



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



**I. DEPARTMENT**

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

**II. SUBJECT**

8.308.12 NMAC MANAGED CARE PROGRAM COMMUNITY BENEFIT

**III. PROGRAM AFFECTED**

(TITLE XIX) MEDICAID

**IV. ACTION**

PROPOSED RULE

**V. BACKGROUND SUMMARY**

The Human Services Department (the Department) through the Medical Assistance Division (MAD), is proposing amendments to 8.308.12 NMAC Managed Care Program, Community Benefit. Other changes in the rule are to update language, incorporate standardized rule language, and to provide additional clarification for providers and recipients in sections of the rules.

Specifically, the changes include:

**Throughout the rule:**

- HSD has added language under both Agency-Based (ABCB) and Self-Directed (SDCB) sections that requires providers to meet new Federal Home and Community-Based Settings Rule requirements.
- Clean-up of typos and clarification for consistency

**Section 7**

- Added definition of Community Benefits, Individualized Plan of Care (IPoC), and Nursing Facility Level of Care (NF LOC).
- Revised Employer of Record definition

**Sections 13 and 18**

- Removed language requiring members who live in the same household to be assessed jointly for the need for services in order to come into compliance with the above mentioned Federal rule.

- Removed the requirement that respite may only be provided to give an “unpaid” caregiver a break, and clarified that “Respite provides a temporary relief to the primary caregiver of a CB member during times when he/she would normally provide unpaid care.”

### **Section 18**

- Added “Non-medical transportation services for minors is not a covered service as these services are ones that a legally responsible individual (LRI) would ordinarily provide for household members of the same age who do not have a disability or chronic illness.”

### **Section 19**

- Added under non-covered services: “cell phone service, including data, is limited to the cost of one hundred dollars per month; ”
- Added under non-covered services: “cell phones and cell phone service for SDCB members who are minors;”
- Added under non-covered services: “home schooling materials or related supplemental materials and activities.”

## **VI. RULES**

These proposed rules will be contained in 8.308.12 NMAC. This register and the proposed rule changes 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 the Medical Assistance Division at 505-827-6252.

## **VII. EFFECTIVE DATE**

The Department proposes to implement these rules effective March 1, 2017.

## **VIII. PUBLIC HEARING**

A public hearing to receive testimony on this proposed rule will be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on December 28, 2016 at 10 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 the Division in Santa Fe at 505-827-6252. 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 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:

Human Services Department  
Office of the Secretary  
ATTN: 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. MST on December 30, 2016. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

## X. PUBLICATIONS

Publication of these rules approved by:

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

BRENT EARNEST, SECRETARY  
HUMAN SERVICES DEPARTMENT