



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



**I. DEPARTMENT**

NEW MEXICO HUMAN SERVICES DEPARTMENT

**II. SUBJECT**

8.320.6 NMAC, SCHOOL-BASED SERVICES FOR  
MAP ELIGIBLE RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE

**III. PROGRAM AFFECTED**

(TITLE XIX) MEDICAID

**IV. ACTION**

FINAL RULE

**V. BACKGROUND SUMMARY**

New Mexico Human Services Register Volume 42, Register 19, dated September 10, 2019, proposed to amend the New Mexico Administrative Code (NMAC) rule, 8.320.6, *School-Based Services for MAP Eligible Recipients Under Twenty-One Years of Age*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: September 10, 2019

Hearing Date: October 10, 2019

Adoption Date: February 1, 2020

Technical Citations: 34 CFR 300.142

A public hearing was held on October 10, 2019 to receive public comments and testimony on the proposed rule amendments. The Human Services Department (the Department) received one oral testimony and one written comment.

**Summary of Comments:**

**8.320.6 NMAC**

Two commenters expressed support for the proposed changes to this rule citing that the changes

will allow school-based providers in rural and underserved areas to access an increased pool of eligible practitioners who can bill for services, as these provider types already exist outside the school setting.

### **8.320.6.11 NMAC**

#### **Subsection B**

Commenters requested to add the following providers to the list of eligible providers:

Behavior Analysts meeting one of the following requirements:

- A. Board Certified Behavior Analysts (BCBA-D, BCBA);
- B. Board Certified assistant Behavior Analyst (BCaBA) under the supervision of BCBA-D or BCBA;
- C. Registered Behavior Technician (RBT) under the supervision of BCBA-D, BCBA or BCaBA.

#### **Department Response:**

The Medicaid School-Based Services (MSBS) Program covers IEP-related services that are listed under 300.34 CFR and 4.19 – B of NM Medicaid State Plan. Applied Behavior Analysis (ABA) services are not currently listed in the NM Medicaid State Plan for school-based services or recognized by NM Public Education Department (NM PED) as an IEP-related service. The department is not seeking to add additional school-based service types at this time. Further, ABA services are available to eligible recipients under 8.321 NMAC *Specialized Behavioral Health Services*. These services may be provided in the school setting if deemed appropriate.

### **VI. RULES**

These amendments will be contained in 8.320.6 NMAC. The final register and rule language are available on the HSD website at:

<https://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and

<https://www.hsd.state.nm.us/providers/rules-nm-administrative-code-.aspx>. If you do not have internet access, a copy of the final register and rules may be requested by contacting the Medical Assistance Division at (505) 827-1337.

### **VII. EFFECTIVE DATE**

This rule will have an effective date of February 1, 2020.

### **VIII. PUBLICATION**

Publication of this rule approved by:



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DAVID R. SCRASE, M.D., SECRETARY  
HUMAN SERVICES DEPARTMENT