed Material:

8.295.400 NMAC, Recipient Requirements, filed 9-17-13 - Duration expired 12-31-13.

TITLE 8 SOCIAL SERVICES
CHAPTER 206 MEDICAID ELIGIBILITY - RECIPIENTS FOR WHOM CYFD HAS FULL OR PARTIAL RESPONSIBILITY
PART 400 RECIPIENT REQUIREMENTS

8.206.400.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.206.400.1 NMAC - Rp, 8.206.400.1 NMAC, 1-1-14]

8.206.400.2 SCOPE: The rule applies to the general public.
[8.206.400.2 NMAC - Rp, 8.206.400.2 NMAC, 1-1-14]

8.206.400.3 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.
[8.206.400.3 NMAC - Rp, 8.206.400.3 NMAC, 1-1-14]

8.206.400.4 DURATION: Permanent.
[8.206.400.4 NMAC - Rp, 8.206.400.4 NMAC, 1-1-14]

8.206.400.5 EFFECTIVE DATE: [~~January~~] January 1, 2014, unless a later date is cited at the end of a section.
[8.206.400.5 NMAC - Rp, 8.206.400.5 NMAC, 1-1-14; A, xx-xx-15]

8.206.400.6 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) medical assistance programs (MAP) eligibility [policy] manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining [~~medicaid~~] MAP eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.206.400.6 NMAC - Rp, 8.206.400.6 NMAC, 1-1-14]

8.206.400.7 DEFINITIONS:

A. "Full or partial financial responsibility" means children, youth and families department (CYFD) has made a payment on behalf of the eligible recipient during each month for which [~~medical assistance division (MAD)]~~ MAP eligibility is sought. The nature of CYFD's financial responsibility must be documented. Documentation must include either the court-ordered placement or custody award and CYFD payments made on behalf of the eligible recipient at the time of application and each subsequent periodic review.

B. "Private institutions" includes accredited and non-accredited residential treatment centers and group homes, and treatment foster care. Institutions specifically excluded from this definition are the youth diagnostic development center, New Mexico boys and girls schools, and reintegration centers which are not certified to furnish medical care. A child placed in one of these facilities is not eligible for [~~medical assistance program]~~ MAD services.

C. "Substitute care placement" includes placement in foster homes or private institutions.
[8.206.400.7 NMAC - N, 1-1-14; A, xx-xx-15]

8.206.400.8 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.
[8.206.400.8 NMAC - N, 1-1-14]

8.206.400.9 MEDICAID FOR RECIPIENTS UNDER EIGHTEEN YEARS OF AGE FOR WHOM THE CHILDREN, YOUTH, AND FAMILIES DEPARTMENT HAS FULL OR PARTIAL FINANCIAL RESPONSIBILITY - CATEGORIES 017, 037, 046, 047, 066, AND 086 - AND EXTENDED MEDICAID FOR CERTAIN INDIVIDUALS RECEIVING CHAFEE INDEPENDENT LIVING ASSISTANCE:

A. MAD is required to furnish coverage to eligible recipients under 18 years of age for whom adoption assistance or foster care maintenance payments are made under Title IV-E of the Social Security Act [42 CFR Section 436.118].

B. MAD has opted to furnish coverage to eligible recipients under 18 years of age who meet all the aid to families with dependent children (AFDC) eligibility criteria except for the definition of "dependent child" for whom the state of New Mexico, through CYFD, has assumed full or partial financial responsibility [42 CFR Section 436.222].

C. MAD furnishes extended coverage to eligible recipients over 18 years of age but under 21 years of age who are receiving Chafee independent living assistance.

D. MAD furnishes extended coverage to former foster care eligible recipients up to 26 years of age under Category 066 as required by the Patient Protection and Affordable Care Act (ACA). Eligibility is limited to former foster care recipients from New Mexico only and does not include former foster care recipients from other states.

[8.206.400.9 NMAC - Rp, 8.206.400.9 NMAC, 1-1-14]

8.206.400.10 BASIS FOR DEFINING THE GROUP: An eligible recipient 18 years of age or under can be eligible for CYFD medicaid if the state bears full or partial responsibility for him or her and makes a payment on behalf of him or her. An eligible recipient 18 years of age or under will be assigned one of the following **[MAD]** **MAP** categories of eligibility.

A. **Category 017:** The eligible recipient resides in New Mexico and receives a Title IV-E adoptive subsidy from another state.

B. **Category 037:** The eligible recipient resides in New Mexico and receives a Title IV-E adoptive subsidy from New Mexico.

C. **Category 046:** The eligible recipient resides out-of-state and receives a Title IV-E foster care payment from New Mexico. A medicaid card is issued by the state in which the eligible recipient resides.

D. **Category 047:** The eligible recipient currently resides out-of-state and receives a Title IV-E adoption subsidy payment. A medicaid card is issued by the state in which the eligible recipient resides.

E. **Category 066:** The eligible recipient is in the child protective service component of CYFD and is IV-E eligible or is from a home that meets AFDC eligibility criteria.

F. **Category 086:** The eligible recipient resides in New Mexico, is in the custody of another state and receives Title IV-E foster care payment from that state.

[8.206.400.10 NMAC - Rp, 8.206.400.10 NMAC, 1-1-14]

8.206.400.11 LIVING ARRANGEMENTS: To be eligible for CYFD medicaid, an **[individual]** **eligible recipient** under 18 years of age must be in a substitute care placement or temporarily in a medical facility with an ultimate plan to be placed in substitute care arrangement.

A. **Removal from home:** An individual who is in the custody of his or her parent or guardian is not eligible for CYFD medicaid. When a CYFD medicaid eligible recipient is returned to his or her parent or guardian's custody, CYFD medicaid is terminated.

B. **Release from jurisdiction of non-Title XIX facility:** An eligible recipient who is released from the jurisdiction and control of the correctional system for whom CYFD has full or partial financial responsibility and is in a substitute care placement can be eligible for CYFD medicaid beginning the first of the month after release from the correctional system if all other eligibility criteria are met.

(1) **Permanent release from jurisdiction requirements:** An individual living in a correctional facility or under the jurisdiction and control of the correctional system is not eligible for MAD services. This includes an individual temporarily released from a correctional facility for the sole purpose of receiving medical treatment.

(2) **Documentation of release:** To document that the individual is no longer under the jurisdiction and control of the correctional system, the individual must be permanently released from the correction facility and the court or parole order must specify the following:

(a) the individual is in the custody of CYFD; or

(b) CYFD is required to make monthly payment for the care, maintenance and medical treatment of the individual; in addition, the individual must receive or be evaluated for (or both) the receipt of long-term medical treatment.

C. **Independent living arrangements:** MAD furnishes extended coverage to an eligible recipient between 18 and 21 years of age who is considered to be in an independent living arrangement if foster care payment is made to the eligible recipient and he or she meets all other MAD eligibility criteria.
[8.206.400.11 NMAC - Rp, 8.206.400.11 NMAC, 1-1-14]

~~[8.206.400.12 — [RESERVED]]~~

8.206.400.[13]12 ENUMERATION: See 8.200.410.10 NMAC.
[8.206.400.13 NMAC - Rp, 8.206.400.13 NMAC, 1-1-14; A, xx-xx-15]

8.206.400.[14]13 CITIZENSHIP: See 8.200.410.11 NMAC.
[8.206.400.14 NMAC - Rp, 8.206.400.14 NMAC, 1-1-14]

8.206.400.[15]14 RESIDENCE: See 8.200.410.12 NMAC.
[8.206.400.15 NMAC - Rp, 8.206.400.15 NMAC, 1-1-14; A, xx-xx-15]

8.206.400.[16]15 NON-CONCURRENT RECEIPT OF ASSISTANCE: An applicant or re-determining recipient is not eligible for CYFD medicaid if he or she is eligible under another MAD category of eligibility, or if he or she receives supplemental security income (SSI). An applicant or re-determining recipient receiving SSI can qualify for and receive MAD services under an alternate category of eligibility.
[8.206.400.16 NMAC - Rp, 8.206.400.16 NMAC, 1-1-14; A, xx-xx-15]

~~[8.206.400.17 — [RESERVED]]~~

8.206.400.[18]16 AGE: To be eligible for CYFD medicaid, an applicant or a re-determining recipient must be under 18 years of age, except as outlined in Subsections C and D of Section 9 above.

A. **Students under 19:** When an eligible recipient reaches 18 years of age, he or she loses medical assistance program eligibility unless: (1) he or she is a full-time student in a secondary school or its equivalent and (2) he or she is expected to complete the program before reaching 19 years of age. In such cases, eligibility is terminated when he or she leaves school or upon his or her 19th birthday, whichever comes first. School attendance must be verified each semester as part of CYFD's re-determination process.

B. **Proof of age:** The following documents constitute primary evidence of age:

- (1) birth certificate;
- (2) adoption papers or records;
- (3) hospital or clinic records;
- (4) church or baptismal records;
- (5) bureau of vital statistics or local government records;
- (6) United States passports or immigration and naturalization service's records;
- (7) Indian census reports; or
- (8) birth records maintained by the social security administration (SSA).

C. If the age of the applicant or re-determining recipient cannot be established using primary evidence, a minimum of two pieces of corroborating secondary evidence must be used, such as school records, census records, court support order not generated by CYFD, physician statement, juvenile court records not generated by CYFD, child welfare records not generated by CYFD, voluntary social services agency records, insurance policies, minister's signed statement, affidavits or military records.

[8.206.400.18 NMAC - Rp, 8.206.400.18 NMAC, 1-1-14; A, xx-xx-15]

8.206.400.[19]17 ASSIGNMENT OF MEDICAL SUPPORT: MAD has established special requirement rules. See 8.200.420 NMAC.

A. **CYFD requirements:** The authorized representative of CYFD who signs the MAD eligibility application on behalf of the applicant or re-determining recipient must notify MAD of any available third party medical coverage.

B. **CYFD responsibilities for cooperation with HSD child support enforcement division (CSED):** CYFD is responsible for cooperating with CSED activities which include:

- (1) identifying and locating the absent parent(s) of the eligible recipients receiving MAD services;
- (2) establishing paternity of children born out of wedlock;

- (3) obtaining child and medical support for the child;
- (4) identifying and providing information necessary to pursue third party health coverage; and
- (5) developing procedures for referrals and determination of good cause for not pursuing child support or not requiring cooperation in pursuing such support.

[8.206.400.19 NMAC - Rp, 8.206.400.19 NMAC, 1-1-14; A, xx-xx-15]

8.206.400.[20]18 REPORTING REQUIREMENTS: For all eligible recipients who receive medical assistance program services through CYFD, any change in an eligible recipient's circumstances which affect his or her eligibility must be documented and acted upon by the CYFD authorized representative within 10 calendar days of CYFD receiving notice of the change.

[8.206.400.20 NMAC - Rp, 8.206.400.20 NMAC, 1-1-14; A, xx-xx-15]

HISTORY OF 8.206.400 NMAC:

History of Repealed Material:

8 NMAC 4.CYM.430 Recipient Rights and Responsibilities, filed 12-30-94 - Repealed effective 7-1-03.

8.206.400 NMAC, Recipient Policies, filed 6-11-03 - Repealed effective 1-1-14.

TITLE 8 SOCIAL SERVICES
CHAPTER 291 MEDICAID ELIGIBILITY - AFFORDABLE CARE
PART 410 GENERAL RECIPIENT REQUIREMENTS

8.291.410.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.291.410.1 NMAC - Rp, 8.291.410.1 NMAC, 1-1-14]

8.291.410.2 SCOPE: The rule applies to the general public.
[8.291.410.2 NMAC - Rp, 8.291.410.2 NMAC, 1-1-14]

8.291.410.3 STATUTORY AUTHORITY: The New Mexico medicaid program is 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.
[8.291.410.3 NMAC - Rp, 8.291.410.3 NMAC, 1-1-14]

8.291.410.4 DURATION: Permanent.
[8.291.410.4 NMAC - Rp, 8.291.410.4 NMAC, 1-1-14]

8.291.410.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.291.410.5 NMAC - Rp, 8.291.410.5 NMAC, 1-1-14]

8.291.410.6 OBJECTIVE: The objective of this rule is to provide eligibility guidelines when determining eligibility for the medical assistance division (MAD) [~~medicaid program~~] medical assistance programs (MAP) and other health care programs it administers. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.
[8.291.410.6 NMAC - Rp, 8.291.410.6 NMAC, 1-1-14]

8.291.410.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
[8.291.410.7 NMAC - Rp, 8.291.410.7 NMAC, 1-1-14]

8.291.410.8 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.
[8.291.410.8 NMAC - Rp, 8.291.410.8 NMAC, 1-1-14]

8.291.410.9 GENERAL RECIPIENT REQUIREMENTS: To be eligible for [~~medical assistance programs~~] MAP, applicants or recipients must meet specific requirements as outlined in this part.
[8.291.410.9 NMAC - Rp, 8.291.410.9 NMAC, 1-1-14]

8.291.410.10 ENUMERATION: The social security administration (SSA) is responsible for the assigning of social security numbers (SSN), a process called enumeration. HSD uses the SSN as a unique identifier for the [~~individual~~] applicant or recipient and to verify income and resources where applicable.

A. Applicant or recipients: Except as noted in Subsection B below, it is mandatory for [~~medicaid~~] MAP applicants or recipients to report their SSNs if they are requesting assistance. If an applicant or recipient does not have a valid SSN, he or she must apply for one. Applications for an SSN are available at any SSA or HSD income support division (ISD) office. Proof of the SSN application must be provided to ISD.

B. Non-applicants/recipients: Reporting an SSN is voluntary for individuals who are not seeking [~~medicaid~~] MAP enrollment for themselves.

C. The agency must not delay or deny services to an otherwise eligible [~~individual~~] applicant or recipient pending issuance or verification of [~~the individual's~~] his or her SSN by SSA.

D. This requirement does not apply and the state will give [~~a~~] an identification number to an [~~individual~~] applicant or recipient who is not eligible to receive an SSN if [~~the individual~~] he or she does not have an SSN and is lawfully residing for a valid non-work reason or refuses to obtain an SSN because of well-established religious objections.

[8.291.410.10 NMAC - Rp, 8.291.410.10 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.11 AGE: The age of the applicant recipient is verified to determine if he or she is under or over the

specified age limit.

A. Age of child: [~~Verification of the age, including through self-attestation, of children is mandatory for medical assistance for children programs.~~] Verification of age, including self-attestation of an applicant or recipient under 21 years of age is mandatory for MAP enrollment.

B. Age of adults: Age of ~~adult member(s)~~ an applicant or recipient 21 year of age or older is verified if questionable.

C. Documents that can be used to verify age can be found in 8.100.130 NMAC.
[8.291.410.11 NMAC - Rp, 8.291.410.11 NMAC, 1-1-14]

8.291.410.12 RELATIONSHIP: Verification of relationship is mandatory, see 8.291.410.20 NMAC

A. Documents that can be used to verify relationship can be found at 8.100.130 NMAC.

B. The documentary evidence must contain the names of related individuals in question.

(1) If the relative is other than a parent, the relationship must be traced if questionable.

(2) In situations in which both parents are living in the home and the father's paternity has not been established by operation of law or determined through court order, it will be necessary to establish the relationship of the ~~child~~ applicant or recipient under 21 years of age to the father by completion of the HSD child support enforcement division (CSED) acknowledgment of paternity packet.

(3) If the child is living with a relative, it will be necessary to establish the relationship of the absent parents. A CSED acknowledgement of paternity will be an acceptable means of establishing relationship.

C. The following relatives are within the fifth degree of relationship:

(1) father (biological or adoptive);

(2) mother (biological or adoptive);

(3) grandfather, great grandfather, great great grandfather, great great great grandfather;

(4) grandmother, great grandmother, great great grandmother, great great great grandmother;

(5) spouse of child's parent (stepparent)

(6) spouse of child's grandparent, great grandparent, great great grandparent, great great great grandparent (step grandparent);

(7) brother, half-brother, brother-in-law, step-brother;

(8) sister, half-sister, sister-in-law, step-sister;

(9) uncle of the whole or half blood, uncle-in-law, great uncle, great great uncle;

(10) aunt of the whole or half blood, aunt-in-law, great aunt, great great aunt;

(11) first cousin and spouse of first cousin;

(12) son or daughter of first cousin (first cousin once removed);

(13) son or daughter of great aunt or great uncle (first cousin once removed) and spouse; or

(14) nephew or niece and spouses.

D. Effect of divorce or death on relationship: A relationship based upon marriage, such as the "in-law" or "step" relationships, continues to exist following the dissolution of the marriage by divorce or death.

[8.291.410.12 NMAC - Rp, 8.291.410.12 NMAC, 1-1-14]

8.291.410.13 IDENTITY: Verification of identity for the applicant is mandatory at application if questionable.

A. The following may be used as proof of identity, provided that such document has a photograph or identifying information including, but not limited to, name, age, gender, race, height, weight, eye color, or address:

(1) driver's license that includes a photograph and issued by a state or outlying possession of the U.S; if the driver's license does not contain a photograph, identifying information on the driver's license shall be included such as name, date of birth, sex, height, color of eyes, and address;

(2) voter's registration card;

(3) United States (U.S.) military card or draft record;

(4) identification card issued by the federal, state, or local government agencies or entities; if the identification card does not contain a photograph, identifying information on the identification card must be included such as name, date of birth, sex, height, color of eyes, and address;

(5) military dependent's identification card;

(6) native American tribal documents;

(7) U.S. coast guard mariner card;

(8) for ~~children~~ an applicant under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records;

(9) two documents containing consistent information that corroborates an applicant's

identity; such documents include, but are not limited to, employer identification cards, high school and college diplomas (including high school equivalency diplomas), marriage certificates, divorce decrees, and property deeds or titles;

(10) finding of identity from a federal or state government agency; or

(11) a finding of identity from a federal agency or another state agency, including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity.

B. For **[individuals]** **an applicant** under the age of 18 who **[are]** **is** unable to produce a document listed above, the following are acceptable to establish identity only:

(1) school record or report card;

(2) clinic, doctor or hospital record; or

(3) day care or nursery school record.

C. If an **[individual]** **applicant** under the age of 18 is unable to produce one of the identity documents listed, then the individual must provide one of the following:

(1) the **[minor's]** **minor applicant's** parent or legal guardian completes on Form I-9 Section 1-"employee information and verification" and in the space for the **[minor's]** **minor applicant's** signature, the parent or legal guardian writes the words "minor under age 18.";

(2) the **[minor's]** **minor applicant's** parent or legal guardian completes on Form I-9 the "preparer/translator certification.";

(3) the employer or the recruiter or referrer for a fee writes in Section 2-"employer review and verification" under List B, in the space after the words "document identification#," the words "minor under the age 18."; or

(4) **[individuals]** **an applicant** with handicaps who **[are]** **is** unable to produce one of the identity documents listed in the standalone or secondary tier documentation, and who are being placed into employment by a nonprofit organization, association or as part of a rehabilitation program, may follow the procedures for establishing identity provided in this section for minors under the age of 18, substituting where appropriate, the term "special placement" for "minor under age 18," and permitting in addition to a parent or legal guardian, a representative of the nonprofit organization, association or rehabilitation program placing the **[individual]** **applicant** into a position of employment, to fill out and sign in the appropriate section on the Form I-9; for purposes of this section, the term "individual with handicaps" means any **[person]** **applicant** who:

(a) has a physical or **[mental]** **behavioral health** impairment which substantially limits one or more of **[a person's]** **his or her** major life activities;

(b) has a record of such impairment; or

(c) is regarded as having such impairment.

[8.291.410.13 NMAC - Rp, 8.291.410.13 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.14 CITIZENSHIP/ALIEN STATUS: To **[be eligible for medicaid]** **meet MAP requirements for eligibility**, an **[individual]** **applicant or recipient** must be a citizen of the **[United States]** **U.S.** or meet the alien/immigrant eligibility criteria in 8.200.410 NMAC. Verification of citizenship and alien status is mandatory at initial determination of **[medicaid]** **MAP** eligibility. The applicant or recipient is required to submit documentary evidence as verification. Documentation will be verified by using a two tiered process:

A. **Tier one:** Standalone evidence of citizenship can be verified using the following:

(1) a U.S. passport issued by the **U.S.** department of state (without regard to any expiration date as long as the passport or card was issued without limitation);

(2) a certificate of naturalization;

(3) a certificate of US citizenship;

(4) a valid state-issued driver's license if the state issuing the license requires proof of U.S. citizenship, or obtains and verifies a social security number from the applicant who is a citizen before issuing such license;

(5) documentation issued by a federally recognized Indian tribe, as published in the federal register by the bureau of Indian affairs within the U.S. department of the interior and including tribes located in the state that has an international border, which:

(a) identifies the federally recognized tribe that issued the document;

(b) identifies the **[individual]** **applicant or recipient** by name; and

(c) confirms the **[individual's]** **applicant's** membership, enrollment, or affiliation with the tribe;

(6) documents include, but are not limited to:

- (a) a tribal enrollment card;
- (b) a certificate of degree of Indian blood;
- (c) a tribal census document; and
- (d) documents on tribal letterhead, issued under the signature of the appropriate tribal official,

that meet the requirements of documentary evidence issued by a federally recognized Indian tribe, as published by the bureau of Indian affairs within the U.S. department of the interior, and including tribes located in a state that has an international border, which identifies the federally recognized Indian tribe that issued the document, identifies the [individual] applicant or recipient by name, and confirms the [individual's] applicant membership, enrollment, or affiliation with the tribe.

B. Tier two: Documents must accompany an identity document that includes a photograph or other identifying information such as name, age, sex, face, height, color of eyes, date of birth and address.

(1) A driver's license or identification card containing a photograph, issued by a state or an outlying possession of the [United States] U.S. If the driver's license or identification card does not contain a photograph, identifying information shall be included such as: name, date of birth, sex, height, color of eyes, and address.

(2) School identification card with a photograph.

(3) Voter's registration card.

(4) U.S. military card or draft record.

(5) Identification card issued by federal, state, or local government agencies or entities; if the identification card does not contain a photograph, identifying information shall be included such as: name, date of birth, sex, height, color of eyes, and address.

(6) Military dependent's identification card.

(7) Native American tribal documents.

(8) [United States] U.S. coast guard merchant mariner card.

C. Evidence of citizenship: If an applicant does not provide documentary evidence from the list of primary documents, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by a document list in 8.291.410 NMAC.

(1) A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the Virgin Islands of the U.S. (if born on or after January 13, 1941), American Samoa, Swain's Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (after November 4, 1986 (CNMI local time.)) The birth record document may be issued by the state, commonwealth, territory, or local jurisdiction. If the document shows the [individual] applicant was born in Puerto Rico, the Virgin Islands of the U.S., or the CNMI before these areas became part of the U.S., the [individual] applicant may be a collectively naturalized citizen.

(2) A certification of report of birth, issued to U.S. citizens who were born outside the U.S.

(3) A report of birth abroad of a U.S. citizen.

(4) A certification of birth.

(5) A U.S. citizen I.D. card.

(6) A Northern Mariana's identification card, issued to a collectively naturalized citizen, who was born in the CNMI before November 4, 1986.

(7) A final adoption decree showing the [child's] applicant's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the [child's] applicant's name and U.S. place of birth.

(8) Evidence of U.S. civil service employment before June 1, 1976.

(9) U.S. military record showing a U.S. place of birth.

(10) A data match with the systematic alien verification for entitlements (SAVE) or any other process established by the U.S. department of homeland security to verify that an [individual] applicant is a citizen.

(11) Documentation that [a-child] an applicant meets the requirements of Section 101 of the Child Citizenship Act of 2000 (8 U.S.C. 1431).

(12) Medical records, including but not limited to hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.

(13) Life, health, or other insurance record that indicates a U.S. place of birth.

(14) Official religious record recorded in the U.S. showing that the birth occurred in the U.S.

(15) School records, including pre-school, head start, and daycare, showing the [child's] applicant's name and U.S. place of birth.

(16) Federal or state census record showing U.S. citizenship or a U.S. place of birth.

(17) If the applicant does not have one of the documents listed in the stand alone or second tier

sections, he or she must submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

D. Exemptions: The following [\[individuals\]](#) [applicants](#) are exempt from providing documentation of citizenship and identity:

(1) [\[individuals\]](#) [applicants](#) receiving supplemental security income benefits under Title XVI of the Social Security Act;

(2) [\[individuals\]](#) [applicants](#) entitled to or enrolled in any part of medicare;

(3) [\[individuals\]](#) [applicants](#) receiving social security disability insurance benefits under Section 223 of the Social Security Act or monthly benefits under Section 202 of the act, based on the [\[individual's\]](#) [applicant's](#) disability, as defined in Section 223(d) of the act;

(4) [\[individuals\]](#) [applicants](#) who are in foster care and who are assisted under Title IV-B of the Social Security Act; or

(5) [\[individuals\]](#) [applicants](#) who are recipients of foster care maintenance or adoption assistance payment under Title IV-E of the act.

[8.291.410.14 NMAC - Rp, 8.291.410.14 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.15 RESIDENCE: To ~~[be eligible for medicaid](#)~~ [meet MAP requirements for eligibility](#), applicants or recipients must be living in New Mexico on the date of application or final determination of eligibility and have demonstrated an intention to remain in the state.

A. Establishing residence: Residence in New Mexico is established by living in the state and carrying out the types of activities associated with day-to-day living, such as occupying a home, enrolling child(ren) in school, getting a state driver's license, or renting a post office box. An applicant or recipient who is homeless is considered to have met the residence requirements if he or she intends to remain in the state.

B. Recipients receiving benefits out-of-state: Applicants or recipients who receive financial or medical assistance in another state which makes residence in that state a condition of eligibility are considered residents of that state until the ISD office receives verification from the other state agency indicating that it has been notified by an applicant or recipient of the abandonment of residence in that state.

C. [\[Individuals\]](#) [Applicants or recipients](#) court ordered into full or partial responsibility of the state children youth and families department (CYFD): When CYFD places ~~[a child](#)~~ [an applicant or recipient](#) in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, New Mexico must provide limited coverage for services that are part of the New Mexico [\[medicaid\]](#) [MAP](#) benefit package and not available in the new state of residence.

D. Abandonment: Residence is not abandoned by temporary absences. Temporary absences occur when [applicants or](#) recipients leave New Mexico for specific purposes with time-limited goals. An [\[individual\]](#) [applicant or recipient](#) may be temporarily absent from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined ~~[the individual](#)~~ [he or she](#) is a resident there for the purposes of [\[medicaid\]](#) [MAP](#) enrollment. Residence is considered abandoned when the applicant or recipient leaves New Mexico for any of the following reasons:

(1) intends to establish residence in another state;

(2) for no specific purpose with no clear intention of returning;

(3) applies for financial, food or medical assistance in another state which makes residence in that state a condition of eligibility; or

(4) for more than 30 [calendar](#) days, without notifying HSD of his or her departure or intention of returning.

E. Dispute in residency: If there is a dispute in state residency, the [\[individual\]](#) [applicant or recipient](#) may be considered a resident in the state in which ~~[the individual](#)~~ [he or she](#) is physically located.

[8.291.410.15 NMAC - Rp, 8.291.410.15 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.16 NON-CONCURRENT RECEIPT OF ASSISTANCE: A [\[medicaid\]](#) [MAP](#) applicant or recipient receiving medicaid in another state is not eligible for [\[medicaid\]](#) [MAP enrollment](#) in accordance with 8.200.410 NMAC.

[8.291.410.16 NMAC - Rp, 8.291.410.16 NMAC, 1-1-14]

8.291.410.17 APPLICATIONS FOR OTHER BENEFITS: As a condition of eligibility, a [medicaid] MAP applicant or recipient must take all necessary steps to obtain any benefits [they are] he or she is entitled to in accordance with 8.200.410 NMAC.
[8.291.410.17 NMAC - Rp, 8.291.410.17 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.18 PROCESSING APPLICATIONS:

A. Applicants or recipients may submit applications to a county office in person, through an authorized representative or personal representative by mail or electronically.

(1) Requesting application forms: Applicants or recipients may request an application form by mail or by telephone. In either case, the ISD staff must mail the requested form to the applicant within 24 hours of a working day.

(2) Application: An applicant has the right to file an application as long as the application contains the applicant's name, address and the signature of a responsible [adult] individual household member 18 years of age and older or an authorized representative if one is designated.

B. Interviews: In-person interviews are not required as part of the application or re-certification process for a determination of eligibility.

(1) Applications will be processed in accordance with time standards and procedures set forth in federal regulations governing [~~the medical assistance programs~~] MAP categories of eligibility.

(2) Single interview: If a face to face or a telephonic interview is requested, a single interview will be held with an applicant who applies jointly for all benefits HSD administers.

(3) Application processing: As a result of differences in all HSD's benefit application processing procedures and timeliness standards, eligibility for [~~medical benefits~~] MAP enrollment may be determined prior to eligibility determination for other benefits that HSD administers.

(4) Application is denied: If a [medicaid] MAP application is denied, a new application for other assistance programs is not required if other assistance programs were requested.

(5) Responsibility in application or recertification process: The burden of proving eligibility for [medicaid] MAP enrollment is on the applicant or recipient if [~~the department~~] HSD is unable to verify required information. An [~~individual~~] applicant or recipient has the primary responsibility for providing required information and documents and for taking the action necessary to establish eligibility.

(a) An applicant or recipient's failure to provide documentation or to take required action results in a decision that eligibility does not exist.

(b) An applicant or recipient must give [~~the department~~] HSD permission to contact other individuals, agencies, or sources of information which are necessary to establish eligibility.

C. Redetermination/recertification: A complete review of all conditions of eligibility which are subject to change are conducted by ISD no later than 12 months from the month of approval or redetermination and is separate from any months of presumptive or retroactive eligibility.

(1) Administrative renewal: [(90)] 120 calendar days prior to expiration, HSD will utilize electronic verification sources to verify financial eligibility and will proceed with the re-determination or re-certification process.

(2) If an administrative renewal cannot be completed for any reason, 45 days prior to redetermination or recertification HSD will mail a pre-populated [~~application~~] recertification form with the recipient's previously reported information.

(3) [~~An eligible~~] A recipient's failure to provide necessary verification may result in [medicaid] MAP ineligibility. The recertifying [~~eligible~~] recipient is responsible for providing verification of eligibility if administrative renewal cannot be completed.

(4) Reconsideration period: 90 calendar days after closure due to failure to respond to the recertification requirements, a recipient may provide the following in order to re-establish eligibility back to closure month:

(a) If the recipient provided a renewal application (paper or electronic), but failed to provide the requested information, the recipient can re-establish eligibility without a new renewal application.

(b) If the recipient failed to provide a renewal application (paper or electronic) and returns seeking assistance for ACA MAP enrollment, a simplified pre-populated renewal application (paper or electronic) with all information to determine eligibility, must be provided to re-establish eligibility.

(c) If the recipient provides all required documentation or information necessary to determine eligibility prior to 90 calendar days, eligibility can be re-established back to closure date if determined eligible for MAP enrollment.

D. An applicant or a [recertifying-eligible] recipient must give HSD permission to contact other individuals, agencies, or electronic sources for information which is necessary to establish initial and continued eligibility.

[8.291.410.18 NMAC - Rp, 8.291.410.18 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.19 VERIFICATION METHODS: Verification will be obtained through various methods. Not all methods will necessarily be used in each case. This section details the specific types of methods to be used in establishing the applicant or recipient's eligibility.

A. Prior case data not subject to change: Verification of an eligibility factor not subject to change, which previously has been verified and accepted, will not be subject to re-verification. The caseworker shall not ask an applicant or recipient for verification of any eligibility factors which have previously been established through documents in HSD's possession and are not subject to change. Such factors include U.S. citizenship, birth date, relationship and enumeration.

B. Electronic data: Every applicant or recipient shall be informed that the information provided is subject to verification through state, federal and contracted data systems. The caseworker shall not require further verification of such information unless it is disputed by the applicant or recipient, or the information is otherwise questionable as defined in 8.100.130 NMAC.

C. Self attestation is the information that [a-client]an applicant or recipient reports on an application and is certifying as true and correct to the best of their knowledge.

D. Documentary evidence is the primary source of verification for information not established in prior case information or electronic source data. Obtaining necessary verification through documentary evidence readily available to the applicant or recipient shall always be explored before collateral contacts or sworn statements are used. Documentary evidence consists of a written confirmation of a household's circumstances. Acceptable verification is not limited to any single type of document. The types of documents which may be accepted as verification are specified under the sections pertaining to verification methods later in this chapter. The caseworker shall provide applicants or recipients with receipts for verification documents provided subsequent to the interview.

E. Collateral contact is defined at 8.100.130 NMAC.

F. Sworn statement is defined at 8.100.130 NMAC.

[8.291.410.19 NMAC - Rp, 8.291.410.19 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.20 VERIFICATION STANDARDS: Below is a list of standards HSD will utilize to determine eligibility for [medicaid] MAP categories defined at 8.291.400.10 NMAC. If verification cannot be confirmed utilizing the various methods described in each section of of this rule, HSD may request additional information. If information is provided and becomes questionable as defined at 8.100.130 NMAC, then additional documentation must be provided as described by 8.100.130 NMAC.

A. Income: Verification of income is mandatory for ACA related [medicaid-programs] MAP and HSD will utilize electronic sources and documents provided by the applicant or recipient to verify [an applicant or recipient's] his or her income. Examples of acceptable documentation can be found at 8.100.130 NMAC.

B. Residency: Self attestation is an acceptable form of verification of residency.

C. Age: Self attestation is an acceptable form of verification of age.

D. Enumeration: HSD will utilize electronic sources to verify an applicant or recipient's enumeration.

E. Citizenship: HSD will utilize electronic sources to verify an applicant or recipient's citizenship.

F. Immigration status: HSD will utilize electronic sources to verify an applicant or recipient's immigration status.

G. Relationship: Self attestation is an acceptable form of verification of relationship.

H. Receipt of other benefits: HSD will utilize electronic sources to verify an applicant or recipient's receipt of other benefits.

[8.291.410.20 NMAC - Rp, 8.291.410.20 NMAC, 1-1-14; A, xx-xx-15]

8.291.410.21 TIMEFRAME FOR DISPOSITION: An applicant or recipient is given a timeframe to provide necessary verification in order for ISD to process an application within the time frame set forth in this section. This requirement pertains to requests for verification for initial applications as well as for verification for ongoing eligibility. ISD shall make an eligibility decision within three [work] working days of the receipt of all necessary verification.

A. The application disposition deadline for [medical-assistance-programs] MAP is 45 days from the

date of application.

- (1) Day one: the date of application is the first day.
- (2) No later than day 44, or by the preceding work day if day 44 falls on a weekend or holiday:
 - (a) if verification provided establishes eligibility or ineligibility; or
 - (b) if the day following day 44 is not a work day, then decision must be made earlier than day 44 to allow for mailing on or before the deadline.
- (3) No later than day 45 by the next work day if day 45 falls on a weekend or holiday, if needed verification is not provided until day 42 - 44.
- (4) Day 45 by the next work day if day 45 falls on a weekend or holiday, if needed verification is provided on day 45, or is not provided.
- (5) After day 45:
 - (a) When an applicant or recipient requests one or more 10-calendar day extensions of time to provide needed verification. An applicant or recipient is entitled to receive up to three 10- calendar day extensions of time upon request.

(b) The eligibility decision must be made as soon as possible and within three [~~work~~] working days of receipt of all necessary verification.

B. Tracking the application processing time limit: The application processing time limit begins on the day the signed application is received in the ISD county office.

C. Delayed determination: If an eligibility determination is not made within the required application processing time limit, the applicant or recipient shall be notified in writing of the reason for the delay and that the applicant or recipient has the right to request a [~~fair~~] HSD administrative hearing regarding ISD's failure to act within the time limit.

D. Extensions of time: Up to three ten-calendar day extensions for providing verification shall be granted at the applicant or recipient's request. The extension begins at the end of the application processing time period or at the end of the previous extension.

E. Lack of verification: If verification needed to determine eligibility is not provided and no extension of time is requested, the application will be denied on the 45th day after the application date or by the next work day if 45th day falls on weekend or holiday.

[8.291.410.21 NMAC - Rp, 8.291.410.21 NMAC, 1-1-14; A, xx-xx-15]

HISTORY OF 8.291.410 NMAC:

History of Repealed Material:

8.291.410 NMAC, General Recipient Requirements, filed 9-17-13 - Duration expired 12-31-13.

TITLE 8 SOCIAL SERVICES
CHAPTER 291 MEDICAID ELIGIBILITY - AFFORDABLE CARE
PART 430 FINANCIAL RESPONSIBILITY REQUIREMENTS

8.291.430.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
 [8.291.430.1 NMAC - Rp, 8.291.430.1 NMAC, 1-1-14]

8.291.430.2 SCOPE: The rule applies to the general public.
 [8.291.430.2 NMAC - Rp, 8.291.430.2 NMAC, 1-1-14]

8.291.430.3 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.
 [8.291.430.3 NMAC - Rp, 8.291.430.3 NMAC, 1-1-14; A, xx-xx-15]

8.291.430.4 DURATION: Permanent.
 [8.291.430.4 NMAC - Rp, 8.291.430.4 NMAC, 1-1-14]

8.291.430.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
 [8.291.430.5 NMAC - Rp, 8.291.430.5 NMAC, 1-1-14]

8.291.430.6 OBJECTIVE: The objective of this rule is to provide eligibility guidelines when determining eligibility for medicaid programs and other health care programs. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.
 [8.291.430.6 NMAC - Rp, 8.291.430.6 NMAC, 1-1-14]

8.291.430.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
 [8.291.430.7 NMAC - Rp, 8.291.430.7 NMAC, 1-1-14]

8.291.430.8 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.
 [8.291.430.8 NMAC - Rp, 8.291.430.8 NMAC, 1-1-14; A, xx-xx-15]

8.291.430.9 GENERAL NEED DETERMINATION: ~~[To be eligible for medicaid, an applicant/recipient must meet specific income standards.]~~ [To be eligible for medical assistance programs \(MAP\) enrollment, an applicant or recipient must meet specific income standards.](#)
 [8.291.430.9 NMAC - Rp, 8.291.430.9 NMAC, 1-1-14; A, xx-xx-15]

8.291.430.10 FEDERAL POVERTY LEVEL (FPL): This part contains the monthly federal poverty level table for use in determining monthly income standards for categories of eligibility outlined in 8.291.400.10 NMAC:

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	\$973	\$1,294	\$1,343	\$1,848	\$2,334	\$2,432	\$2,918
2	\$1,311	\$1,744	\$1,809	\$2,491	\$3,146	\$3,278	\$3,933
3	\$1,650	\$2,194	\$2,276	\$3,134	\$3,959	\$4,123	\$4,948
4	\$1,988	\$2,644	\$2,743	\$3,777	\$4,770	\$4,969	\$5,963
5	\$2,326	\$3,094	\$3,210	\$4,420	\$5,582	\$5,815	\$6,978
6	\$2,665	\$3,544	\$3,677	\$5,062	\$6,395	\$6,661	\$7,993
7	\$3,003	\$3,994	\$4,144	\$5,705	\$7,206	\$7,507	\$9,008
8	\$3,341	\$4,444	\$4,611	\$6,348	\$8,018	\$8,353	\$10,023
+1	\$338	\$450	\$467	\$643	\$812	\$846	\$1,015

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 1-1-14; A, 5-1-14]

8.291.430.11 INCOME STANDARD FOR PREGNANT WOMEN AND PARENT CARETAKER ELIGIBILITY: This part contains the fixed monthly standard for MAP eligibility [~~individuals eligible~~] for pregnant women and parent caretaker medicaid:

HOUSEHOLD SIZE	MONTHLY INCOME LIMIT
1	\$451
2	\$608
3	\$765
4	\$923
5	\$1,080
6	\$1,238
7	\$1,395
8	\$1,553
+1	\$158

[8.291.430.11 NMAC - Rp, 8.291.430.11 NMAC, 1-1-14; A, xx-xx-15]

8.291.430.12 INCOME DISREGARD: A disregard of five percent of 100 percent of the current FPL, according to the [~~individual's~~] applicant or recipient's budget group size, will be given according to the MAP ACA related category of eligibility. This income disregard will be subtracted from the countable income.

[8.291.430.12 NMAC - Rp, 8.291.430.12 NMAC, 1-1-14; A, xx-xx-15]

8.291.430.13 LIVING ARRANGEMENT: All [~~individuals~~] applicants listed on the application are evaluated according to their living arrangement to determine if they can be included in an assistance group or budget group.

A. Extended living in the home: An [~~individual~~] applicant physically absent from the home is a member of the assistance unit or budget group. Extended living in the home includes:

- (1) attending college or boarding school;
- (2) receiving treatment in a title XIX [~~medicaid~~] MAD enrolled facility (including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for [~~the mentally-retarded (ICF-MRs)~~] individuals with intellectual disabilities (ICF-IID));
- (3) emergency absences: an [~~individual~~] applicant or recipient absent from the home due to an emergency, who is expected to return to the household, continues to be a member of the household;
- (4) foster care placements: [~~a-child~~] an applicant or recipient removed from the home by a child protective services agency (tribal, bureau of Indian affairs (BIA), or children, youth and families department) will be considered to be living in the home until the adjudicatory hearing. [~~if~~] If the adjudicatory hearing results in custody being granted to some other entity, the [~~child~~] applicant or recipient will be removed from the assistance unit and budget group;

(5) a stay in a detention center:

- (a) regardless of adjudication status the [~~individual~~] applicant or recipient continues to be a member of the household but will not be [~~medicaid~~] MAP eligible;
- (b) once an adjudicated [~~individual~~] applicant or recipient leaves the detention center to receive inpatient services in a medical institution, the [~~individual~~] applicant or recipient may be eligible during treatment if all other criteria are met; eligibility ceases to exist when the [~~individual~~] applicant or recipient returns to the detention center.

B. Extended living in the home also includes:

- (1) residential treatment centers;
- (2) group homes; and
- (3) free-standing psychiatric hospitals.

C. Living in the home with a parent caretaker: To be included in the assistance unit, [~~a-child~~] an applicant or recipient under the age of 18 years must be living, or considered to be living, in the home of:

- (1) a biological or adoptive or step parent (there is a presumption that [a-child] an applicant or recipient born to a married woman is the child of the husband); or
- (2) a specified relative who:
 - (a) is related within the fifth degree of relationship by blood, marriage or adoption, as determined by New Mexico statute Chapter 45 - Uniform Probate Code; a relationship based upon marriage, such as "in-law" or "step" relationships, continues to exist following the dissolution of the marriage by divorce or death; and
 - (b) assumes responsibility for the day-to-day care and control of ~~the [child]~~ applicant or recipient under 18 years of age; the determination of whether an individual functions as the specified relative shall be made by the specified relative unless other information known to the ISD worker clearly indicates otherwise;
- (3) [a-child] applicant or recipient under 18 years of age considered to be living in the home: [a child] applicant or recipient under 18 years of age is considered to be part of the assistance unit and budget group as evidenced by the [child's] his or her customary physical presence in the home; if [a-child] he or she is living in more than one household, the following applies:
 - (a) the custodial parent is the parent with whom the [child] applicant or recipient under 18 years of age lives the greater number of nights; or
 - (b) if the [child] applicant or recipient under 18 years of age spends equal amounts of time with each household, ~~the child~~ he or she shall be considered to be living in the household of the parent with the higher MAGI.

[8.291.430.13 NMAC - Rp, 8.291.430.13 NMAC, 1-1-14; A, xx-xx-15]

8.291.430.14 BASIS FOR DEFINING THE ASSISTANCE UNIT AND BUDGET GROUPS: At the time of application, an applicant or recipient and ~~the department~~ HSD shall identify everyone who is to be considered for inclusion in an assistance unit and budget group. The composition of the assistance unit and budget group is based on the following factors:

A. Assistance group: the assistance unit includes an [individual] an applicant or recipient who applies and who is determined eligible under one of the categories of eligibility outlined in 8.291.400.10 NMAC.

B. Budget group: the budget group consists of the following types and will be established on an individual basis:

(1) Tax filer(s): households that submit an application where an [individual] an applicant or recipient intends to file for federal taxes or will be claimed as a dependent on federal income taxes for the current year.

(a) The budget group will consist of individuals who are listed on the application as the taxpayer and tax dependents.

(b) If there are multiple taxpayers listed on a single application, the budget group(s) will be established based on who the taxpayer intends to claim as a dependent (including the taxpayer). Only the taxpayer and dependents listed on the application will be considered as part of the budget group.

(c) In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return, a separate tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

(d) Exceptions to tax filer rules: the following individuals will be treated as non-filers:

(i) individuals other than a spouse or a biological, adopted, or step child who expect to be claimed as a tax dependent [~~(by another taxpayer outside of the household)~~];

(ii) individuals under 19 who expect to be claimed by one parent as a tax dependent and are living with both parents/step-parents but whose parents do not expect to file a joint tax return; and

(iii) individuals under 19 who expect to be claimed as a tax dependent by a non-custodial parent.

(2) Non-filer(s) are individuals applying for [medicaid] MAP enrollment who have not filed for taxes, do not intend to file for federal taxes, have not been claimed as a dependent on taxes in the current year or who meet an exception to tax filer rules in Paragraph (1) above. The following [individual] an applicant or recipient may be included in a budget group when evaluating eligibility for an ACA related [medicaid] MAP eligibility category, provided that they live together:

(a) the [individual] an applicant or recipient;

(b) the [individual's] an applicant or recipient's spouse;

(c) parents/step-parents, if the applicant or recipient is under the age of 19; or

(d) the [individual's] an applicant or recipient's biological, adopted and step children under the age of 19.

(3) Households may submit an application that includes both filer and non-filers as defined in Subsections A and B above. The budget group(s) will be organized using the filer and non-filer concepts, and eligibility will be established on an individual basis.

[8.291.430.14 NMAC - Rp, 8.291.430.14 NMAC, A, 6-1-14; A, xx-xx-15]

8.291.430.15 INCOME STANDARDS: Verification of income, both earned and unearned, is mandatory for all ACA-related [medicaid-programs] MAP categories of eligibility. Verification methods can be found at 8.291.410 NMAC.

A. All income will be calculated as defined by Section 36B of the code to produce a modified adjusted gross income (MAGI). This amount is compared to the FPL for the appropriate [medicaid] MAP category of eligibility and household size. Federal deductions will only need to be utilized in calculating an applicant or recipient's MAGI if it makes a difference in eligibility or type of ACA category of assistance.

B. MAGI is calculated using the methodologies defined in Section 36B(d)(2)(B) of the federal tax code, with the following exceptions:

(1) an amount received as a lump sum is counted as income only in the month received.
(2) scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.

(3) Native American Indian/Alaska native exceptions; the following are excluded from income:

(a) distributions from Alaska native corporations and settlement trusts;
(b) distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the secretary of the interior;

(c) distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from;

(i) rights of ownership or possession in any lands described in Subparagraph (b) above;
or

(ii) federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;

(d) distributions resulting from real property ownership interests related to natural resources and improvements;

(i) located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(ii) resulting from the exercise of federally-protected rights relating to such real property ownership interests.

(e) payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom; and

(f) student financial assistance provided under [the bureau of Indian affairs] BIA education programs.

(4) all social security benefits under Title II will be counted in determining MAGI.

[8.291.430.15 NMAC - Rp, 8.291.430.15 NMAC, 1-1-14; A, 6-1-14; A, xx-xx-15]

8.291.430.16 RESOURCE STANDARDS: Resources as defined in 8.100.130 NMAC are not a factor of eligibility for ACA-related [medicaid] MAP categories of eligibility.

[8.291.430.16 NMAC - Rp, 8.291.430.16 NMAC, 1-1-14; A, xx-xx-15]

HISTORY OF 8.291.430 NMAC:

History of Repealed Material:

8.291.430 NMAC, Financial Responsibility Requirements, filed 9-17-13 - Duration expired 12-31-13.

TITLE 8 SOCIAL SERVICES
CHAPTER 293 MEDICAID ELIGIBILITY - PREGNANT WOMEN
PART 500 INCOME AND RESOURCE STANDARDS

8.293.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.293.500.1 NMAC - Rp, 8.293.500.1 NMAC, 1-1-14]

8.293.500.2 SCOPE: The rule applies to the general public.
[8.293.500.2 NMAC - Rp, 8.293.500.2 NMAC, 1-1-14]

8.293.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program is 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.
[8.293.500.3 NMAC - Rp, 8.293.500.3 NMAC, 1-1-14]

8.293.500.4 DURATION: Permanent.
[8.293.500.4 NMAC - Rp, 8.293.500.4 NMAC, 1-1-14]

8.293.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.293.500.5 NMAC - Rp, 8.293.500.5 NMAC, 1-1-14]

8.293.500.6 OBJECTIVE: [The objective of this rule is to provide eligibility guidelines when determining eligibility for the medical assistance division (MAD) medicaid programs and other health care programs it administers. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.

[8.293.500.6 NMAC - Rp, 8.293.500.6 NMAC, 1-1-14]

8.293.500.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
[8.293.500.7 NMAC - Rp, 8.293.500.7 NMAC, 1-1-14]

8.293.500.8 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.
[8.293.500.8 NMAC - Rp, 8.293.500.8 NMAC, 1-1-14]

8.293.500.9 RESOURCE STANDARDS: Resources are not an eligibility factor for this category of eligibility.
[8.293.500.9 NMAC - Rp, 8.293.500.9 NMAC, 1-1-14]

8.293.500.10 INCOME STANDARD:
A. Financial eligibility: An ~~[individual's]~~ applicant's financial eligibility is based on the rules in this chapter and 8.291.430 NMAC.
B. Income test: ~~[In order to become eligible for [pregnant women Medicaid, the total countable income of the budget group must be less than 138 percent of the FPL found at 8.291.430 NMAC.]~~ For a pregnant woman to meet this medical assistance program's (MAP) category of eligibility, her total countable income of the budget group must be less than 138 percent of the FPL found in 8.291.430 NMAC.
[8.293.500.10 NMAC - Rp, 8.293.500.10 NMAC, 1-1-14; A, xx-xx-15]

8.293.500.11 AVAILABLE INCOME: Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined pursuant to 8.291.430 NMAC.
[8.293.500.11 NMAC - Rp, 8.293.500.11 NMAC, 1-1-14]

8.293.500.12 INCOME ELIGIBILITY: Income from a 30 day-period is used to determine eligibility. Income from a terminated source is not counted. If an amount of income is received less frequently than monthly, that amount is converted by dividing the total income by the number of months the income is intended to cover to

determine a modified adjusted gross income for financial eligibility. For the purposes of this calculation, a partial month is considered to be one full month. Income received more frequently than monthly will be converted using the following multipliers:

- A. four (paid weekly);
- B. two (paid biweekly/semi-monthly).

[8.293.500.12 NMAC - Rp, 8.293.500.12 NMAC, 1-1-14]

8.293.500.13 DISREGARDS: [~~Disregards are not applicable for this eligibility group.~~] An income disregard according to 8.291.430 NMAC will be given only to an applicant whose countable MAGI income is at or above the income standard for a pregnant woman for the size of the budget group.

[8.293.500.13 NMAC - Rp, 8.293.500.13 NMAC, 1-1-14]

HISTORY OF 8.293.500 NMAC:

History of Repealed Material:

8.293.500 NMAC, Income and Resource Standards, filed 9-17-13 - Duration expired 12-31-13.