



State of New Mexico  
Human Services Department  
**Human Services Register**



**I. DEPARTMENT**  
HUMAN SERVICES DEPARTMENT

**II. SUBJECT**  
8.200.400 GENERAL RECIPIENT RULES-GENERAL MEDICAID ELIGIBILITY  
8.200.430-GENERAL RECIPIENT RULES-RECIPIENT RIGHTS AND RESPONSIBILITIES  
8.296.400 OTHER ADULTS-RECIPIENT REQUIREMENTS

**III. PROGRAM AFFECTED**  
(TITLE XIX) MEDICAID

**IV. ACTION**  
PROPOSED RULE

**V. BACKGROUND SUMMARY**

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules *8.200.400, Medicaid Eligibility-General Recipient Rules - General Medicaid Eligibility, 8.200.430, Medicaid Eligibility-General Recipient Rules - Recipient Rights and Responsibilities, and 8.296.400, Medicaid Eligibility-Other Adults – Recipient Requirements.*

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 26, 2019

Hearing Date: April 25, 2019

Adoption Date: Proposed as July 01, 2019

Technical Citations: 42 CFR 435.915, SSA 1916 and 1916A

The Department is updating eligibility rules to eliminate references to co-payments and premiums. Implementation of co-payments and premiums would limit access to emergency services, prescription services, and disrupt continuity of coverage for New Mexicans who rely on Medicaid for their health care needs. Premiums would most likely result in the loss of health coverage eventually creating pent-up demand for services over the long term. The Department is interested in pursuing other policy strategies that will help keep eligible individuals enrolled to avoid lapses in coverage and needed medical care.

The Department is updating eligibility rules to allow for three months of retroactive Medicaid prior to the application month for most individuals as opposed to the current one-month limitation for Medicaid managed care individuals. Retroactive eligibility for a three-month period has been a mainstay in the Medicaid program. Limiting retroactive Medicaid to one-month puts financial strain on low-income New Mexicans and on an already fragile health care workforce through additional costs, uncompensated care, and unmet medical needs.

**The Department is proposing to amend the rules as follows:**

**8.200.400 NMAC**

Section 14 is amended to delete subsections D through G that limited retroactive Medicaid to one month for most managed care members.

Section 14 is amended to add a new subsection D that allows for up to three months of retroactive Medicaid for most Medicaid categories: other adults, parent caretaker, supplemental security income (SSI), and SSI extensions, working disabled individuals (WDI), breast and cervical cancer (BCC), pregnant women, pregnancy-related services, children under age 19, family planning, specified low income beneficiaries (SLIMB), qualified individuals (QI1), qualified disabled working individuals (QD), refugees, children, youth and families department (CYFD), and institutional care Medicaid.

Section 14 is amended to add a new subsection E that lists Medicaid categories that historically have no retroactive Medicaid: emergency medical services for aliens (EMSA), home and community-based services waivers (HCBW), program for all-inclusive care for the elderly (PACE), qualified medicare beneficiaries (QMB), and transitional Medicaid.

Section 14 is amended to change subsection H to subsection F with no language changes regarding deemed newborns.

**8.200.430 NMAC**

Section 16 subsection A is amended to remove language about co-payments as the Department does not have co-payments for Medicaid categories. Subsection D referencing co-payments is deleted.

**8.296.400 NMAC**

Section 9 subsection E is amended to remove language referencing premiums for Other Adults beginning July 01, 2019. The Department will not be implementing premiums for Other Adults.

**VI. RULE**

These proposed rules will be contained in 8.200.400, 8.200.430, and 8.296.400 NMAC. This register and the proposed rules are available on the HSD website at: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and <http://www.hsd.state.nm.us/2017-comment-period-open.aspx>. If you do not have internet access, a copy of the proposed register and rules may be requested by contacting MAD at (505) 827-1337.



## VII. EFFECTIVE DATE

The Department proposes to implement these rules effective July 01, 2019.

## VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed rules will be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on April 25, 2019 at 9:00 a.m., Mountain Standard Time (MST).

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 advanced 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](mailto:madrules@state.nm.us). Written mail, electronic mail and recorded comments must be received no later than 5:00 p.m. MST on April 25, 2019. 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 <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rules. 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