



HEALTH CARE  
AUTHORITY  
Michelle Lujan Grisham, Governor  
Kari Armijo, Secretary  
Dana Flannery, Medicaid Director

October 22, 2024

RE: Tribal Notification to Request Advice and Comments Letter 24-21: Amendments to NMAC 8.200.400, *Medicaid Eligibility-General Recipient Rules-General Medicaid Eligibility*.

Dear Tribal Leadership, Indian Health Service, Tribal Health Providers, and Other Interested Parties:

Seeking advice and comments from New Mexico's Indian Nations, Tribes, Pueblos and their health care providers is an important component of the government-to-government relationship with the State of New Mexico. In accordance with the New Mexico Health Care Authority's (HCA's) Tribal Notification to Request Advice and Comments process, this letter is to inform you that HCA, through the Medical Assistance Division (MAD), is accepting written comments until **5:00 p.m., Mountain Time (MT) on November 22, 2024**, regarding amendments to New Mexico Administrative Code (NMAC) 8.200.400, *Medicaid Eligibility-General Recipient Rules-General Medicaid Eligibility*, that went into effect on October 1, 2024. HCA is re-promulgating these sections of the 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 22, 2024

Hearing Date: November 22, 2024

Adoption Date: Proposed as January 1, 2025

Technical Citations: 42 Code of Federal Regulations (CFR) 435.909(2)(b)

### **Background**

The federal Department of Health and Human Services issued a final rule (federal register/Vol. 88, No. 182) dated September 21, 2023, regarding Medicare Savings Program eligibility determination and enrollment. The final rule requires that by October 1, 2024, states must deem Medicare-enrolled Supplemental Security Income (SSI) Medicaid recipients into the Qualified Medicare Beneficiary (QMB) eligibility group who are entitled to premium-free Part A.

For individuals enrolled in Part B only the Department can at state option automatically deem individuals enrolled in SSI Medicaid eligible for the QMB eligibility group the first month they are both enrolled in Part B and eligible for a Medicare enrollment period bypassing the need for actual or conditional Part A at the Social Security Administration. The Department intends to take up this state option which has been incorporated into this rule change. The effective date for this option is dependent on the Centers for Medicare and Medicaid (CMS) readiness to accept these enrollments from the Department.

SSI Medicaid beneficiaries deemed into the QMB group would get a twelve (12) month certification period for QMB. At renewal the Department would only need to verify that the individual continues to receive SSI and continued Medicare Part A coverage to renew QMB for another twelve (12) months. The regular renewal process for QMB would apply when an individual loses their SSI Medicaid.

The final federal rule, effective January 1, 2024, limits the state's liability for retroactive Part B premiums for full-benefit Medicaid beneficiaries, including individuals receiving SSI Medicaid, to a period of no greater than thirty-six (36) months prior to the date of the Medicare enrollment determination.

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

**8.200.400 NMAC**

Section 1 is being amended to reflect the change from the Human Services Department (HSD) to the Health Care Authority (HCA).

Section 8 is amended to reflect the new mission statement for the Health Care Authority.

Section 15 is amended to add the following new text:

**Automatic enrollment of SSI recipients in the QMB group:**

**A.** SSI recipients entitled to premium-free part A: Effective October 1, 2024, the HCA shall automatically deem SSI recipients into QMB the first month they are eligible for SSI Medicaid and entitled to premium-free part A. The start of the part B buy-in coverage is the first month of entitlement to premium-free part A and the QMB eligibility group coverage is the first day of the following month.

**B.** SSI recipients enrolled in part B only: Effective upon the centers for medicare and medicaid services (CMS) and HCA systems' capacity, the HCA shall automatically deem individuals enrolled in SSI medicaid eligible for the QMB eligibility group the first month they are both enrolled in part B and eligible for a medicare enrollment period, bypassing the need for actual or conditional part A enrolment at the social security administration.

**C.** Effective January 1, 2024, the HCA's liability for retroactive part B premiums for full-benefit medicaid beneficiaries, including individuals receiving SSI medicaid, is limited to a period of no greater than 36 months prior to the date of the medicare enrollment determination.

**D.** For SSI medicaid recipients deemed eligible for the QMB group, renewal for QMB is required only to the extent to verify that an individual continues to receive SSI medicaid and has continued medicare part A coverage. The regular renewal process for QMB applies when an individual loses their SSI medicaid.

**Estimated Total Financial Impact**

The HCA does not anticipate increased costs associated with automatically enrolling SSI individuals with premium-free Part A into the QMB group as Part B is covered due to SSI enrollment. Taking up the option to cover SSI recipients enrolled in Part B only to bypass the

need for actual or conditional Part A at the Social Security Administration will result in some increased costs which are anticipated to be low because there are very few individuals who have Part B only.

### **Tribal Impact**

The HCA anticipates this change as having a positive tribal impact because Native Americans who lose their SSI will have QMB coverage to continue to pay their Medicare premiums.

### **Tribal Advice and Comments**

Tribes and tribal healthcare providers may view the proposed 8.200.400 NMAC on the HCA webpage at: <https://www.hca.nm.gov/providers/written-tribal-consultations/>. *Notification letter 24-21.*

A written copy of these documents may be requested by contacting the HCA Medical Assistance Division (HCA/MAD) in Santa Fe at (505) 827-1337.

### **Important Dates**

A public hearing to receive testimony on this proposed rule will be held on **November 22, 2024, at 9:30 a.m.** The hearing will be held at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Zoom.

### **Join Zoom Meeting**

<https://us02web.zoom.us/j/86854369692?pwd=5ZgZxVLqnJap398D4tMmkaJ2QG7dYM.1> or by phone 833-548-0282, US Toll-free.

**Meeting ID:** 868 5436 9692

**Passcode:** 458698

**Written advice and comments must be received no later than 5:00 p.m. MT on November 22, 2024.** Please send your advice, comments or questions to the MAD Native American Liaison, Theresa Belanger, at (505) 670-8067 or by email to [theresa.belanger@hca.nm.gov](mailto:theresa.belanger@hca.nm.gov).

All comments and responses will be compiled and made available after January 1, 2025.

Sincerely,



Dana Flannery, Director  
Medical Assistance Division