



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT
HUMAN SERVICES DEPARTMENT

II. SUBJECT
8.313.3 NMAC, LONG TERM CARE SERVICES, INTERMEDIATE CARE FACILITIES
COST RELATED REIMBURSEMENT OF ICF-IID
8.313.2 NMAC, LONG TERM CARE SERVICES – INTERMEDIATE CARE FACILITIES
FOR THE MENTALLY RETARDED

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
PROPOSED RULES

V. BACKGROUND SUMMARY

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to repeal and replace the New Mexico Administrative Code (NMAC) rule 8.313.3, *Long Term Care Services, Intermediate Care Facilities Cost Related Reimbursement of ICF-IID*; and 8.313.2, *Long Term Care Services – Intermediate Care Facilities for the Mentally Retarded*.

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: June 7, 2022

Hearing Date: July 8, 2022

Adoption Date: Proposed as November 1, 2022

Technical Citations: 42 CFR 456 subpart F; 42 CFR 440.150

The Department is proposing to amend the rules as follows:

8.313.3 NMAC

Throughout the rule - Removal of Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR) and replace with Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

Section 8 – Updated to include the current Human Services Department Mission Statement.

Section 11 Subsection D (2) – Language added to reflect the state agency, or its audit agent, will retain all cost reports submitted by providers for a period of ten years.

8.313.2 NMAC

Throughout the rule

Replacement of terminology “Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR)” with “Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)” to reflect nationwide changes.

Section 8 – Updated to include the current Human Services Mission Statement.

Section 13 – Addition of Subsection C – Eligibility Requirements from NMAC 8.281.400.

Section 13 - Addition of Subsection D – Admission. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Section 13 - Addition of Subsection E – Transfer. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Section 13 - Addition of Subsection F – Discharge. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Throughout both 8.313.2 and 8.313.3 NMAC amendments have been made to comply with formatting requirements.

VI. RULES

These proposed rule changes will be contained in 8.313.3 NMAC and 8.313.2 NMAC. This register and the proposed rules are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/register/> 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.

VII. EFFECTIVE DATE

The Department proposes to implement these rules effective November 1, 2022.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed rules will be held **via conference call** on **Friday, July 8, 2022, at 10 a.m. Mountain Time (MT)**. **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

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.

IX. ADDRESS

Interested persons may address written comments 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 July 8, 2022. 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-notice-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.

X. PUBLICATION

Publication of these rules approved by:

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DAVID R. SCRASE, M.D., SECRETARY
HUMAN SERVICES DEPARTMENT