

**MEDICAID ELIGIBILITY – AFFORDABLE CARE
GENERAL RECIPIENT REQUIREMENTS
Tribal Consultation Version 9.18.13**

**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 - N, 10-1-13]

8.291.410.2 SCOPE: The rule applies to the general public.
[8.291.410.2 NMAC - N, 10-1-13]

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 - N, 10-1-13]

8.291.410.4 DURATION: December 31, 2013.
[8.291.410.4 NMAC - N, 10-1-13]

8.291.410.5 EFFECTIVE DATE: October 1, 2013, unless a later date is cited at the end of a section.
[8.291.410.5 NMAC - N, 10-1-13]

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 - N, 10-1-13]

8.291.410.7 DEFINITIONS: Refer to 8.291.400.7 NMAC.
[8.291.410.7 NMAC - N, 10-1-13]

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 - N, 10-1-13]

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 - N, 10-1-13]

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.

[8.291.410.10 NMAC - N, 10-1-13]

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.

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[8.291.410.11 NMAC - N, 10-1-13]

8.291.410.12 RELATIONSHIP: Verification of relationship is mandatory if questionable. The relationship between the parent, caretaker relative, or other adult and others included in the benefit group must be verified if questionable.

- 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.
 - (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 - N, 10-1-13]

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

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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 - N, 10-1-13]

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

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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;

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(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 - N, 10-1-13]

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. 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 - N, 10-1-13]

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 - N, 10-1-13]

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 - N, 10-1-13]

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.

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(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 will be 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 - N, 10-1-13]

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.

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[8.291.410.19 NMAC - N, 10-1-13]

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 - N, 10-1-13]

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 - N, 10-1-13]

MAD-MR

EFF DATE: proposed

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HISTORY OF 8.291.410 NMAC: [RESERVED]