





Michelle Lujan Grisham, Governor
Kari Armijo, Acting Secretary
Lorelei Kellogg, Acting Medicaid Director

Letter of Direction #104

Date: September 19, 2023

To: Centennial Care 2.0 Managed Care Organizations

From: Lorelei Kellogg, Acting Director, Medical Assistance Division 
Nick Boukas, Behavioral Health Services Division Director 

Subject: Managed Care Organizations (MCOs) Plans to be submitted to Human Services Department (HSD) – Public Health Order Plans are due 10/2/2023

Title: Public Health Order (PHO) Issued 09/15/2023

The purpose of this Letter of Direction (LOD) is to direct the Centennial Care 2.0 Managed Care Organizations (MCOs) to work together collaboratively to develop and implement a universal plan to ensure BH network adequacy as well as a comprehensive plan that ensures individuals who need drug or alcohol treatment receive a permanent, adequate treatment placement within 24 hours of the request.

MCOs shall work collaboratively to draft the comprehensive plans to comply with the Public Health Order (PHO) in the following two areas as outlined in the attached PHO:

(8) All participating New Mexico Managed Care Organizations shall immediately ensure that individuals who need drug or alcohol treatment have received a permanent, adequate treatment placement within 24 hours of the request.

(9) The New Mexico Human Services Department shall send relevant Managed Care Organizations letters of direction requiring them to provide their plans to achieve continual behavioral health network adequacy.

MCOs are directed to provide plans to achieve continual statewide BH network adequacy. HSD strongly encourages joint MCO consultation so that each network adequacy plan ensures statewide access to all BH services and together creates a universal plan for continual BH provider network capacity for all of New Mexico.

MCOs must submit the draft plan no later than **5:00 p.m. on Monday, October 2, 2023**. HSD will review and finalize the plan with an updated LOD.

This LOD will sunset upon implementation of the final plan and inclusion into 8.321.2 NMAC, the Behavioral Health Policy Manual and the NM Medicaid Managed Care Services Agreement.

Attachment: LOD #104 Attachment 1 – Public Health Order Issued 09/15/2023



MICHELLE LUJAN GRISHAM
Governor

PATRICK M. ALLEN
Cabinet Secretary

**PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT OF HEALTH
SECRETARY PATRICK M. ALLEN**

September 15, 2023

**Amended Public Health Emergency Order Imposing Temporary Firearm
Restrictions, Drug Monitoring and Other Public Safety Measures**

WHEREAS, for the reasons stated in Governor Michelle Lujan Grisham’s Executive Orders 2023-130 and 2023-132, gun violence and drug abuse currently constitute statewide public health emergencies, as defined in the Public Health Emergency Response Act;

WHEREAS, pursuant to those Executive Orders, I have begun collaborating with the New Mexico Department of Homeland Security and Emergency Management, the New Mexico Department of Public Safety, and the Governor’s Office to provide an effective and coordinated response to these public health emergencies;

WHEREAS, both the Bernalillo County Sheriff and Chief of the Albuquerque Police Department have identified the Bernalillo County Metropolitan Detention’s lack of staffing, space, and prompt screening of arrested individuals as a significant contributor to these public health emergencies by keeping police officers off the streets while they wait for arrestees to be processed;

WHEREAS, according to the New Mexico Department of Health, child firearm emergency department visits in New Mexico increased by 100% for youth ages 0-13 between 2018 and 2022.

WHEREAS, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government to preserve and promote public health and safety, to maintain and enforce rules for the control of a condition of public health importance; and

WHEREAS, temporary firearm restrictions, drug monitoring, and other public safety measures are necessary to address the current public health emergencies.

NOW, THEREFORE, I, Patrick M. Allen, Secretary of the New Mexico Department of Health, in accordance with authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of emergency powers under the All Hazard Emergency Management Act, do hereby **DECLARE** that gun violence and drug use constitute conditions of public health importance, as defined in NMSA 1978, Section 24-1-2(A), and hereby **ORDER** and **DIRECT** as follows:

OFFICE OF THE SECRETARY

1190 St. Francis Dr., Suite N4100 • P.O. Box 26110 • Santa Fe, New Mexico • 87502
(505) 827-2613 • FAX: (505) 827-2530 • www.nmhealth.org



(1) No person, other than a law enforcement officer or licensed security officer, or active duty military personnel shall possess a firearm, as defined in NMSA 1978, Section 30-7-4.1, either openly or concealed in public parks or playgrounds, or other public area provided for children to play in, within cities or counties averaging 1,000 or more violent crimes per 100,000 residents per year since 2021 according to Federal Bureau of Investigation's Uniform Crime Reporting Program AND more than 90 firearm-related emergency department visits per 100,000 residents from July 2022 to June 2023 according to the New Mexico Department of Public Health, except:

- A. While traveling to or from a location listed in Paragraph (B) of this section; provided that the firearm is in a locked container or locked with a firearm safety device that renders the firearm inoperable, such as a trigger lock.
- B. In areas designated as a state park within the state parks system and owned or managed by the New Mexico Energy, Minerals and Natural Resources Department State Parks Division, or the State Land Office.

(2) The New Mexico Regulation and Licensing Department shall conduct monthly inspections of licensed firearms dealers in the State to ensure compliance with all sales and storage laws.

(3) The Department of Health shall, no later than September 28, compile and issue a comprehensive report on gunshot victims presenting at hospitals in New Mexico, which shall include (if available): demographic data of gunshot victims, including age, gender, race, and ethnicity; data on gunshot victim's healthcare outcomes; the brand and caliber of the firearm used; the general circumstances leading to the injury; the impact of gunshot victims on New Mexico's healthcare system; and any other pertinent information.

(4) The New Mexico Department of Health and the New Mexico Environmental Department shall develop a program to conduct wastewater testing for illicit substances, such as fentanyl, at all public schools. NMED has the authority to independently test the wastewaters of the state, and perform any other acts authorized by the Public Health Act (Section 24-1-3) necessary to address the public health emergency as outlined herein and within the Executive Order 2023-132, and also to receive funds directly from DFA pursuant to Sections 12-11-23 through 12-11-25, to promptly address the public health emergency.

(5) The New Mexico Children, Youth and Families Department shall immediately suspend the Juvenile Detention Alternative Initiative and evaluate juvenile probation protocols.

(6) The New Mexico Department of Public Safety shall dispatch additional officers and resources to Bernalillo County and work with the Albuquerque Police Department and Bernalillo County Sheriff to determine the best use of those resources.

(7) The Department of Public Safety shall coordinate with local law enforcement agencies and the district attorneys' offices and assist in apprehension of individuals with outstanding arrest warrants.

(8) All participating New Mexico Managed Care Organizations shall immediately ensure that individuals who need drug or alcohol treatment have received a permanent, adequate treatment placement within 24 hours of the request.

(9) The New Mexico Human Services Department shall send relevant Managed Care Organizations letters of direction requiring them to provide their plans to achieve continual behavioral health network adequacy.

(10) The New Mexico Department of Corrections and the Department of Homeland Security shall provide assistance to the Bernalillo County Metropolitan Detention Center and its contractors to ensure adequate staffing, space, and screening for arrested and incarcerated individuals; provided that nothing in this provision shall be construed to limit the authority and responsibility of Bernalillo County Metropolitan Detention Center in managing its operations.

I FURTHER DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish, and other appropriate languages to the citizens of the State of New Mexico.

(2) Trigger locks shall be made available free of charge to all firearm owners; provided that each firearm owner shall only be entitled to one free trigger lock. Firearm owners wishing to obtain a free trigger lock should call 505-984-3085 or email info@newmexicanstopreventgunviolence.org.

(3) The New Mexico Department of Health, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

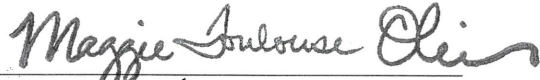
(4) Any person or entity who willfully violates this Order may be subject to civil administrative penalties available at law.

(5) This Order supersedes any previous Order to the extent it is in conflict and shall take effect on September 15, 2023, and remain in effect for the duration of the public health emergencies declared in Executive Orders 2023-130 and 2023-132 and any subsequent renewals of those public health emergency declarations, unless otherwise rescinded.

(6) Should any provision of this Order or its application to any person or circumstances be held invalid by a court of law, the remainder of this Order or the application of its provisions to other persons or circumstances shall remain in full force and effect.

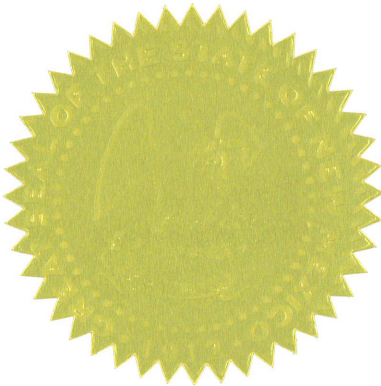
(7) Nothing in this Order shall be construed to contradict or evade any court orders temporarily enjoining provisions in previous public health emergency orders that remain in this Order. Any court order regarding such provisions shall apply to the same provisions found herein.

ATTEST:


MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 15TH DAY OF SEPTEMBER 2023

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO





PATRICK M. ALLEN
SECRETARY OF THE
NEW MEXICO DEPARTMENT OF HEALTH