



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

March 28, 2023

Interested Parties:

The Human Services Department (the Department), through the Medical Assistance Division (MAD), issued emergency rule amendments for the New Mexico Administrative Code (NMAC) rules *8.200.510 NMAC, General Recipient Policies, Resource Standards, 8.200.520 NMAC, General Recipient Rules, Income Standards, and 8.291.430 NMAC, Affordable Care, Financial Responsibility Requirements* on March 28, 2023. The Department issued these emergency rules to implement the Department of Health and Human Services (HHS) updates to the Federal Poverty Level (FPL) income limits for Medicaid categories of eligibility to be effective April 01, 2023, as required by HHS. The Department also implemented the annual cost of living allowance (COLA) increase that went into effect on January 01, 2023. The Department is re-promulgating these sections of the rules in full within six months of issuance of the emergency rules in accordance with the New Mexico State Rules Act.

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: March 28, 2023

Hearing Date: April 27, 2023

Adoption Date: Proposed as June 01, 2023

Technical Citations: HHS 2023 Federal Poverty Guidelines and 2023 SSA COLA Fact Sheet

The Department is proposing to amend the rules as follows:

8.200.510 NMAC

Section 11 is amended to reflect current COLA for Community Spouse Resource Allowance.

Section 12 is amended to reflect the current COLA for Post-Eligibility Calculation (Medical Care Credit).

Section 13 is amended to reflect the current COLA for Average Monthly Cost of Nursing Facilities for Private Patients.

Section 15 is changed to reflect the COLA for current Excess Home Equity Amount for Long-Term Care Services.

8.200.520 NMAC

Section 11 is amended to reflect updated FPL limits.

Section 12 is amended to reflect the cost of living increase.

Section 13 is amended to reflect the increase in the Federal Benefit Rate.

Section 15 is amended to reflect the increase in SSI living arrangement amounts.
Section 16 is amended to reflect the increase in the monthly income standard for Institutional Care and Home and Community Based Waiver Services categories.
Section 20 is amended to reflect the increase in the covered quarter income standard.

8.291.430 NMAC

Section 10 is amended to reflect FPL mandates.

The register and the proposed rules are available on the HSD website at:

<https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

The Department proposes to implement these rules effective June 1, 2023. A public hearing to receive testimony on these proposed rules will be held **via conference call** on April 27, 2023, at 10 a.m., Mountain Time (MT). **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATTN: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on April 27, 2023. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

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 the MAD in Santa Fe at (505) 827-1337. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available 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.