

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Room 714  
Dallas, Texas 75202



**DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS**

March 19, 2014

Ms. Julie Weinberg, Director  
Medical Assistance Division  
New Mexico Department of Human Services  
P.O. Box 2348  
Santa Fe, New Mexico 87504

Dear Ms. Weinberg:

We have reviewed the proposed amendment to your Medicaid State Plan submitted under Transmittal Number (TN) 13-25. With the approval of TN 13-25, CMS has reviewed and approved updates to Citizenship and Non-Citizen Eligibility under Section 1903(v)(4) of the Act, and in accordance with provisions as outlined in the Affordable Care Act (ACA).

Transmittal Number 13-25 is approved with an effective date of January 1, 2014, as requested. A signed and dated copy of the Transmittal No. 13-25 summary is enclosed, along with the approved plan pages and their attachments.

If you have any questions, please contact Stacey Shuman at (214) 767-6479.

Sincerely,

A handwritten signature in black ink that reads "Bill Brooks". The signature is written in a cursive, slightly slanted style.

Bill Brooks  
Associate Regional Administrator  
Division of Medicaid & Children's Health Operations

Enclosures

**Medicaid State Plan Eligibility: Summary Page (CMS 179)**

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**State/Territory name:** New Mexico

**Transmittal Number:**

*Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY = the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.*

NM-13-0025

**Proposed Effective Date**

01/01/2014 (mm/dd/yyyy)

**Federal Statute/Regulation Citation**

42 CFR 435.406, 42 CFR 435.956, 42 CFR 435.4,1902(a)(46)(B), 8 U.S.C. 1611, 1612, 1613, and 1641, and 19

**Federal Budget Impact**

	Federal Fiscal Year	Amount
First Year	2014	\$ 0.00
Second Year	2015	\$ 0.00

**Subject of Amendment**

S89 Non-Financial Eligibility : Updates Citizenship and Non-Citizen Eligibility under Section 1903(v)(4) of the Act.

**Governor's Office Review**

Governor's office reported no comment

Comments of Governor's office received

Describe:

No reply received within 45 days of submittal

Other, as specified

Describe:

Authority Delegated to Medicaid Director

**Signature of State Agency Official**

Submitted By: Caitlin Kuennen Breen

Last Revision Date: Mar 4, 2014

Submit Date: Jan 13, 2014

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Date Received: 1/13/14

Date Approved: 3/19/14

Signature of Regional Official:



PRINTED NAME and Title: Bill Brooks, Associate Regional Administrator  
Division of Medicaid and Children's Health

**Medicaid State Plan Eligibility: Summary Page (CMS 179)**

**State/Territory name:** New Mexico

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**Governor's Office Review**

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Describe:

[Empty text box for describing Governor's office comments]

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**Signature of State Agency Official**

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Last Revision Date: Mar 4, 2014

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Date Received: 1/13/14

Date Approved: 3/19/14

Signature of Regional Official:

PRINTED NAME and Title: Bill Brooks, Associate Regional Administrator  
Division of Medicaid and Children's Health

**SUPERSEDING PAGES OF  
STATE PLAN MATERIAL**

**TRANSMITTAL NUMBER:**

NM 13-25

**STATE:**

New Mexico

**PAGE NUMBER OF THE PLAN SECTION OR  
ATTACHMENT:**

S89 Non-Financial Eligibility- Citizenship and Non-Citizen Eligibility

**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):**

Attachment 2.6-A: Page 2a, TN 09-08  
Attachment 2.6-A: Page 2b, TN 09-08  
Attachment 2.6-A, Page 2c, TN 09-08

TN No: 13-25

APPROVAL DATE: 3/19/14

EFFECTIVE DATE: 1/1/14

STATE: NEW MEXICO

SUPERSEDING DOCUMENT



# Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

<b>Non-Financial Eligibility</b> <b>Citizenship and Non-Citizen Eligibility</b>	<b>S89</b>
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1902(a)(46)(B)  
8 U.S.C. 1611, 1612, 1613, and 1641  
1903(v)(2),(3) and (4)  
42 CFR 435.4  
42 CFR 435.406  
42 CFR 435.956

### Citizenship and Non-Citizen Eligibility

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42 CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

- The state provides Medicaid eligibility to otherwise eligible individuals:
  - Who are citizens or nationals of the United States; and
    - Who are qualified non-citizens as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (8 U.S.C. §1641), or whose eligibility is required by section 402(b) of PRWORA (8 U.S.C. §1612(b)) and is not prohibited by section 403 of PRWORA (8 U.S.C. §1613); and
    - Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or satisfactory immigration status consistent with requirements of 1903(x), 1137(d), 1902(ee) of the SSA and 42 CFR 435.406, and 956.

The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

The agency provides for an extension of the reasonable opportunity period if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency needs more time to complete the verification process.

Yes     No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes     No

The date benefits are furnished is:

- The date of application containing the declaration of citizenship or immigration status.
- The date the reasonable opportunity notice is sent.
- Other date, as described:

TN No: 13-25

APPROVAL DATE: 3/19/14

EFFECTIVE DATE: 1/1/14

STATE: NEW MEXICO

SUPERSEDES: NEW PAGE



# Medicaid Eligibility

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes  No

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes  No

Pregnant women

Individuals under age 21:

Individuals under age 21

Individuals under age 20

Individuals under age 19

An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.

An individual is considered to be lawfully present in the United States if he or she:

1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);

2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));

3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;

4. Is a non-citizen who belongs to one of the following classes:

Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;

Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;

Granted employment authorization under 8 CFR 274a.12(c);

Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;

Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;

Granted Deferred Action status;

Granted an administrative stay of removal under 8 CFR 241;

Beneficiary of approved visa petition who has a pending application for adjustment of status;

5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who -

Has been granted employment authorization; or

TN NO: 13-25

APPROVAL DATE: 3/19/14

EFFECTIVE DATE: 1/1/14

Is under the age of 14 and has had an application pending for at least 180 days;

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SUPERSEDES: NEW PAGE





# Medicaid Eligibility

6. Has been granted withholding of removal under the Convention Against Torture;
7. Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. 7105(b));
10. Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.

Other

The state assures that it provides limited Medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the SSA and implemented at 42 CFR 440.255, to the following individuals who meet all Medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status and/or present an SSN:



Qualified non-citizens subject to the 5 year waiting period described in 8 U.S.C. 1613;

Non-qualified non-citizens, unless covered as a lawfully residing child or pregnant woman by the state under the option in accordance with 1903(v)(4) and implemented at 435.406(b).

### PRA Disclosure Statement

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 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, 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.

TN No: 13-25  
STATE: NEW MEXICO

APPROVAL DATE: 3/19/14  
SUPERSEDES: NEW PAGE

EFFECTIVE DATE: 1/1/14



# Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

<b>Non-Financial Eligibility Citizenship and Non-Citizen Eligibility</b>	<b>S89</b>
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1902(a)(46)(B)  
8 U.S.C. 1611, 1612, 1613, and 1641  
1903(v)(2),(3) and (4)  
42 CFR 435.4  
42 CFR 435.406  
42 CFR 435.956

## Citizenship and Non-Citizen Eligibility

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42

CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

The state provides Medicaid eligibility to otherwise eligible individuals:

Who are citizens or nationals of the United States; and

Who are qualified non-citizens as defined in section 431 of the Personal Responsibility and Work Opportunity

Reconciliation Act (PRWORA) (8 U.S.C. §1641), or whose eligibility is required by section 402(b) of PRWORA (8 U.S.C. §1612(b)) and is not prohibited by section 403 of PRWORA (8 U.S.C. §1613); and

Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or satisfactory immigration status consistent with requirements of 1903(x), 1137(d), 1902(ee) of the SSA and 42 CFR 435.406, and 956.

The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

The agency provides for an extension of the reasonable opportunity period if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency needs more time to complete the verification process.

Yes     No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes     No

The date benefits are furnished is:

The date of application containing the declaration of citizenship or immigration status.

The date the reasonable opportunity notice is sent.

Other date, as described:





# Medicaid Eligibility

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes  No

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes  No

Pregnant women

Individuals under age 21:

Individuals under age 21

Individuals under age 20

Individuals under age 19

An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.

An individual is considered to be lawfully present in the United States if he or she:

1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);
2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));
3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
4. Is a non-citizen who belongs to one of the following classes:
  - Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
  - Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;
  - Granted employment authorization under 8 CFR 274a.12(c);
  - Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;
  - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
  - Granted Deferred Action status;
  - Granted an administrative stay of removal under 8 CFR 241;
  - Beneficiary of approved visa petition who has a pending application for adjustment of status;
5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C.1231, or under the Convention Against Torture who -
  - Has been granted employment authorization; or
  - Is under the age of 14 and has had an application pending for at least 180 days;



# Medicaid Eligibility

6. Has been granted withholding of removal under the Convention Against Torture;
7. Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. 7105(b));
10. Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.

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The state assures that it provides limited Medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the SSA and implemented at 42 CFR 440.255, to the following individuals who meet all Medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status and/or present an SSN:

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Non-qualified non-citizens, unless covered as a lawfully residing child or pregnant woman by the state under the option in accordance with 1903(v)(4) and implemented at 435.406(b).

## PRA Disclosure Statement

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**SUPERSEDING PAGES OF  
STATE PLAN MATERIAL**

**TRANSMITTAL NUMBER:**

NM 13-25

**STATE:**

New Mexico

**PAGE NUMBER OF THE PLAN SECTION OR  
ATTACHMENT:**

S89 Non-Financial Eligibility- Citizenship and Non-Citizen Eligibility

**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):**

Attachment 2.6-A: Page 2a, TN 09-08  
Attachment 2.6-A: Page 2b, TN 09-08  
Attachment 2.6-A, Page 2c, TN 09-08



# Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

**Non-Financial Eligibility**  
**Citizenship and Non-Citizen Eligibility** **S89**

1902(a)(46)(B)  
8 U.S.C. 1611, 1612, 1613, and 1641  
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**Citizenship and Non-Citizen Eligibility**

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42

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The state provides Medicaid eligibility to otherwise eligible individuals:

Who are citizens or nationals of the United States; and

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Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or

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The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

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Yes  No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes  No

The date benefits are furnished is:

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Other date, as described:

TN No: 13-25

APPROVAL DATE: 3/19/14

EFFECTIVE DATE: 1/1/14

STATE: NEW MEXICO

SUPERSEDES: NEW PAGE





# Medicaid Eligibility

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes     No

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes     No

Pregnant women

Individuals under age 21:

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An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.

An individual is considered to be lawfully present in the United States if he or she:

1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);

2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));

3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;

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5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C.1231, or under the Convention Against Torture who -

Has been granted employment authorization; or

TN No: 13-25    APPROVAL DATE: 3/19/14    EFFECTIVE DATE: 1/1/14  
STATE: NEW MEXICO    SUPERSEDES: NEW PAGE





# Medicaid Eligibility

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TN No: 13-25

APPROVAL DATE: 3/19/14

EFFECTIVE DATE: 1/1/14

STATE: NEW MEXICO

SUPERSEDES: NEW PAGE

## Medicaid State Plan Eligibility: General Information

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*State/Territory name:* New Mexico

*Transmittal Number:* NM-13-0025

### *General Information*

*Submission Title:* New Mexico Medicaid - Citizenship & Immigration Status (S89)

*Description:* S89 - State affirms citizenship regulations, specifies reasonable opportunity options, and specifies policy options related to immigrant eligibility

### *Populations Covered:*

#### *Mandatory Coverage:*

- Parents and Other Caretaker Relatives
- Pregnant Women
- Infants and Children under Age 19
- Adult Group
- Former Foster Care Children

#### *Options for Coverage:*

- Individuals above 133% FPL
- Optional Coverage of Parents and Other Caretaker Relatives
- Reasonable Classification of Individuals under Age 21
- Children with Non IV-E Adoption Assistance
- Optional Targeted Low Income Children
- Individuals with Tuberculosis
- Independent Foster Care Adolescents
- Individuals Eligible for Family Planning Services

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## Medicaid State Plan Eligibility: File Management Summary

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Type of SPA	Form Code	Form Name/Description	Uploaded?
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Type of SPA	Form Code	Form Name/Description	Uploaded?	
Citizenship & Immigration Status	S89	State affirms citizenship regulations, specifies reasonable opportunity options, and specifies policy options related to immigrant eligibility	yes	<a href="#">View</a>

### Support Documents

*Please provide a short description of this support document:* Superseding Page Document - S89

*Uploaded Document Name:* NM\_S89\_Superseding\_Page\_Document\_Jan 2014.doc

### Medicaid State Plan Eligibility: Tribal Input

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One or more Indian Health Programs or Urban Indian Organizations furnish health care services in this State.

This State Plan Amendment is likely to have a direct effect on Indians, Indian health programs or Urban Indian Organizations.

The State has solicited advice from Indian Health Programs, Urban Indian Organizations, and/or Tribal governments prior to submission of this State Plan Amendment.

*Complete the following information regarding any tribal consultation conducted with respect to this submission:*

Tribal consultation was conducted in the following manner. States are not required to consult with Indian tribal governments, but if such consultation was conducted voluntarily, provide information about such consultation below:

- Indian Tribes
- Indian Health Programs
- Urban Indian Organization

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.

Documents:

*Please provide a short description of this support document:* Copy of tribal consultation letter seeking advice or comments on SPAs; sent October 23, 2013

*Uploaded Document Name:* SPA TC Letter 10 23 13.pdf

*Please provide a short description of this support document:* August 29, 2013 Tribal Consultation: Agenda, Sign-In sheets (attendee lists), lists of topics (SPAs) for discussion and anticipated impact, presentation on the application, eligibility/enrollment process, expansion, etc

*Uploaded Document Name:* Aug 29 13 Tribal Consultation documents.pdf

*Please provide a short description of this support document:* Mailing lists containing the names and other contact details for the IHS and 638 facilities to which the notices were sent.

*Uploaded Document Name:* IHS 638FacilityList - Mailing Addresses.xls

*Please provide a short description of this support document:* Mailing lists containing the names and other contact details for the tribal governors to whom the notices were sent.

*Uploaded Document Name:* Tribal Governors Mailing Lists.docx

## **Medicaid State Plan Eligibility: Summary Page (CMS 179)**

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*State/Territory name:* New Mexico

*Transmittal Number:* NM-13-0025

*Proposed Effective Date :* 01/01/2014

*Federal Statute/Regulation Citation :* 42 CFR 435.406, 42 CFR 435.956, 42 CFR 435.4,1902(a)(46)(B), 8 U.S.C. 1611, 1612, 1613, and 1641, and 1903(v)(2),(3) and (4)

*Federal Budget Impact*

	Federal Fiscal Year	Amount
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First Year	2014	\$ 0
Second Year	2015	\$ 0

*Subject of Amendment* : S89 Non-Financial Eligibility : Updates Citizenship and Non-Citizen Eligibility under Section 1903(v)(4) of the Act.

*Governor's Office Review*

- Governor's office reported no comment
- Comments of Governor's office received
- No reply received within 45 days of submittal
- Other, as specified : Authority Delegated to the Medicaid Director

Signature of State Agency Official



Submitted By:

Last Revision Date:

Submit Date: