



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



**I. DEPARTMENT**  
HUMAN SERVICES DEPARTMENT

**II. SUBJECT**  
8.100.970 NMAC, GENERAL PROVISIONS FOR PUBLIC ASSISTANCE PROGRAMS,  
OVERSIGHT – PROGRAM PARTICIPATION HEARINGS

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

**IV. ACTION**  
EMERGENCY RULE

**V. BACKGROUND SUMMARY**

The Human Services Department (the Department), through the Medical Assistance Division (MAD), has filed an emergency rule, New Mexico Administrative Code (NMAC) rule 8.100.970, *General Provisions for Public Assistance Programs, Oversight-Program Participation Hearings*, in order to transition the New Mexico Health Insurance Exchange (NMHIX, aka beWellnm) from utilizing the federal IT platform of Healthcare.gov to a state-based IT platform.

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: October 26, 2021  
Emergency Adoption Date: November 1, 2021  
Technical Citations: 45 CFR 155 subpart F

**The Department has amended the rule as follows:**

**Background**

New Mexico's Health Insurance Exchange (NMHIX; aka beWellnm) is transitioning from utilizing the federal IT platform of Healthcare.gov to a state-based IT platform. Given this transition, HSD must collaborate with beWellnm on IT and program integration. One aspect of program integration pertains to appeals rights for adverse actions impacting an enrollee's

eligibility for qualified health plans through NMHIX, federal tax credits and cost-sharing reductions, and other issues pertaining to NMHIX coverage. While using the federal Healthcare.gov platform, NMHIX has been working with the federal government on such appeals, when necessary. With the move to a state-based platform, NMHIX has requested that HSD take on the role of providing first tier appeals of adverse actions by enrollees. Thus, HSD must promulgate rules pertinent to providing those appeals for NMHIX enrollees or potential enrollees.

**8.100.970 – NMAC-General Provisions for Public Assistance Programs – Oversight-Program Participation Hearings.**

This rule has been updated to integrate functions of providing first tier appeals for New Mexicans purchasing coverage through New Mexico’s Health Insurance Exchange (NMHIX; aka beWellnm).

**VI. RULE**

This emergency rule change will be contained in 8.100.970 NMAC, *General Provisions for Public Assistance Programs, Oversight-Program Participation Hearings*. This register and the rule 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-notice-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>.

If you do not have internet access, a copy of the emergency register and rule may be requested by contacting MAD at (505) 827-1337.

**VII. EFFECTIVE DATE**

This rule has an effective date of November 1, 2021.

**VIII. PUBLICATION**

Publication of this rule approved by:

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