



Michelle Lujan Grisham, Governor  
David R. Scrase, M.D., Secretary  
Nicole Comeaux, J.D., M.P.H., Director

October 26, 2021

**Interested Parties:**

The Human Services Department (the Department), through the Medical Assistance Division (MAD), issued emergency rule changes to New Mexico Administrative Code (NMAC) rule 8.100.970, *General Provisions for Public Assistance Programs, Oversight-Program Participation Hearings* on October 26, 2021 with an effective date of November 1, 2021. The Department is re-promulgating this rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

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: October 26, 2021

Hearing Date: November 30, 2021

Adoption Date: Proposed as March 1, 2022

Technical Citations: 45 CFR 155 subpart F

**The Department is proposing to amend the rule as follows:**

**Background**

New Mexico's Health Insurance Exchange (NMHIX; aka beWellnm) is transitioning from utilizing the federal IT platform of Healthcare.gov to a state-based IT platform. Given this transition, HSD must collaborate with beWellnm on IT and program integration. One aspect of program integration pertains to appeals rights for adverse actions impacting an enrollee's eligibility for qualified health plans through NMHIX, federal tax credits and cost-sharing reductions, and other issues pertaining to NMHIX coverage. While using the federal Healthcare.gov platform, NMHIX has been working with the federal government on such appeals, when necessary. With the move to a state-based platform, NMHIX has requested that HSD take on the role of providing first tier appeals of adverse actions by enrollees. Thus, HSD must promulgate rules pertinent to providing those appeals for NMHIX enrollees or potential enrollees.

**The Department is proposing to amend the rule as follows:**

**8.100.970 – NMAC-General Provisions for Public Assistance Programs – Oversight-Program Participation Hearings.**

This rule is being updated to integrate functions of providing first tier appeals for New Mexicans purchasing coverage through New Mexico's Health Insurance Exchange (NMHIX; aka beWellnm).

The register for these proposed amendments to this rule will be available October 26, 2021 on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

The Department proposes to implement these rules effective March 1, 2022. A public hearing to receive testimony on this proposed rule will be held **via conference call** on November 30, 2021 at 10:00 a.m., Mountain Time (MT). **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [madrules@state.nm.us](mailto:madrules@state.nm.us). Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on November 30, 2021. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

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 in Santa Fe at 505-827-1337. 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 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.