



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

- 8.291.400 NMAC-MEDICAID ELIGIBILITY-AFFORDABLE CARE
- 8.293.600 NMAC-PREGNANT WOMEN-BENEFIT DESCRIPTION
- 8.294.600 NMAC-PREGNANCY-RELATED SERVICES-BENEFIT DESCRIPTION
- 8.308.9 NMAC-MANAGED CARE PLAN-BENEFIT PACKAGE
- 8.308.11 NMAC-MANAGED CARE PLAN-TRANSITION OF CARE
- 8.308.20 NMAC-MANAGED CARE PLAN-REIMBURSEMENT
- 8.310.2 NMAC-HEALTH CARE PROFESSIONAL SERVICES-GENERAL BENEFIT DESCRIPTION
- 8.326.3 NMAC-CASE MANAGEMENT SERVICES-CASE MANAGEMENT SERVICES FOR PREGNANT WOMEN AND THEIR INFANTS

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

FINAL RULES

V. BACKGROUND SUMMARY

The New Mexico Human Services Register Volume 44, Register 40, dated November 23, 2021, issued the proposed New Mexico Administrative Code (NMAC) rules 8.291.400 NMAC, *Medicaid Eligibility, Affordable Care*, 8.293.600 NMAC, *Pregnant Women, Benefit Description*, 8.294.600 NMAC, *Pregnancy-Related Services, Benefit Description*, 8.308.9 NMAC, *Managed Care Plan, Benefit Package*, 8.308.11 NMAC, *Managed Care Plan, Transition of Care*, 8.308.20 NMAC, *Managed Care Plan, Reimbursement*, 8.310.2 NMAC, *Health Care Professional Services, General Benefit Description*, and 8.326.3 NMAC, *Case Management Services, Case Management Services for Pregnant Women and their Infants*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: November 23, 2021

Hearing Date: December 30, 2021

Adoption Date: April 5, 2022

Technical Citations: American Rescue Plan Section 2021 Section 9812; 42 Code of Federal Regulations 435.170

A public hearing was held on December 30, 2021 to receive public comments and testimony on these proposed rules. The Human Services Department (the Department) received twelve written comments and did not receive any oral comments. Commenters supported the proposed changes as extended Medicaid coverage is expected to result in better health care outcomes for both the mother and the newborn.

The Department issued the proposed rules implementing a 12-month postpartum period on November 23, 2021 to meet the proposed April 1, 2022 implementation date. After issuance of the proposed rules the Centers for Medicare and Medicaid Services (CMS) issued a State Health Official (SHO# 21-007) letter on December 7, 2021 with the formal guidance outlining the new Medicaid State Plan requirements for states to implement a 12-month postpartum period. The issued guidance necessitates the following revisions to the proposed rules:

The term “pregnant women” was replaced with “pregnant individual” to be consistent with the CMS guidance language except when referencing the specific “Pregnant Women” category which has its own rule section.

8.291.400.14(A) was updated to clarify that the extended eligibility period applies to pregnant individuals on the date their pregnancy ends “regardless of the reason the pregnancy ends.”

8.291.400.14(B) was updated to clarify that continuous eligibility for pregnant individuals applies regardless of changes in circumstances adding examples such as “income, household composition, aging out etc.”

8.291.400.14(B)(1)(a)(b)(c) was added to clarify that the following three populations are provided continuous enrollment effective April 1, 2022: Current Medicaid recipients who are pregnant as of April 1, 2022 or who enroll based on pregnancy or become pregnant after April 1, 2022, current Medicaid recipients who were receiving Medicaid while pregnant and who are no longer pregnant as of April 1, 2022, but who are still within a 12-month postpartum period, and individuals who apply for Medicaid after their pregnancy ends who received Medicaid-covered services while pregnant on or after April 1, 2022 if such services were received during an approved period of retroactive eligibility.

8.291.400.14(B)(2)(a)(b)(c)(d)(e) was added to clarify how the following certain Medicaid categories and populations are impacted by the 12-month postpartum period:

1. Individuals on the Other Adult Medicaid category who become pregnant can remain on the Other Adult category rather than transition to a pregnancy category. The Alternative Benefit Plan (ABP) services offered under the Other Adult category are considered full Medicaid benefits per the CMS guidance outlined in SHO# 21-007. Other Adult

individuals who become pregnant can transition to Pregnant Women or Parent/Caretaker Medicaid categories.

2. Children turning age 19 who are pregnant can remain on a Children's Medicaid category throughout their 12-month postpartum period.
3. A pregnant individual on the Parent/Caretaker Medicaid category who reports increased earnings or spousal support making the individual over the income limit will remain on the Parent/Caretaker category and can transition to a four or 12-month Transitional Medicaid period after the 12-month postpartum period has expired.
4. An individual who becomes pregnant during the 12-month postpartum period is entitled to 12-months continuous coverage through the end of the second pregnancy and the 12-month postpartum period following.
5. The extended 12-month postpartum period applies to individuals receiving Medicaid who are lawfully residing children under age 21 and pregnant individuals referred to as "CHIPRA 214."

8.291.400.14(C) was added to clarify that renewals are conducted at the end of the individual's 12-month postpartum period.

8.291.400.14 subsection (C) in the proposed rules was changed to (D) in the final rules. This is the section regarding extended and continuous eligibility not being applicable to pregnant individuals for presumptive eligibility periods.

8.291.400.14 subsection (D) in the proposed rules has been changed to (E) in the final rules. Additionally, a fourth continuous eligibility termination reason was added due to the CMS guidance. Continuous eligibility can be terminated if the eligibility was determined incorrectly at the most recent determination or redetermination of eligibility because of HSD error or fraud, abuse, or perjury attributed to the individual.

VI. RULES

These amendments will be contained in 8.291.400, 8.293.600, 8.294.600, 8.308.9, 8.308.11, 8.308.20, 8.310.2, and 8.326.3 NMAC. The final register and rule languages are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/lookingforinformation/medical-assistance-division-1/> and <https://www.hsd.state.nm.us/providers/rules-nm-administrative-code/>. If you do not have internet access, a copy of the final register and rules may be requested by contacting the Medical Assistance Division at (505) 827-1337.

VII. EFFECTIVE DATE

These rules will have an effective date of April 5, 2022.

VIII. PUBLICATION

Publication of these rules approved by:

DocuSigned by:
David Scrase

9DBE7D7D1B53422...ASE, M.D., SECRETARY
HUMAN SERVICES DEPARTMENT