



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



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

- 8.227.600 NMAC, *Transitional Medicaid Eligibility - Loss of JUL Family Medicaid Due to Child or Spousal Support, Benefit Description,*
8.228.600 NMAC, *Transitional Medicaid Eligibility - Loss of JUL Family Medicaid, Benefit Description,*
8.291.410 NMAC, *Medicaid Eligibility - Affordable Care, General Recipient Requirements,*
8.291.430 NMAC, *Medicaid Eligibility - Affordable Care, Financial Responsibility Requirements and*
8.293.500 NMAC, *Medicaid Eligibility - Pregnant Women, Income and Resource Standards*

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

PROPOSED RULES

V. BACKGROUND SUMMARY

The Human Services Department through the Medical Assistance Division (MAD) is proposing to amend the following rules as part of the New Mexico Administrative Code (NMAC):

8.227.600 NMAC, *Transitional Medicaid Eligibility - Loss of JUL Family Medicaid Due to Child or Spousal Support, Benefit Description,* 8.228.600 NMAC, *Transitional Medicaid Eligibility - Loss of JUL Family Medicaid, Benefit Description,* 8.291.400 NMAC, *Medicaid Eligibility - Affordable Care, Eligibility Requirements,* 8.291.410 NMAC, *Medicaid Eligibility - Affordable Care, General Recipient Requirements* and 8.293.500 NMAC, *Medicaid Eligibility - Pregnant Women, Income and Resource Standards.*

In Section 9 of 8.227.600 NMAC, the proposed amendment will remove the following sentence: "Effective January 1, 2014, the loss of JUL family medicaid from increased child or spousal support will not qualify recipients for transitional medicaid."

In Section 9 of 8.228.600 NMAC, the proposed amendment will remove the following sentence: "Effective January 1, 2014, the loss of JUL medicaid from increased earnings from employment does not qualify recipients for transitional medicaid."

The proposed changes to 8.227.600 NMAC and 8.228.600 NMAC is meant to clarify that JUL Medicaid is still an active category of eligibility for existing eligible recipients and by removing this sentence, current JUL Medicaid recipients may be eligible for Transitional Medicaid.

In Section 15 of 8.291.410 NMAC, the proposed amendment will add the following sentence: “An individual may be temporarily absent from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined the individual is a resident there for purposes of Medicaid.” The proposed addition of this sentence is to clarify that if another state has determined eligibility for Medicaid, the person will be considered absent from the state.

In Section 11 of 8.291.430 NMAC, the proposed amendment will include the monthly income limit for the Pregnant Women category of eligibility. In Section 10 and 13 of 8.293.500 NMAC, the proposed amendment will clarify language for consistency with 8.291.430 NMAC. The income standard for Pregnant Women is currently up to 138% of the Federal Poverty Level (FPL). Since New Mexico did not have the 138% FPL standard in place prior to January 1, 2014, the Centers for Medicare and Medicaid Services (CMS) will not allow the state to increase the FPL for Pregnant Women up to 138% FPL. As a result New Mexico must use the same fixed dollar amount per household size that is used for the Parent/Caretaker category which approximates to about 47% FPL. Pregnant women above the income standard for Pregnant Women can still qualify for Pregnancy-Related Services up to 250% FPL.

VI. RULES

The above referenced rule will be contained in the Medical Assistance Division Program Eligibility Policy Manual. All manual sections are available on the Medical Assistance Division web site at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and the corresponding rules posted at on our website at <http://www.hsd.state.nm.us/LookingForInformation/medical-assistance-division-1.aspx> . If you do not have internet access, a copy of the rules may be requested by contacting the Medical Assistance Division at 505-827-3152.

VII. EFFECTIVE DATE

The Department proposes to implement these rules effective May 30, 2014.

VIII. PUBLIC HEARING

A public hearing to receive testimony on the proposed amendment will be held at the South Park Conference Room, 2055 S. Pacheco, Santa Fe, NM on Wednesday, May 14, 2014 at 1:00 p.m.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD toll free at 1-888-997-2583 and ask for extension 7-3152. In Santa Fe, call 827-3152. The Department’s TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe, by

calling 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available after May 30, 2014 by MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

IX. ADDRESS

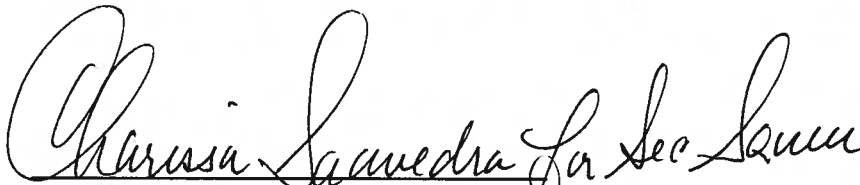
Interested persons may address written or recorded comments to:

Sidonie Squier, Secretary
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

These comments must be received no later than 5 p.m. on Wednesday, May 14, 2014. Written and recorded comments will be given the same consideration as testimony made at the public hearing. Interested persons may address comments via telephone to 505-827-3152 or via electronic mail to: Cedric.Chavez@state.nm.us.

X. PUBLICATION

Publication of these rules approved by:


SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

4-15-14

TITLE 8 SOCIAL SERVICES
CHAPTER 227 TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID DUE TO CHILD OR SPOUSAL SUPPORT
PART 600 BENEFIT DESCRIPTION

8.227.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.227.600.1 NMAC - Rp, 8.227.600.1 NMAC, 1-1-14]

8.227.600.2 SCOPE: The rule applies to the general public.
[8.227.600.2 NMAC - Rp, 8.227.600.2 NMAC, 1-1-14]

8.227.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.227.600.3 NMAC - Rp, 8.227.600.3 NMAC, 1-1-14]

8.227.600.4 DURATION: Permanent.
[8.227.600.4 NMAC - Rp, 8.227.600.4 NMAC, 1-1-14]

8.227.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.227.600.5 NMAC - Rp, 8.227.600.5 NMAC, 1-1-14]

8.227.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.227.600.6 NMAC - Rp, 8.227.600.6 NMAC, 1-1-14]

8.227.600.7 DEFINITIONS: [RESERVED]

8.227.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.227.600.8 NMAC - N, 1-1-14]

8.227.600.9 BENEFIT DESCRIPTION: When a JUL medicaid assistance unit receives medicaid in three of the most recent six months, and loses medicaid wholly or in part due to new or increased child or spousal support, the assistance unit is eligible for transitional medicaid for four calendar months. A medicaid eligible recipient under this category is eligible to receive the full range of medicaid covered services. ~~[Effective January 1, 2014, the loss of JUL family medicaid from increased child or spousal support will not qualify recipients for transitional medicaid.]~~ The eligibility requirements for transitional medicaid effective January 1, 2014 can be found in 8.297.400 NMAC.
[8.227.600.9 NMAC - Rp, 8.227.600.9 NMAC, 1-1-14; A, 5-30-14]

8.227.600.10 BENEFIT DETERMINATION: Income support division (ISD) determines initial and ongoing eligibility.
[8.227.600.10 NMAC - Rp, 8.227.600.10 NMAC, 1-1-14]

8.227.600.11 INITIAL BENEFITS: Notice of the ineligibility for JUL medicaid and eligibility for Category 027 medicaid benefits for four months is generated and mailed to recipients.
[8.227.600.11 NMAC - Rp, 8.227.600.11 NMAC, 1-1-14]

8.227.600.12 ONGOING BENEFITS: At the end of the four month period, notice of the case closure is mailed to the recipient. If the JUL medicaid case with child support income is closed because of loss of the earned

income disregard but eligibility would have continued if the earned income disregard were allowed, the recipient may be eligible for transitional medicaid. A separate application for transitional medicaid must be submitted. [8.227.600.12 NMAC - Rp, 8.227.600.12 NMAC, 1-1-14]

8.227.600.13 PERIODIC REDETERMINATIONS OF ELIGIBILITY:

A. Redetermination of eligibility is not applicable. A four month period of eligibility following JUL medicaid is established, without a new eligibility determination or application. Increases in income are disregarded. Refer to 8.227.400 NMAC.

B. If the combined certification period for JUL medicaid and Category 027 is fewer than 12 months, the remaining months within the 12-month continuous eligibility period for a child is extended through the child's Category 032 program without a new eligibility determination or application.

C. All changes that may affect eligibility must be reported within 10 calendar days from the date of the change as detailed in 8.200.430 NMAC.

[8.227.600.13 NMAC - N, 1-1-14]

HISTORY OF 8.227.600 NMAC:

History of Repealed Material:

8.227.600 NMAC, Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

TITLE 8 SOCIAL SERVICES
CHAPTER 228 TRANSITIONAL MEDICAID ELIGIBILITY - LOSS OF JUL FAMILY MEDICAID
PART 600 BENEFIT DESCRIPTION

8.228.600.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.228.600.1 NMAC - Rp, 8.228.600.1 NMAC, 1-1-14]

8.228.600.2 SCOPE: The rule applies to the general public.
[8.228.600.2 NMAC - Rp, 8.228.600.2 NMAC, 1-1-14]

8.228.600.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.228.600.3 NMAC - Rp, 8.228.600.3 NMAC, 1-1-14]

8.228.600.4 DURATION: Permanent.
[8.228.600.4 NMAC - Rp, 8.228.600.4 NMAC, 1-1-14]

8.228.600.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.228.600.5 NMAC - Rp, 8.228.600.5 NMAC, 1-1-14]

8.228.600.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.228.600.6 NMAC - Rp, 8.228.600.6 NMAC, 1-1-14]

8.228.600.7 DEFINITIONS: [RESERVED]

8.228.600.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.228.600.8 NMAC - N, 1-1-14]

8.228.600.9 BENEFIT DESCRIPTION: When a JUL medicaid assistance unit loses medicaid due to earnings, the assistance unit is eligible for transitional medicaid for 12 calendar months. A medicaid eligible recipient under this category is eligible to receive the full range of medicaid covered services. ~~[Effective January 1, 2014 the loss of JUL medicaid from increased earnings from employment does not qualify recipients for transitional medicaid.]~~ The eligibility requirements for transitional medicaid effective January 1, 2014 can be found in 8.298.400 NMAC.
[8.228.600.9 NMAC - Rp, 8.228.600.9 NMAC, 1-1-14; A, 5-30-14]

8.228.600.10 BENEFIT DETERMINATION: Income support division (ISD) determines initial and ongoing eligibility. If an assistance unit becomes ineligible for JUL medicaid because countable earned income exceeds the standard, the caseworker opens a Category 028 for the assistance unit. To be eligible for Category 028, an assistance unit must meet all of the following conditions:

- A. the assistance unit was eligible for and received JUL medicaid benefits in New Mexico in one of the six months immediately preceding the month the assistance unit became ineligible for benefits; and
- B. the assistance unit lost eligibility for JUL medicaid because the parent or caretaker relative increased earnings.

[8.228.600.10 NMAC - Rp, 8.228.600.10 NMAC, 1-1-14]

8.228.600.11 CALCULATING THE BENEFIT: Eligibility during the 12 month transition period.
A. To receive transitional medicaid throughout the first 12-month period a dependent child must live in the home. If a dependent child does not live in the home, coverage for the assistance unit ends the last day of the

month the assistance unit no longer includes a dependent child. This provision includes assistance units where a dependent child leaves the home of the caretaker relative, or where a child turns 19 years of age or otherwise no longer meets the age or school attendance requirement.

B. All conditions listed in 8.228.600.10 NMAC must also be met.

[8.228.600.11 NMAC - Rp, 8.228.600.11 NMAC, 1-1-14]

8.228.600.12 NOTICE REQUIREMENTS: Advance notice of closure is not required in any of the following instances:

A. assistance unit no longer contains dependent children; or

B. assistance unit moves out of state.

[8.228.600.12 NMAC - Rp, 8.228.600.12 NMAC, 1-1-14]

8.228.600.13 PERIODIC REDETERMINATIONS OF ELIGIBILITY:

A. Redetermination of eligibility is not applicable. A 12-month period of eligibility following JUL medicaid is established, without a new eligibility determination or application. A new application is required after the 12 month period has expired. Increases in income are disregarded. Refer to 8.227.400 NMAC.

B. All changes that may affect eligibility must be reported within 10-calendar days from the date of the change as detailed in 8.200.430 NMAC.

[8.228.600.13 NMAC - N, 1-1-14]

HISTORY OF 8.228.600 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.

MAD Rule 837, Transitional Medicaid - Extended Medicaid Benefits to Families Who Lose AFDC Because of Earnings from Employment or Loss of Earned Income Disregard (EID), filed 9-26-94 - Repealed effective 2-1-95.

8.228.600 Benefit Description, filed 9-3-13 - Repealed effective 1-1-14.

TITLE 8 SOCIAL SERVICES
CHAPTER 291 MEDICAID ELIGIBILITY - AFFORDABLE CARE
PART 410 GENERAL RECIPIENT REQUIREMENTS

8.291.410.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.291.410.1 NMAC - Rp, 8.291.410.1 NMAC, 1-1-14]

8.291.410.2 SCOPE: The rule applies to the general public.
[8.291.410.2 NMAC - Rp, 8.291.410.2 NMAC, 1-1-14]

8.291.410.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.291.410.3 NMAC - Rp, 8.291.410.3 NMAC, 1-1-14]

8.291.410.4 DURATION: Permanent.
[8.291.410.4 NMAC - Rp, 8.291.410.4 NMAC, 1-1-14]

8.291.410.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.291.410.5 NMAC - Rp, 8.291.410.5 NMAC, 1-1-14]

8.291.410.6 OBJECTIVE: The objective of this rule is to provide eligibility guidelines when determining eligibility for the medical assistance division (MAD) medicaid program and other health care programs it administers. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.
[8.291.410.6 NMAC - Rp, 8.291.410.6 NMAC, 1-1-14]

8.291.410.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
[8.291.410.7 NMAC - Rp, 8.291.410.7 NMAC, 1-1-14]

8.291.410.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.291.410.8 NMAC - Rp, 8.291.410.8 NMAC, 1-1-14]

8.291.410.9 GENERAL RECIPIENT REQUIREMENTS: To be eligible for medical assistance programs, applicants or recipients must meet specific requirements as outlined in this part.
[8.291.410.9 NMAC - Rp, 8.291.410.9 NMAC, 1-1-14]

8.291.410.10 ENUMERATION: The social security administration (SSA) is responsible for the assigning of social security numbers (SSN), a process called enumeration. HSD uses the SSN as a unique identifier for the individual and to verify income and resources where applicable.

A. Applicant or recipients: Except as noted in Subsection B below, it is mandatory for medicaid applicants or recipients to report their SSNs if they are requesting assistance. If an applicant or recipient does not have a valid SSN, he or she must apply for one. Applications for an SSN are available at any SSA or HSD income support division (ISD) office. Proof of the SSN application must be provided to ISD.

B. Non-applicants/recipients: Reporting an SSN is voluntary for individuals who are not seeking medicaid for themselves.

C. The agency must not delay or deny services to an otherwise eligible individual pending issuance or verification of the individual's SSN by SSA.

D. This requirement does not apply and the state will give a identification number to an individual who is not eligible to receive an SSN if the individual does not have an SSN and is lawfully residing for a valid non-work reason or refuses to obtain an SSN because of well-established religious objections.

[8.291.410.10 NMAC - Rp, 8.291.410.10 NMAC, 1-1-14]

8.291.410.11 AGE: The age of the applicant is verified to determine if he or she is under or over the specified age limit.

- A. Age of child: Verification of the age, including through self-attestation, of children is mandatory for medical assistance for children programs.
 - B. Age of adults: Age of adult member(s) is verified if questionable.
 - C. Documents that can be used to verify age can be found in 8.100.130 NMAC.
- [8.291.410.11 NMAC - Rp, 8.291.410.11 NMAC, 1-1-14]

8.291.410.12 RELATIONSHIP: Verification of relationship is mandatory, see 8.291.410.20 NMAC

- A. Documents that can be used to verify relationship can be found at 8.100.130 NMAC.
 - B. The documentary evidence must contain the names of related individuals in question.
 - (1) If the relative is other than a parent, the relationship must be traced if questionable.
 - (2) In situations in which both parents are living in the home and the father's paternity has not been established by operation of law or determined through court order, it will be necessary to establish the relationship of the child to the father by completion of the child support enforcement division (CSED) acknowledgment of paternity packet.
 - (3) If the child is living with a relative, it will be necessary to establish the relationship of the absent parents. A CSED acknowledgement of paternity will be an acceptable means of establishing relationship.
 - C. The following relatives are within the fifth degree of relationship:
 - (1) father (biological or adoptive);
 - (2) mother (biological or adoptive);
 - (3) grandfather, great grandfather, great great grandfather, great great great grandfather;
 - (4) grandmother, great grandmother, great great grandmother, great great great grandmother;
 - (5) spouse of child's parent (stepparent);
 - (6) spouse of child's grandparent, great grandparent, great great grandparent, great great great grandparent (step grandparent);
 - (7) brother, half-brother, brother-in-law, step-brother;
 - (8) sister, half-sister, sister-in-law, step-sister;
 - (9) uncle of the whole or half blood, uncle-in-law, great uncle, great great uncle;
 - (10) aunt of the whole or half blood, aunt-in-law, great aunt, great great aunt;
 - (11) first cousin and spouse of first cousin;
 - (12) son or daughter of first cousin (first cousin once removed);
 - (13) son or daughter of great aunt or great uncle (first cousin once removed) and spouse; or
 - (14) nephew or niece and spouses.
 - D. Effect of divorce or death on relationship: A relationship based upon marriage, such as the "in-law" or "step" relationships, continues to exist following the dissolution of the marriage by divorce or death.
- [8.291.410.12 NMAC - Rp, 8.291.410.12 NMAC, 1-1-14]

8.291.410.13 IDENTITY: Verification of identity for the applicant is mandatory at application if questionable.

- A. The following may be used as proof of identity, provided that such document has a photograph or identifying information including, but not limited to, name, age, gender, race, height, weight, eye color, or address:
 - (1) driver's license that includes a photograph and issued by a state or outlying possession of the U.S.; if the driver's license does not contain a photograph, identifying information on the driver's license shall be included such as name, date of birth, sex, height, color of eyes, and address;
 - (2) voter's registration card;
 - (3) U.S. military card or draft record;
 - (4) identification card issued by the federal, state, or local government agencies or entities; if the identification card does not contain a photograph, identifying information on the identification card must be included such as name, date of birth, sex, height, color of eyes, and address;
 - (5) military dependent's identification card;
 - (6) native American tribal documents;
 - (7) US coast guard mariner card;
 - (8) for children under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records;
 - (9) two documents containing consistent information that corroborates an applicant's identity; such documents include, but are not limited to, employer identification cards, high school and college diplomas (including high school equivalency diplomas), marriage certificates, divorce decrees, and property deeds or titles;
 - (10) finding of identity from a federal or state government agency; or

(11) a finding of identity from a federal agency or another state agency, including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity.

B. For individuals under the age of 18 who are unable to produce a document listed above, the following are acceptable to establish identity only:

- (1) school record or report card;
- (2) clinic, doctor or hospital record; or
- (3) day care or nursery school record.

C. If an individual under the age of 18 is unable to produce one of the identity documents listed, then the individual must provide one of the following:

(1) the minor's parent or legal guardian completes on Form I-9 Section 1-"employee information and verification" and in the space for the minor's signature, the parent or legal guardian writes the words "minor under age 18.";

(2) the minor's parent or legal guardian completes on Form I-9 the "preparer/translator certification.";

(3) the employer or the recruiter or referrer for a fee writes in Section 2-"employer review and verification" under List B, in the space after the words "document identification#," the words "minor under the age 18.;" or

(4) individuals with handicaps who are unable to produce one of the identity documents listed in the standalone or secondary tier documentation, and who are being placed into employment by a nonprofit organization, association or as part of a rehabilitation program, may follow the procedures for establishing identity provided in this section for minors under the age of 18, substituting where appropriate, the term "special placement" for "minor under age 18," and permitting in addition to a parent or legal guardian, a representative of the nonprofit organization, association or rehabilitation program placing the individual into a position of employment, to fill out and sign in the appropriate section on the Form I-9; for purposes of this section, the term "individual with handicaps" means any person who:

(a) has a physical or mental impairment which substantially limits one or more of a person's major life activities;

(b) has a record of such impairment; or

(c) is regarded as having such impairment.

[8.291.410.13 NMAC - Rp, 8.291.410.13 NMAC, 1-1-14]

8.291.410.14 CITIZENSHIP/ALIEN STATUS: To be eligible for medicaid, an individual must be a citizen of the United States or meet the alien/immigrant eligibility criteria in 8.200.410 NMAC. Verification of citizenship and alien status is mandatory at initial determination of medicaid eligibility. The applicant or recipient is required to submit documentary evidence as verification. Documentation will be verified by using a two tiered process:

A. **Tier one:** Standalone evidence of citizenship can be verified using the following:

(1) a US passport issued by the department of state (without regard to any expiration date as long as the passport or card was issued without limitation);

(2) a certificate of naturalization;

(3) a certificate of US citizenship;

(4) a valid state-issued driver's license if the state issuing the license requires proof of US citizenship, or obtains and verifies a social security number from the applicant who is a citizen before issuing such license;

(5) documentation issued by a federally recognized Indian tribe, as published in the federal register by the bureau of Indian affairs within the U.S. department of the interior and including tribes located in the state that has an international border, which:

(a) identifies the federally recognized tribe that issued the document;

(b) identifies the individual by name; and

(c) confirms the individual's membership, enrollment, or affiliation with the tribe;

(6) documents include, but are not limited to:

(a) a tribal enrollment card;

(b) a certificate of degree of Indian blood;

(c) a tribal census document; and

(d) documents on tribal letterhead, issued under the signature of the appropriate tribal official, that meet the requirements of documentary evidence issued by a federally recognized Indian tribe, as published by the bureau of Indian affairs within the U.S. department of the interior, and including tribes located in a state that has an international border, which identifies the federally recognized Indian tribe that issued the document, identifies the

individual by name, and confirms the individual's membership, enrollment, or affiliation with the tribe.

B. **Tier two:** Documents must accompany an identity document that includes a photograph or other identifying information such as name, age, sex, face, height, color of eyes, date of birth and address.

(1) A driver's license or identification card containing a photograph, issued by a state or an outlying possession of the United States. If the driver's license or identification card does not contain a photograph, identifying information shall be included such as: name, date of birth, sex, height, color of eyes, and address.

(2) School identification card with a photograph.

(3) Voter's registration card.

(4) U.S. military card or draft record.

(5) Identification card issued by federal, state, or local government agencies or entities; if the identification card does not contain a photograph, identifying information shall be included such as: name, date of birth, sex, height, color of eyes, and address.

(6) Military dependent's identification card.

(7) Native American tribal documents.

(8) United States coast guard merchant mariner card.

C. **Evidence of citizenship:** If an applicant does not provide documentary evidence from the list of primary documents, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by a document list in 8.291.410 NMAC.

(1) A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam, the Virgin Islands of the U.S. (if born on or after January 13, 1941), American Samoa, Swain's Island, or the Commonwealth of the Northern Mariana Islands (CNMI) (after November 4, 1986 (CNMI local time.)) The birth record document may be issued by the state, commonwealth, territory, or local jurisdiction. If the document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S., or the CNMI before these areas became part of the U.S., the individual may be a collectively naturalized citizen.

(2) A certification of report of birth, issued to U.S. citizens who were born outside the U.S.

(3) A report of birth abroad of a U.S. citizen.

(4) A certification of birth.

(5) A U.S. citizen I.D. card.

(6) A Northern Mariana's identification card, issued to a collectively naturalized citizen, who was born in the CNMI before November 4, 1986.

(7) A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.

(8) Evidence of U.S. civil service employment before June 1, 1976.

(9) U.S. military record showing a U.S. place of birth.

(10) A data match with the systematic alien verification for entitlements (SAVE) or any other process established by the department of homeland security to verify that an individual is a citizen.

(11) Documentation that a child meets the requirements of Section 101 of the Child Citizenship Act of 2000 (8 U.S.C. 1431).

(12) Medical records, including but not limited to hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.

(13) Life, health, or other insurance record that indicates a U.S. place of birth.

(14) Official religious record recorded in the U.S. showing that the birth occurred in the U.S.

(15) School records, including pre-school, head start, and daycare, showing the child's name and U.S. place of birth.

(16) Federal or state census record showing U.S. citizenship or a U.S. place of birth.

(17) If the applicant does not have one of the documents listed in the stand alone or second tier sections, he or she must submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

D. **Exemptions:** The following individuals are exempt from providing documentation of citizenship and identity:

(1) individuals receiving supplemental security income benefits under Title XVI of the Social Security Act;

(2) individuals entitled to or enrolled in any part of medicare;

(3) individuals receiving social security disability insurance benefits under Section 223 of the Social

Security Act or monthly benefits under Section 202 of the act, based on the individual's disability, as defined in Section 223(d) of the act;

(4) individuals who are in foster care and who are assisted under Title IV-B of the Social Security Act; or

(5) individuals who are recipients of foster care maintenance or adoption assistance payment under Title IV-E of the act.

[8.291.410.14 NMAC - Rp, 8.291.410.14 NMAC, 1-1-14]

8.291.410.15 RESIDENCE: To be eligible for medicaid, applicants or recipients must be living in New Mexico on the date of application or final determination of eligibility and have demonstrated an intention to remain in the state.

A. Establishing residence: Residence in New Mexico is established by living in the state and carrying out the types of activities associated with day-to-day living, such as occupying a home, enrolling child(ren) in school, getting a state driver's license, or renting a post office box. An applicant or recipient who is homeless is considered to have met the residence requirements if he or she intends to remain in the state.

B. Recipients receiving benefits out-of-state: Applicants or recipients who receive financial or medical assistance in another state which makes residence in that state a condition of eligibility are considered residents of that state until the ISD office receives verification from the other state agency indicating that it has been notified by an applicant or recipient of the abandonment of residence in that state.

C. Individuals court ordered into full or partial responsibility of the state children youth and families department (CYFD): When CYFD places a child in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, New Mexico must provide limited coverage for services that are part of the New Mexico medicaid benefit package and not available in the new state of residence.

D. Abandonment: Residence is not abandoned by temporary absences. Temporary absences occur when recipients leave New Mexico for specific purposes with time-limited goals. An individual may be temporarily absent from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined the individual is a resident there for purposes of medicaid. Residence is considered abandoned when the applicant or recipient leaves New Mexico for any of the following reasons:

- (1) intends to establish residence in another state;
- (2) for no specific purpose with no clear intention of returning;
- (3) applies for financial, food or medical assistance in another state which makes residence in that state a condition of eligibility; or
- (4) for more than 30 days, without notifying HSD of his or her departure or intention of returning.

E. Dispute in residency: If there is a dispute in state residency, the individual may be considered a resident in the state in which the individual is physically located.

[8.291.410.15 NMAC - Rp, 8.291.410.15 NMAC, 1-1-14; A, 5-30-14]

8.291.410.16 NON-CONCURRENT RECEIPT OF ASSISTANCE: A medicaid applicant or recipient receiving medicaid in another state is not eligible for medicaid in accordance with 8.200.410 NMAC.

[8.291.410.16 NMAC - Rp, 8.291.410.16 NMAC, 1-1-14]

8.291.410.17 APPLICATIONS FOR OTHER BENEFITS: As a condition of eligibility, a medicaid applicant or recipient must take all necessary steps to obtain any benefits they are entitled to in accordance with 8.200.410 NMAC.

[8.291.410.17 NMAC - Rp, 8.291.410.17 NMAC, 1-1-14]

8.291.410.18 PROCESSING APPLICATIONS:

A. Applicants or recipients may submit applications to a county office in person, through an authorized representative, by mail or electronically.

(1) Requesting application forms: Applicants or recipients may request an application form by mail or by telephone. In either case, the ISD staff must mail the requested form to the applicant within 24 hours.

(2) Application: An applicant has the right to file an application as long as the application contains the applicant's name, address and the signature of a responsible adult household member or an authorized representative if one is designated.

B. Interviews: In-person interviews are not required as part of the application or re-certification process for a determination of eligibility.

- (1) Applications will be processed in accordance with time standards and procedures set forth in federal regulations governing the medical assistance programs.
 - (2) Single interview: If a face to face or a telephonic interview is requested, a single interview will be held with an applicant who applies jointly for all benefits HSD administers.
 - (3) Application processing: As a result of differences in all HSD's benefit application processing procedures and timeliness standards, eligibility for medical benefits may be determined prior to eligibility determination for other benefits that HSD administers.
 - (4) Application is denied: If a medicaid application is denied, a new application for other assistance programs is not required if other assistance programs were requested.
 - (5) Responsibility in application or recertification process: The burden of proving eligibility for medicaid is on the applicant or recipient if the department is unable to verify required information. An individual has the primary responsibility for providing required information and documents and for taking the action necessary to establish eligibility.
 - (a) An applicant or recipient's failure to provide documentation or to take required action results in a decision that eligibility does not exist.
 - (b) An applicant or recipient must give the department permission to contact other individuals, agencies, or sources of information which are necessary to establish eligibility.
- C. Redetermination/recertification: A complete review of all conditions of eligibility which are subject to change are conducted by ISD no later than 12 months from the month of approval or redetermination and is separate from any months of presumptive or retroactive eligibility.
- (1) Administrative renewal: 90 days prior to expiration, HSD will utilize electronic verification sources to verify financial eligibility and will proceed with the re-determination or re-certification process.
 - (2) If an administrative renewal cannot be completed for any reason, 45 days prior to redetermination or recertification HSD will mail a pre-populated application with the recipient's previously reported information.
 - (3) An eligible recipient's failure to provide necessary verification may result in medicaid ineligibility. The recertifying eligible recipient is responsible for providing verification of eligibility if administrative renewal cannot be completed.
- D. An applicant or a recertifying eligible recipient must give HSD permission to contact other individuals, agencies, or electronic sources for information which is necessary to establish initial and continued eligibility.
- [8.291.410.18 NMAC - Rp, 8.291.410.18 NMAC, 1-1-14]

8.291.410.19 VERIFICATION METHODS: Verification will be obtained through various methods. Not all methods will necessarily be used in each case. This section details the specific types of methods to be used in establishing the applicant or recipient's eligibility.

- A. Prior case data not subject to change: Verification of an eligibility factor not subject to change, which previously has been verified and accepted, will not be subject to re-verification. The caseworker shall not ask an applicant or recipient for verification of any eligibility factors which have previously been established through documents in HSD's possession and are not subject to change. Such factors include U.S. citizenship, birth date, relationship and enumeration.
- B. Electronic data: Every applicant or recipient shall be informed that the information provided is subject to verification through state, federal and contracted data systems. The caseworker shall not require further verification of such information unless it is disputed by the applicant or the information is otherwise questionable as defined in 8.100.130 NMAC.
- C. Self attestation is the information that a client or recipient reports on an application and is certifying as true and correct to the best of their knowledge.
- D. Documentary evidence is the primary source of verification for information not established in prior case information or electronic source data. Obtaining necessary verification through documentary evidence readily available to the applicant or recipient shall always be explored before collateral contacts or sworn statements are used. Documentary evidence consists of a written confirmation of a household's circumstances. Acceptable verification is not limited to any single type of document. The types of documents which may be accepted as verification are specified under the sections pertaining to verification methods later in this chapter. The caseworker shall provide applicants or recipients with receipts for verification documents provided subsequent to the interview.
- E. Collateral contact is defined at 8.100.130 NMAC.
- F. Sworn statement is defined at 8.100.130 NMAC.

[8.291.410.19 NMAC - Rp, 8.291.410.19 NMAC, 1-1-14]

8.291.410.20 VERIFICATION STANDARDS: Below is a list of standards HSD will utilize to determine eligibility for medicaid categories defined at 8.291.400.10 NMAC. If verification cannot be confirmed utilizing the various methods described in each section, HSD may request additional information. If information is provided and becomes questionable as defined at 8.100.130 NMAC, then additional documentation must be provided as described by 8.100.130 NMAC.

A. Income: Verification of income is mandatory for ACA related medicaid programs and HSD will utilize electronic sources and documents provided by the applicant or recipient to verify an applicant or recipient's income. Examples of acceptable documentation can be found at 8.100.130 NMAC.

B. Residency: Self attestation is an acceptable form of verification of residency.

C. Age: Self attestation is an acceptable form of verification of age.

D. Enumeration: HSD will utilize electronic sources to verify an applicant or recipient's enumeration.

E. Citizenship: HSD will utilize electronic sources to verify an applicant or recipient's citizenship.

F. Immigration status: HSD will utilize electronic sources to verify an applicant or recipient's immigration status.

G. Relationship: Self attestation is an acceptable form of verification of relationship.

H. Receipt of other benefits: HSD will utilize electronic sources to verify an applicant or recipient's receipt of other benefits.

[8.291.410.20 NMAC - Rp, 8.291.410.20 NMAC, 1-1-14]

8.291.410.21 TIMEFRAME FOR DISPOSITION: An applicant or recipient is given a timeframe to provide necessary verification in order for ISD to process an application within the time frame set forth in this section. This requirement pertains to requests for verification for initial applications as well as for verification for ongoing eligibility. ISD shall make an eligibility decision within three work days of the receipt of all necessary verification.

A. The application disposition deadline for medical assistance programs is 45 days from the date of application.

(1) Day one: the date of application is the first day.

(2) No later than day 44, or by the preceding work day if day 44 falls on a weekend or holiday:

(a) if verification provided establishes eligibility or ineligibility; or

(b) if the day following day 44 is not a work day, then decision must be made earlier than day

44 to allow for mailing on or before the deadline.

(3) No later than day 45 by the next work day if day 45 falls on a weekend or holiday, if needed verification is not provided until day 42 - 44.

(4) Day 45 by the next work day if day 45 falls on a weekend or holiday, if needed verification is provided on day 45, or is not provided.

(5) After day 45:

(a) When an applicant or recipient requests one or more 10-day extensions of time to provide needed verification. An applicant or recipient is entitled to receive up to three 10-day extensions of time upon request.

(b) The eligibility decision must be made as soon as possible and within three work days of receipt of all necessary verification.

B. Tracking the application processing time limit: The application processing time limit begins on the day the signed application is received in the ISD county office.

C. Delayed determination: If an eligibility determination is not made within the required application processing time limit, the applicant or recipient shall be notified in writing of the reason for the delay and that the applicant or recipient has the right to request a fair hearing regarding ISD's failure to act within the time limit.

D. Extensions of time: Up to three ten-calendar day extensions for providing verification shall be granted at the applicant or recipient's request. The extension begins at the end of the application processing time period or at the end of the previous extension.

E. Lack of verification: If verification needed to determine eligibility is not provided and no extension of time is requested, the application will be denied on the 45th day after the application date or by the next work day if 45th day falls on weekend or holiday.

[8.291.410.21 NMAC - Rp, 8.291.410.21 NMAC, 1-1-14]

HISTORY OF 8.291.410 NMAC:

History of Repealed Material:

8.291.410 NMAC, General Recipient Requirements, filed 9-17-13 - Duration expired 12-31-13.

TITLE 8 SOCIAL SERVICES
CHAPTER 291 MEDICAID ELIGIBILITY - AFFORDABLE CARE
PART 430 FINANCIAL RESPONSIBILITY REQUIREMENTS

8.291.430.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
 [8.291.430.1 NMAC - Rp, 8.291.430.1 NMAC, 1-1-14]

8.291.430.2 SCOPE: The rule applies to the general public.
 [8.291.430.2 NMAC - Rp, 8.291.430.2 NMAC, 1-1-14]

8.291.430.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
 [8.291.430.3 NMAC - Rp, 8.291.430.3 NMAC, 1-1-14]

8.291.430.4 DURATION: Permanent.
 [8.291.430.4 NMAC - Rp, 8.291.430.4 NMAC, 1-1-14]

8.291.430.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
 [8.291.430.5 NMAC - Rp, 8.291.430.5 NMAC, 1-1-14]

8.291.430.6 OBJECTIVE: The objective of this rule is to provide eligibility guidelines when determining eligibility for medicaid programs and other health care programs. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.
 [8.291.430.6 NMAC - Rp, 8.291.430.6 NMAC, 1-1-14]

8.291.430.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
 [8.291.430.7 NMAC - Rp, 8.291.430.7 NMAC, 1-1-14]

8.291.430.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
 [8.291.430.8 NMAC - Rp, 8.291.430.8 NMAC, 1-1-14]

8.291.430.9 GENERAL NEED DETERMINATION: To be eligible for medicaid, an applicant/recipient must meet specific income standards.
 [8.291.430.9 NMAC - Rp, 8.291.430.9 NMAC, 1-1-14]

8.291.430.10 FEDERAL POVERTY LEVEL (FPL): This part contains the monthly federal poverty level table for use in determining monthly income standards for categories of eligibility outlined in 8.291.400.10 NMAC:

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	\$958	\$1,274	\$1,322	\$1,820	\$2,298	\$2,394	\$2,873
2	\$1,293	\$1,720	\$1,784	\$2,456	\$3,102	\$3,232	\$3,878
3	\$1,628	\$2,165	\$2,246	\$3,093	\$3,906	\$4,069	\$4,883
4	\$1,969	\$2,611	\$2,709	\$3,729	\$4,710	\$4,907	\$5,888
5	\$2,298	\$3,056	\$3,171	\$4,366	\$5,514	\$5,744	\$6,893
6	\$2,633	\$3,502	\$3,633	\$5,002	\$6,318	\$6,582	\$7,898
7	\$2,968	\$3,947	\$4,096	\$5,639	\$7,122	\$7,419	\$8,903
8	\$3,303	\$4,393	\$4,558	\$6,275	\$7,926	\$8,257	\$9,908
+1	\$335	\$446	\$462	\$636	\$804	\$838	\$1,005

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 1-1-14]

8.291.430.11 INCOME STANDARD FOR PREGNANT WOMEN AND PARENT CARETAKER

ELIGIBILITY: This part contains the fixed monthly standard for individuals eligible for pregnant women and parent caretaker medicaid:

HOUSEHOLD SIZE	MONTHLY INCOME LIMIT
1	\$451
2	\$608
3	\$765
4	\$923
5	\$1,080
6	\$1,238
7	\$1,395
8	\$1,553
+1	\$158

[8.291.430.11 NMAC - Rp, 8.291.430.11 NMAC, 1-1-14; A, 5-30-14]

8.291.430.12 INCOME DISREGARD: A disregard of five percent of 100 percent of the current FPL, according to the individual's budget group size, will be given according to the ACA related category of eligibility. This income disregard will be subtracted from the countable income.

[8.291.430.12 NMAC - Rp, 8.291.430.12 NMAC, 1-1-14]

8.291.430.13 LIVING ARRANGEMENT: All individuals listed on the application are evaluated according to their living arrangement to determine if they can be included in an assistance group or budget group.

A. Extended living in the home: An individual physically absent from the home is a member of the assistance unit or budget group. Extended living in the home includes:

- (1) attending college or boarding school;
- (2) receiving treatment in a title XIX medicaid facility (including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for the mentally retarded (ICF-MRs);
- (3) emergency absences: an individual absent from the home due to an emergency, who is expected to return to the household, continues to be a member of the household;
- (4) foster care placements: a child removed from the home by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department) will be considered to be living in the home until the adjudicatory hearing; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit and budget group;

(5) a stay in a detention center:

(a) regardless of adjudication status the individual continues to be a member of the household but will not be medicaid eligible;

(b) once an adjudicated individual leaves the detention center to receive inpatient services in a medical institution, the individual may be eligible during treatment if all other criteria are met; eligibility ceases to exist when the individual returns to the detention center.

B. Extended living in the home also includes:

- (1) residential treatment centers;
- (2) group homes; and
- (3) free-standing psychiatric hospitals.

C. Living in the home with a parent caretaker: To be included in the assistance unit, a child must be living, or considered to be living, in the home of:

(1) a biological or adoptive or step parent (there is a presumption that a child born to a married woman is the child of the husband); or

(2) a specified relative who:

(a) is related within the fifth degree of relationship by blood, marriage or adoption, as determined by New Mexico statute Chapter 45 - Uniform Probate Code; a relationship based upon marriage, such as "in-law" or "step" relationships, continues to exist following the dissolution of the marriage by divorce or death; and

(b) assumes responsibility for the day-to-day care and control of the child; the determination of whether an individual functions as the specified relative shall be made by the specified relative unless other information known to the worker clearly indicates otherwise;

(3) a child considered to be living in the home: a child is considered to be part of the assistance unit and budget group as evidenced by the child's customary physical presence in the home; if a child is living in more than one household, the following applies:

(a) the custodial parent is the parent with whom the child lives the greater number of nights; or

(b) if the child spends equal amounts of time with each household, the child shall be considered to be living in the household of the parent with the higher MAGI.

[8.291.430.13 NMAC - Rp, 8.291.430.13 NMAC, 1-1-14]

8.291.430.14 BASIS FOR DEFINING THE ASSISTANCE UNIT AND BUDGET GROUPS: At the time of application, an applicant or recipient and the department shall identify everyone who is to be considered for inclusion in an assistance unit and budget group. The composition of the assistance unit and budget group is based on the following factors:

A. Assistance group: the assistance unit includes an individual who applies and who is determined eligible under one of the categories of eligibility outlined in 8.291.400.10 NMAC.

B. Budget group: the budget group consists of the following types and will be established on an individual basis:

(1) Tax filer(s): households that submit an application where an individual intends to file for federal taxes or will be claimed as a dependent on federal income taxes for the current year.

(a) The budget group will consist of individuals who are listed on the application as the taxpayer and tax dependents.

(b) If there are multiple taxpayers listed on a single application, the budget group(s) will be established based on who the taxpayer intends to claim as a dependent (including the taxpayer). Only the taxpayer and dependents listed on the application will be considered as part of the budget group.

(c) In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return, a separate tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.

(d) Exceptions to tax filer rules: the following individuals will be treated as non-filers:

(i) individuals other than a spouse or a biological, adopted, or step child who expect to be claimed as a tax dependent by another taxpayer outside of the household;

(ii) individuals under 19 who expect to be claimed by one parent as a tax dependent and are living with both parents but whose parents do not expect to file a joint tax return; and

(iii) individuals under 19 who expect to be claimed as a tax dependent by a non-custodial parent.

(2) Non-filer(s) are individuals applying for medicaid who have not filed for taxes, do not intend to file for federal taxes, have not been claimed as a dependent on taxes in the current year or who meet an exception to tax filer rules in Paragraph (1) above. The following individuals may be included in a budget group when evaluating eligibility for an ACA related medicaid eligibility category, provided that they live together:

(a) the individual;

(b) the individual's spouse;

(c) parents/step-parents; or

(d) the individual's biological, adopted and step children under the age of 19.

(3) Households may submit an application that includes both filer and non-filers as defined in Subsections A and B above. The budget group(s) will be organized using the filer and non-filer concepts, and eligibility will be established on an individual basis.

[8.291.430.14 NMAC - Rp, 8.291.430.14 NMAC, 1-1-14]

8.291.430.15 INCOME STANDARDS: Verification of income, both earned and unearned, is mandatory for all ACA-related medicaid programs. Verification methods can be found at 8.291.410 NMAC.

A. All income will be calculated as defined by Section 36B of the code to produce a modified adjusted gross income (MAGI). This amount is compared to the FPL for the appropriate medicaid category of eligibility and household size.

B. MAGI is calculated using the methodologies defined in Section 36B(d)(2)(B) of the federal tax code, with the following exceptions:

- (1) an amount received as a lump sum is counted as income only in the month received.
 - (2) scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.
 - (3) American Indian/Alaska native exceptions; the following are excluded from income:
 - (a) distributions from Alaska native corporations and settlement trusts;
 - (b) distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the secretary of the interior;
 - (c) distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:
 - (i) rights of ownership or possession in any lands described in Subparagraph (b) above;or
 - (ii) federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
 - (d) distributions resulting from real property ownership interests related to natural resources and improvements;
 - (i) located on or near a reservation or within the most recent boundaries of a prior federal reservation; or
 - (ii) resulting from the exercise of federally-protected rights relating to such real property ownership interests.
 - (e) payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom; and
 - (f) student financial assistance provided under the bureau of Indian affairs education programs.
 - (g) all social security benefits under Title II will be counted in determining MAGI.
- [8.291.430.15 NMAC - Rp, 8.291.430.15 NMAC, 1-1-14]

8.291.430.16 RESOURCE STANDARDS: Resources as defined in 8.100.130 NMAC are not a factor of eligibility for ACA related medicaid categories.
[8.291.430.16 NMAC - Rp, 8.291.430.16 NMAC, 1-1-14]

HISTORY OF 8.291.430 NMAC:

History of Repealed Material:

8.291.430 NMAC, Financial Responsibility Requirements, filed 9-17-13 - Duration expired 12-31-13.

TITLE 8 SOCIAL SERVICES
CHAPTER 293 MEDICAID ELIGIBILITY - PREGNANT WOMEN
PART 500 INCOME AND RESOURCE STANDARDS

8.293.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.293.500.1 NMAC - Rp, 8.293.500.1 NMAC, 1-1-14]

8.293.500.2 SCOPE: The rule applies to the general public.
[8.293.500.2 NMAC - Rp, 8.293.500.2 NMAC, 1-1-14]

8.293.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.293.500.3 NMAC - Rp, 8.293.500.3 NMAC, 1-1-14]

8.293.500.4 DURATION: Permanent.
[8.293.500.4 NMAC - Rp, 8.293.500.4 NMAC, 1-1-14]

8.293.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.293.500.5 NMAC - Rp, 8.293.500.5 NMAC, 1-1-14]

8.293.500.6 OBJECTIVE: The objective of this rule is to provide eligibility guidelines when determining eligibility for the medical assistance division (MAD) medicaid program and other health care programs it administers. Processes for establishing and maintaining this category of eligibility are found in the affordable care general provision chapter located at 8.291.400 NMAC through 8.291.430 NMAC.
[8.293.500.6 NMAC - Rp, 8.293.500.6 NMAC, 1-1-14]

8.293.500.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
[8.293.500.7 NMAC - Rp, 8.293.500.7 NMAC, 1-1-14]

8.293.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.293.500.8 NMAC - Rp, 8.293.500.8 NMAC, 1-1-14]

8.293.500.9 RESOURCE STANDARDS: Resources are not an eligibility factor for this category of eligibility.
[8.293.500.9 NMAC - Rp, 8.293.500.9 NMAC, 1-1-14]

8.293.500.10 INCOME STANDARD:
A. Financial eligibility: An individual's financial eligibility is based on the rules in this chapter and 8.291.430 NMAC.
B. Income test: In order to become eligible for pregnant women medicaid, the total countable income of the budget group must be less than ~~[138 percent of the FPL]~~ the income standard for pregnant woman eligibility found at 8.291.430 NMAC.
[8.293.500.10 NMAC - Rp, 8.293.500.10 NMAC, 1-1-14; A, 5-30-14]

8.293.500.11 AVAILABLE INCOME: Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined pursuant to 8.291.430 NMAC.
[8.293.500.11 NMAC - Rp, 8.293.500.11 NMAC, 1-1-14]

8.293.500.12 INCOME ELIGIBILITY: Income from a 30 day-period is used to determine eligibility. Income from a terminated source is not counted. If an amount of income is received less frequently than monthly, that amount is converted by dividing the total income by the number of months the income is intended to cover to determine a modified adjusted gross income for financial eligibility. For the purposes of this calculation, a partial

month is considered to be one full month. Income received more frequently than monthly will be converted using the following multipliers:

- A. four (paid weekly);
- B. two (paid biweekly/semi-monthly).

[8.293.500.12 NMAC - Rp, 8.293.500.12 NMAC, 1-1-14]

8.293.500.13 DISREGARDS: ~~[Disregards are not applicable for this eligibility group.]~~ An income disregard according to 8.291.430 NMAC will be given only to individuals whose countable modified adjusted gross income (MAGI) exceeds the fixed dollar amount for the size of the budget group.

[8.293.500.13 NMAC - Rp, 8.293.500.13 NMAC, 1-1-14; A, 5-30-14]

HISTORY OF 8.293.500 NMAC:

History of Repealed Material:

8.293.500 NMAC, Income and Resource Standards, filed 9-17-13 - Duration expired 12-31-13.