



## DISABILITY RIGHTS NEW MEXICO

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Gary Housepian, Chief Executive Officer

*Promoting and Protecting the Rights of Persons with Disabilities*

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Human Services Department  
P.O. Box 2348  
Santa Fe, NM 87504

*Transmitted as a PDF attachment via email to [madrules@state.nm.us](mailto:madrules@state.nm.us)*

**Re: Comments on proposed revisions to NMAC 8.201.400 Medicaid Eligibility-Medicaid Extension Categories**

To Whom It May Concern:

Disability Rights New Mexico (DRNM) is the state's Protection & Advocacy agency, a federally-mandated private nonprofit organization serving to protect, promote, and expand the rights of people with disabilities in New Mexico. DRNM offers the following comments regarding the proposed changes to the New Mexico Administrative Code (NMAC) rules 8.201.400 Medicaid Eligibility- Medicaid Extension Categories.

Termination of Supplemental Security Income (SSI) benefits and the resulting loss of Medicaid coverage can be catastrophic to recipients with disabilities, who often have intensive medical needs. Accordingly, DRNM applauds the decision by the Human Services Department, Medical Assistance Division (MAD) to extend Medicaid coverage to SSI beneficiaries for two months following termination of SSI benefits, and to create an ex parte process to determine whether beneficiaries remain eligible for Medicaid under an alternative category.

Provision of an ex parte process is consistent with Centers for Medicare & Medicaid Services (CMS) guidance (see *Letter to State Medicaid Directors*, issued April 22, 1997, accessible at <https://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD042297.pdf>), which identifies an obligation by State Medicaid programs to affirmatively exhaust all potential categories of Medicaid eligibility before terminating coverage.

Under this obligation, the State must use all available information to determine a recipient's continued eligibility for Medicaid under an alternative category. If the information in the recipient's file is insufficient, the State must contact the recipient to obtain additional facts adequate to determine eligibility. When the State makes the eligibility determination, it must notify the recipient and, in the event of a finding of ineligibility, provide opportunity for appeal.

DRNM encourages MAD to acknowledge in the proposed changes to NMAC 8.201.400 the State's obligation to collect additional information from beneficiaries when needed to make Medicaid eligibility determinations, to continue Medicaid coverage pending eligibility determinations, and to provide recipients with notice and the opportunity to appeal when decisions are rendered.

Sincerely,



Carrisa Tashiro  
Attorney