

# NM - Submission Package - NM2023MS0002O - (NM-23-0005) - Eligibility

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DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
601 E. 12th St., Room 355  
Kansas City, MO 64106



## Center for Medicaid & CHIP Services

March 22, 2024

Dana Flannery  
Medicaid Director, NM Human Services Department  
NM Human Services Department, Medical Assistance Division  
2025 South Pacheco Drive  
P.O. Box 2348  
Santa Fe, NM 87504

Re: Approval of State Plan Amendment NM-23-0005

Dear Dana Flannery,

On March 10, 2023, the Centers for Medicare and Medicaid Services (CMS) received New Mexico State Plan Amendment (SPA) NM-23-0005, in which the state proposed to adopt the changes to the eligibility rules for the Former Foster Care Children eligibility group, as enacted by the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act, Pub. L. No. 115-217, section 1002.

We approve New Mexico State Plan Amendment (SPA) NM-23-0005 with an effective date(s) of January 01, 2023.

If you have any questions regarding this amendment, please contact Dana Brown at Dana.Brown@cms.hhs.gov.

Sincerely,  
James G. Scott  
Director  
Center for Medicaid & CHIP Services

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CMS-10434 OMB 0938-1188

## Package Information

<b>Package ID</b>	NM2023MS0002O	<b>Submission Type</b>	Official
<b>Program Name</b>	N/A	<b>State</b>	NM
<b>SPA ID</b>	NM-23-0005	<b>Region</b>	Dallas, TX
<b>Version Number</b>	6	<b>Package Status</b>	Approved
<b>Submitted By</b>	Erika Price	<b>Submission Date</b>	3/10/2023
<b>Package Disposition</b>		<b>Approval Date</b>	3/22/2024 1:49 PM EDT

**RAI**

CMS is issuing this Request for Additional Information (RAI) pursuant to Section 1915(f) of the Social Security Act (added by P.L. 97-35). This request has the effect of stopping the 90-day time period for CMS to act on the material. A new 90 day time frame will not begin until we receive your response to this request.

In accordance with our guidelines to all State Medicaid directors dated January 2, 2001, and subsequently reiterated in the August 16, 2018 Center for Medicaid and CHIP Services Informational Bulletin, if a response to a formal request for additional information from CMS is not received from the state within 90 days of issuance, CMS will initiate disapproval of the SPA or waiver action.

In addition, because this amendment was submitted after January 2, 2001 and is effective after January 1, 2001, please be advised that we will defer federal financial participation (FFP) for state payments made in accordance with this amendment until it is approved. Upon approval, FFP will be available for the period beginning with the effective date through the date of approval.

**Submission Package** NM2023MS00020  
**Authority** Eligibility  
**State** NM

**Agency Name** NM Human Services Department,  
 Medical Assistance Division  
**Submission Date** Mar 10, 2023

**All Questions**

Question ID	Reference	CMS question to the State	Policy/Regulation	State Response
1	Former Foster Care Children	<p>In its MACPro Correspondence Log responses of May 1, 2023, the state indicated that it has not yet made eligibility system changes to implement the required SUPPORT Act changes.</p> <p>Before the system changes go live, how is the state implementing the policy changes in this SPA? Are agency workers using a manual workaround, or is the state using the section 1115 demonstration as a temporary strategy to enroll individuals, or another implementation strategy?</p> <p>Does the state have an estimated timeline to begin and to go live with needed systems changes?</p>	Section 1002(a) of the SUPPORT Act; section 1902(a)(10)(A)(i)(IX) of the Social Security Act	<p>New Mexico is using a manual workaround for this population until an eligibility system can implement the policy changes in this SPA until the system changes go live. New Mexico does not accept self-attestation of former foster care status and partners with our sister Children, Youth and Families Department (CYFD) to verify an individual aged out of foster care whether aging out in New Mexico or from another state. For individuals who aged out of foster care on or after January 1, 2023, New Mexico will directly enroll into former foster care assuming the individual is not already enrolled in Medicaid.</p> <p>In terms of an estimated timeline to begin and to go live with needed system changes New Mexico has evaluated system impact and expects it would take 6-8 months to implement the required changes. Work on these changes would not begin until 2024 due to the public health unwinding effort and work around our managed care organization (MCO) procurement over the next year. New Mexico anticipates the system changes going live on January 1, 2025.</p>
2	Former Foster Care Children	<p>We are aware that New Mexico has an existing section 1115 demonstration that covers former foster care children from other states and we want to ask about the interaction between the demonstration and this SPA.</p> <p>Understanding that system</p>	Section 1002(a) of the SUPPORT Act; section 1902(a)(10)(A)(i)(IX) of the Social Security Act	<p>New Mexico will be able to identify and enroll FFCC individuals from other states whether under the SUPPORT Act or under the demonstration. CYFD will verify an individual aged out of foster care whether aging out in New Mexico or from another state and report that back to MAD. Those</p>

Question ID	Reference	CMS question to the State	Policy/Regulation	State Response
		changes have not yet been implemented, will the state be able to correctly enroll and identify FFCC individuals from other states under the state plan (under the SUPPORT Act requirements) and under the FFCC demonstration? Please describe how the state expects to be able to distinguish which beneficiaries are eligible under the state plan authority and which are eligible under the demonstration authority.		who turned age 18 and aged out on or after January 1, 2023, will be directly enrolled into former foster care as required by the SUPPORT Act.

**Submission Package was updated by the State in accordance with the response above**

- Yes
- No

# Submission - Summary

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS0002O | NM-23-0005

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<b>Approval Date</b>	03/22/2024	<b>Effective Date</b>	N/A
<b>Superseded SPA ID</b>	N/A		

## State Information

<b>State/Territory Name:</b>	New Mexico	<b>Medicaid Agency Name:</b>	NM Human Services Department, Medical Assistance Division
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## Submission Component

- State Plan Amendment
- Medicaid
- CHIP

### Submission - Summary

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS00020 | NM-23-0005

### Package Header

<b>Package ID</b> NM2023MS00020	<b>SPA ID</b> NM-23-0005
<b>Submission Type</b> Official	<b>Initial Submission Date</b> 3/10/2023
<b>Approval Date</b> 03/22/2024	<b>Effective Date</b> N/A
<b>Superseded SPA ID</b> N/A	

### SPA ID and Effective Date

**SPA ID** NM-23-0005

Reviewable Unit	Proposed Effective Date	Superseded SPA ID
Mandatory Eligibility Groups	1/1/2023	NM-22-0013
Former Foster Care Children	1/1/2023	NM-17-0005

**Page Number of the Superseded Plan Section or Attachment (If Applicable):**

## Submission - Summary

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS00020 | NM-23-0005

### Package Header

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<b>Superseded SPA ID</b>	N/A		

### Executive Summary

**Summary Description Including Goals and Objectives** Effective January 1, 2023, changes are being made to the Former Foster Care Children (FFCC) group to comply with changes made to Section 1002(a) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act. One change mandates that eligibility for the FFCC group be allowed for individuals who age out of foster care from another state than where they currently live. New Mexico already allows coverage for FFCC group individuals who age out of foster care from another state through an 1115 Waiver. New Mexico will continue to include individuals who aged out of foster care from another state prior to January 1, 2023 through the 1115 Waiver; the new State Plan change applies only to individuals who aged out of foster care from another state on or after January 1, 2023. A second change of the SUPPORT Act provides that individuals who meet the eligibility requirements of the FFCC group may be enrolled in that group, even if they meet the eligibility requirements for another mandatory group, as long as they are not actually enrolled in such group.

### Federal Budget Impact and Statute/Regulation Citation

#### Federal Budget Impact

	Federal Fiscal Year	Amount
First	2023	\$0
Second	2024	\$0

#### Federal Statute / Regulation Citation

Statute: 1902(a)(10)(A)(i)(IX); Section 1002(a)(2) of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (Pub. L. No. 115-271)  
 Regulation: 42 CFR 435.150

#### Supporting documentation of budget impact is uploaded (optional).

Name	Date Created
No items available	

## Submission - Summary

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<b>Superseded SPA ID</b>	N/A		

### Governor's Office Review

- No comment
- Comments received
- No response within 45 days
- Other



# Submission - Medicaid State Plan

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS00020 | NM-23-0005

CMS-10434 OMB 0938-1188

### The submission includes the following:

Administration

Eligibility

Income/Resource Methodologies

Income/Resource Standards

Mandatory Eligibility Groups

Reviewable Unit Name	Included in Another Source Type Submission Package
Mandatory Eligibility Groups	APPROVED

Optional Eligibility Groups

Non-Financial Eligibility

Eligibility and Enrollment Processes

Benefits and Payments

# Submission - Public Comment

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS0002O | NM-23-0005

## Package Header

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<b>Superseded SPA ID</b> N/A	

Indicate whether public comment was solicited with respect to this submission.

- Public notice was not federally required and comment was not solicited
- Public notice was not federally required, but comment was solicited
- Public notice was federally required and comment was solicited

Indicate how public comment was solicited:

- Newspaper Announcement

Name of Paper:	Date of Publication:	Locations covered:
Albuquerque Journal	2/6/2023	Northern and Central New Mexico
Las Cruces Sun News	2/6/2023	Southern New Mexico

- Publication in state's administrative record, in accordance with the administrative procedures requirements
- Email to Electronic Mailing List or Similar Mechanism
- Website Notice

Select the type of website

- Website of the State Medicaid Agency or Responsible Agency




**Date of Posting:** Feb 3, 2023

**Website URL:** <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notice-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>

- Website for State Regulations
- Other

- Public Hearing or Meeting
- Other method

Upload copies of public notices and other documents used

Name	Date Created	
<a href="#">23-0005 Former Foster Care Children (FFCC) NEWSPAPER NOTICE</a>	3/10/2023 2:20 PM EST	
<a href="#">23-0005 Former Foster Care Children (FFCC) Affidavit LCSN</a>	3/10/2023 2:21 PM EST	
<a href="#">23-0005 Former Foster Care Children (FFCC) OrdConf Alb Journal</a>	3/10/2023 2:21 PM EST	

Upload with this application a written summary of public comments received (optional)

Name	Date Created	
No items available		

**Indicate the key issues raised during the public comment period (optional)**

- Access
- Quality
- Cost
- Payment methodology
- Eligibility
- Benefits
- Service delivery
- Other issue

# Submission - Tribal Input

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS0002O | NM-23-0005

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<b>Superseded SPA ID</b>	N/A		

**One or more Indian Health Programs or Urban Indian Organizations furnish health care services in this state**

- Yes
- No

**This state plan amendment is likely to have a direct effect on Indians, Indian Health Programs or Urban Indian Organizations, as described in the state consultation plan.**

- Yes
- No

The state has solicited advice from Indian Health Programs and/or Urban Indian Organizations, as required by section 1902(a)(73) of the Social Security Act, and in accordance with the state consultation plan, prior to submission of this SPA.

**Complete the following information regarding any solicitation of advice and/or tribal consultation conducted with respect to this submission:**

**Solicitation of advice and/or Tribal consultation was conducted in the following manner:**

All Indian Health Programs

<b>Date of solicitation/consultation:</b>	<b>Method of solicitation/consultation:</b>
2/6/2023	Letter to all Native American Tribes in New Mexico

All Urban Indian Organizations


<b>Date of solicitation/consultation:</b>	<b>Method of solicitation/consultation:</b>
2/6/2023	Letter to all Native American Tribes in New Mexico

States are not required to consult with Indian tribal governments, but if such consultation was conducted voluntarily, provide information about such consultation below:

All Indian Tribes

<b>Date of consultation:</b>	<b>Method of consultation:</b>
2/6/2023	Letter to all Native American Tribes in New Mexico

**The state must upload copies of documents that support the solicitation of advice in accordance with statutory requirements, including any notices sent to Indian Health Programs and/or Urban Indian Organizations, as well as attendee lists if face-to-face meetings were held. Also upload documents with comments received from Indian Health Programs or Urban Indian Organizations and the state's responses to any issues raised. Alternatively indicate the key issues and summarize any comments received below and describe how the state incorporated them into the design of its program.**

Name	Date Created	
23-0005 Former Foster Care Children (FFCC) TN 23-01	3/10/2023 2:27 PM EST	

**Indicate the key issues raised (optional)**

- Access
- Quality
- Cost
- Payment methodology
- Eligibility

- Benefits
- Service delivery
- Other issue

# Medicaid State Plan Eligibility

## Mandatory Eligibility Groups

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS00020 | NM-23-0005

### Package Header

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<b>Superseded SPA ID</b>	NM-22-0013		
	System-Derived		

### Mandatory Coverage





**A. The state provides Medicaid to mandatory groups of individuals. The mandatory groups covered are:**

#### Families and Adults

Eligibility Group Name		Covered In State Plan	Include RU In Package	Included in Another Submission Package	Source Type
Infants and Children under Age 19		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	CONVERTED
Parents and Other Caretaker Relatives		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	CONVERTED
Pregnant Women		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="radio"/>	APPROVED
Deemed Newborns		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Children with Title IV-E Adoption Assistance, Foster Care or Guardianship Care		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Former Foster Care Children		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	APPROVED
Transitional Medical Assistance		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Extended Medicaid due to Spousal Support Collections		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW

#### Aged, Blind and Disabled

Eligibility Group Name		Covered In State Plan	Include RU In Package	Included in Another Submission Package	Source Type
SSI Beneficiaries		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Closed Eligibility Groups		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Individuals Deemed To Be Receiving SSI		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Working Individuals under 1619(b)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW
Qualified Medicare Beneficiaries		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	APPROVED
Qualified Disabled and Working Individuals		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	NEW

Eligibility Group Name		Covered In State Plan	Include RU In Package 	Included in Another Submission Package	Source Type 
Specified Low Income Medicare Beneficiaries		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	APPROVED
Qualifying Individuals		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	APPROVED

# Mandatory Eligibility Groups

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS00020 | NM-23-0005




## Package Header

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	System-Derived		

**B. The state elects the Adult Group, described at 42 CFR 435.119.**

Yes  No

### Families and Adults

Eligibility Group Name		Covered In State Plan	Include RU In Package 	Included in Another Submission Package	Source Type 
Adult Group		<input type="checkbox"/>	<input type="checkbox"/>	<input type="radio"/>	CONVERTED

**C. Additional Information (optional)**

## Eligibility Groups Deselected from Coverage

The following eligibility groups were previously covered in the source approved version of the state plan and deselected from coverage as part of this submission package:

- N/A



# Medicaid State Plan Eligibility

## Eligibility Groups - Mandatory Coverage

### Former Foster Care Children

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS00020 | NM-23-0005

Individuals under the age of 26, who were in foster care and on Medicaid when they turned age 18 or aged out of foster care.

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<b>Superseded SPA ID</b>	NM-17-0005		
	User-Entered		

The state covers the mandatory former foster care children group in accordance with the following provisions:

### A. Characteristics

Individuals qualifying under this eligibility group must meet the following criteria:

- Are under age 26
- Were in foster care upon attaining age 18 or a higher age at which the state's or Tribe's foster care assistance ends under title IV-E of the Act (up to age 21).
- Are described under either Section B. or C.

### B. Individuals Covered

For individuals who turn 18 before January 1, 2023:

#### 1. The state covers individuals who:

- Upon attaining age 18 or a higher age at which the state's or Tribe's foster care assistance ends under title IV-E of the Act (up to age 21) were:
  - In foster care under the responsibility of the state or a Tribe within the state (including children who were cared for through a grant to the state under the unaccompanied refugee minor program); and
  - Enrolled in Medicaid under the state's Medicaid state plan or 1115 demonstration; and
- Are not otherwise eligible for and enrolled for mandatory coverage under the state plan, except that eligibility under this group takes precedence over eligibility under the Adult Group.

**2. In addition to B.1., the state elects to cover individuals who were in foster care under the responsibility of the state or a Tribe within the state (including children who were cared for through a grant to the state under the unaccompanied refugee minor program) when they turned 18 or a higher age at which the state's or Tribe's foster care assistance ends under title IV-E of the Act, and meet the following criteria:**

- a. They were enrolled in Medicaid under the state's Medicaid state plan or 1115 demonstration at any time during the foster care period in which they turned 18 or a higher age at which the state's or Tribe's foster care assistance ends.
- b. They were placed by the state or Tribe in another state and were enrolled in Medicaid under the other state's Medicaid state plan or 1115 demonstration project when they turned 18 or a higher age at which the state's or Tribe's foster care assistance ends.
- c. They were placed by the state or Tribe in another state and were enrolled in Medicaid under the other state's Medicaid state plan or 1115 demonstration project at any time during the foster care period in which they turned 18 or a higher age at which the state's or Tribe's foster care assistance ends.

### C. Individuals Covered

For individuals who turn 18 on or after January 1, 2023:

#### 1. The state covers individuals who:

- Upon attaining age 18 or a higher age at which the state's or Tribe's foster care assistance ends under title IV-E of the Act (up to age 21) were:
  - In foster care under the responsibility of any state or a Tribe within any state (including children who were cared for through a grant to the state under the unaccompanied refugee minor program); and
  - Enrolled in Medicaid under a state's Medicaid state plan or 1115 demonstration; and
- Are not enrolled in mandatory coverage under the state plan, except that eligibility under this group takes precedence over eligibility under the Adult Group.

**2. In addition to C.1., the state elects to cover individuals who were in foster care under the responsibility of any state or a Tribe within any state (including children who were cared for through a grant to a state under the unaccompanied refugee minor program) when they turned 18 or a higher age at which that state's or Tribe's foster care assistance ends under title IV-E of the Act, and meet the following criteria:**

- a. They were enrolled in Medicaid under a state's Medicaid state plan or 1115 demonstration at any time during the foster care period in which they turned 18 or a higher age at which a state's or Tribe's foster care assistance ends.
- b. They were placed by a state or Tribe in another state and were enrolled in Medicaid under the other state's Medicaid state plan or 1115 demonstration project when they turned 18 or a higher age at which a state's or Tribe's foster care assistance ends.
- c. They were placed by a state or Tribe in another state and were enrolled in Medicaid under the other state's Medicaid state plan or 1115 demonstration project at any time during the foster care period in which they turned 18 or a higher age at which a state's or Tribe's foster care assistance ends.



## Former Foster Care Children

MEDICAID | Medicaid State Plan | Eligibility | NM2023MS0002O | NM-23-0005

### Package Header

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	User-Entered		

### D. Additional Information (optional)

PRA Disclosure Statement: Centers for Medicare & Medicaid Services (CMS) collects this mandatory information in accordance with (42 U.S.C. 1396a) and (42 CFR 430.12); which sets forth the authority for the submittal and collection of state plans and plan amendment information in a format defined by CMS for the purpose of improving the state application and federal review processes, improve federal program management of Medicaid programs and Children's Health Insurance Program, and to standardize Medicaid program data which covers basic requirements, and individualized content that reflects the characteristics of the particular state's program. The information will be used to monitor and analyze performance metrics related to the Medicaid and Children's Health Insurance Program in efforts to boost program integrity efforts, improve performance and accountability across the programs. Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1188. The time required to complete this information collection is estimated to range from 1 hour to 80 hours per response (see below), including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

*This view was generated on 3/22/2024 2:29 PM EDT*