

NMAC

Transmittal Form

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Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: (ALD Use Only)
New Amendment Repeal Emergency Renumber Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

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Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

8.280.400 NMAC is being amended to include the following:

1. Addition of the Department's Mission Statement;
2. Language to clarify the requirements that apply to applicants, recipients, or both groups. The individual requirements are more clearly grouped. A fourth subsection, D, has been added in accordance with 42 Code of Federal Regulations (CFR) 460.150 which requires all applicants, upon enrollment into PACE, to be able to live in the community setting without jeopardy to their health and safety.

One (1) public comment was received and reviewed. The public comment was not incorporated into the rule as the information that was requested to be added, is not included in the NMAC, rather in the agreement between CMS, HSD, and the PACE provider.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

David R. Scrase

Check if authority has been delegated

Title:

Secretary

Signature: (BLACK ink only)

DocuSigned by:
David R. Scrase, M.D.

Date signed:

1/5/2021

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This is an amendment to 8.280.400 NMAC, Sections 8, 10, 11 and 12 effective 2/1/2021.

8.280.400.8 ~~[RESERVED]~~ **MISSION STATEMENT:** To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.

[8.280.400.8 NMAC - N, 2/1/2021]

8.280.400.10 BASIS FOR DEFINING THE GROUP: ~~[Applicants/recipients]~~ Recipients and eligible applicants must live in certain designated zip codes within New Mexico. A PACE recipient cannot concurrently receive other medicaid home and community-based services. A PACE recipient may be placed in a qualifying nursing facility upon a medical doctor's orders and continue to participate in PACE. Upon disenrollment from PACE, a former PACE recipient may receive institutional care (IC) medicaid services as long as the individual meets all IC medicaid eligibility requirements. PACE recipients can concurrently receive the qualified medicare beneficiaries program (QMB), the specified low income medicare beneficiaries program (SLIMB), or supplemental security income (SSI). For PACE applicants/recipients who receive SSI benefits no further verification of income, resources, citizenship, age, disability, or blindness is required.

[8.280.400.10 NMAC - Rp, 8.280.400.10 NMAC, 1/1/2019; A, 2/1/2021]

8.280.400.11 [SPECIAL] APPLICANT AND RECIPIENT REQUIREMENTS: ~~[Applicants/recipients must be 55 years of age or older. Applicants/recipients must be determined blind or disabled if under the age of 65 years.] Applicants must live within the designated PACE service area and meet all of the criteria listed below at the time of application and enrollment.~~

A. ~~[To be considered blind, an applicant/recipient must have central visual acuity of 20/200 or less with corrective lenses or must be considered blind for practical purposes. To be considered disabled, an applicant/recipient must be unable to engage in any substantial gainful activity, because of any medically determinable physical, developmental, or mental impairment which has lasted, or is expected to last, for a continuous period of at least 12 months. If a determination of blindness or disability has not been made, the income support division worker will submit medical reports to the disability determination unit.] Applicants must be 55 years of age or older. Applicants/recipients must be determined blind or disabled if under the age of 65 years.~~

(1) To be considered blind, an applicant/recipient must have central visual acuity of 20/200 or less with corrective lenses or must be considered blind for practical purposes.

(2) To be considered disabled, an applicant/recipient must be unable to engage in any substantial gainful activity, because of any medically determinable physical, developmental, or mental impairment which has lasted, or is expected to last, for a continuous period of at least 12 months.

(3) If a determination of blindness or disability has not been made, the income support division worker will submit medical reports to the disability determination unit.

B. Level of care requirements must be met in addition to all other requirements. An ~~[applicant/recipient]~~ applicant or recipient must be eligible for institutional ~~[(nursing home)]~~ nursing facility level of care as determined by the medical assistance division (MAD) utilization review contractor. An institutional level of care must be recommended for the ~~[applicant/recipient]~~ applicant or recipient by a PACE physician licensed to practice medicine or osteopathy in the state of New Mexico. Institutions are defined as acute care hospitals, nursing facilities (either high NF or low NF as defined by medicaid regulations) and intermediate care facilities for individuals with intellectual disabilities (ICF/IID). Level of care determinations are performed by the MAD utilization review contractor. Level of care for approved recipients will be determined on an annual basis.

C. An interview is required at initial application in accordance with 8.281.400.11 NMAC.

D. Upon enrollment, applicants must be able to live in a community setting without jeopardizing their individual health and safety. The ability to live safely in the home and community is determined by the PACE organization's interdisciplinary team.

[8.280.400.11 NMAC - Rp, 8.280.400.11 NMAC, 1/1/2019; A, 2/1/2021]

8.280.400.12 RECIPIENT RIGHTS AND RESPONSIBILITIES: ~~[An applicant/recipient is]~~ Applicants and recipients are responsible for establishing [his] eligibility for medicaid. As part of this responsibility, the [applicant/recipient] applicant or recipient must provide required information and documents or take the actions necessary to establish eligibility. Failure to do so must result in a decision that eligibility does not exist.

[8.280.400.12 NMAC - Rp, 8.280.400.12 NMAC, 1/1/2019; A, 2/1/2021]