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Volume: Issue: Publication date: Number of pages: Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action:
New Amendment Repeal Emergency Renumber
(ALD Use Only)
Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Concise Explanatory Statement For Rulemaking Adoption:

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The Human Services Department issued proposed rules that restored three months of retroactive Medicaid eligibility for applicants as well as the elimination of co-payments and proposed premiums for the Other Adult Medicaid category. There were two written comments received and no oral testimony at the public hearing. Both written comments supported the proposed rule changes. The rule changes are being adopted as proposed.

Continued on next page

Findings required for rulemaking adoption:
continued

2020 JAN -7 PM 3:00

[Empty box for findings]

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

David R. Scrase, M.D.

Check if authority has been delegated

Title:

Secretary

Signature: (BLACK ink only)

David R. Scrase

Date signed:

12/23/19

2020 JAN -7 PM 3:00

This is an amendment to 8.200.400 NMAC, Section 14, effective 2/1/2020.

8.200.400.14 RETROACTIVE MEDICAID:

A. IISD must make eligibility for medicaid effective no later than the first or up to the third month before the month of application if the individual:

- (1) Requested coverage for months prior to the application month;
- (2) received medicaid services, at any time during that period, of a type covered under the

plan and;

(3) would have been eligible for medicaid at the time he or she received the services, if he or she had applied (or an authorized representative has applied for him or her) regardless of whether the individual is alive when application for medicaid is made.

B. Eligibility for medicaid is effective on the first day of the month if an individual was eligible at any time during that month.

C. Eligibility for each retroactive month is determined separately. Retroactive medicaid must be requested within 180 days of the date of the medicaid application.

D. ~~[Retroactive eligibility is limited to one month for most centennial care managed care members, as described in Subsection E of 8.200.400.14 NMAC. Retroactive eligibility is allowed for up to three months for individuals and categories as described in Subsection F of 8.200.400.14 NMAC. All retroactive periods are limited to one month prior to the application month when the individual or category would be enrolled into managed care for the application month or month prior.]~~

~~**E.** Centennial care managed care members on one of the following medicaid categories of eligibility (COEs) during the month of application or month prior are limited to retroactive medicaid for one month prior to the application month for these categories:~~

- ~~(1) other adults (COE 100) with a federal poverty level (FPL) less than or equal to one hundred percent;~~
- ~~(2) other adults (COE 100) with an FPL greater than one hundred percent who applied prior to July 1, 2019;~~
- ~~(3) parent caretaker (COE 200);~~
- ~~(4) supplemental security income (SSI COEs 001, 003, and 004);~~
- ~~(5) SSI extensions (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early widower);~~
- ~~(6) working disabled individuals (WDI COE 074); and~~
- ~~(7) breast and cervical cancer (BCC COE 052)~~
- ~~(8) an incarcerated individual suspended from centennial care enrollment for the application~~

~~month is limited to one month of retroactive medicaid for the month prior to the application month for the medicaid categories listed in Subsection E of 8.200.400.14 NMAC.~~

~~**F.** The following individuals or categories are allowed up to three months of retroactive medicaid:~~

- ~~(1) **FFS individuals:** Individuals not enrolled in managed care during the month of application or month prior are allowed up to three months of retroactive medicaid prior to the application month for the following categories:~~
 - ~~(a) other adults (COE 100);~~
 - ~~(b) parent caretaker (COE 200);~~
 - ~~(c) SSI (COEs 001, 003, and 004);~~
 - ~~(d) SSI extensions (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early widowers);~~
 - ~~(e) WDI (COE 074);~~
 - ~~(f) BCC (COE 052);~~
- ~~(2) pregnant women (COE 300);~~
- ~~(3) pregnancy-related services (COE 301);~~
- ~~(4) a woman who is pregnant on any medicaid category during the application month excluding categories that do not have retroactive medicaid per Subsection G of 8.200.400.14 NMAC.~~
- ~~(5) children under age 19 on any medicaid category, inclusive of the month a child turns age 19 during the application month, excluding categories that do not have retroactive medicaid per Subsection G of 8.200.400.14 NMAC;~~
- ~~(6) family planning (COE 029);~~
- ~~(7) specified low income medicare beneficiaries (SLIMB COE 045) and qualified individuals~~

(QH COE 042);

(8) qualified disabled working individuals (QD COE 050);
(9) refugee (COE 049)
(10) children, youth and families department medicaid categories (COEs 017, 037, 046, 047, 066, and 086); and

(11) institutional care medicaid (COEs 081, 083, and 084) excluding the program of all-inclusive care for the elderly (PACE).

(12) an incarcerated individual suspended during the application month who is FFS, pregnant, or eligible under one of the categories listed in Subsection F of 8.200.400.14 NMAC is allowed up to three months of retroactive medicaid prior to the application month.

G. The following categories do not have retroactive medicaid:

(1) emergency medical services for aliens (EMSA COE 085). EMSA provides coverage for emergency services, which may be provided prior to the application month, but is not considered retroactive medicaid. Eligibility is determined in accordance with 8.285.400, 8.285.500, and 8.285.600 NMAC;

(2) home and community based-services waivers (COEs 091, 093, 094, 095, and 096);

(3) other adults (COE 100) with an FPL greater than one hundred percent who apply on or after July 1, 2019 are subject to a premium. Individuals who have a premium requirement are determined prospectively eligible for the other adults category.

(4) PACE (COEs 081, 083, and 084);

(5) qualified medicare beneficiaries (COEs 041 and 044); and

(6) transitional medicaid (COEs 027 and 028).] Retroactive medicaid is allowed for up to three months prior to the application month for the following medicaid categories:

(1) other adults (COE 100);

(2) parent caretaker (COE 200)

(3) pregnant women (COE 300);

(4) pregnancy-related services (COE 301);

(5) children under age 19 (COEs 400, 401, 402, 403, 420, and 421);

(6) family planning (COE 029);

(7) children, youth and families department (CYFD COEs 017, 037, 046, 047, 066, and 086);

(8) supplemental security income (SSI COEs 001, 003, and 004);

(9) SSI (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early

widowers);

(10) working disabled individuals (COE 074);

(11) breast and cervical cancer (BCC COE 052);

(12) specified low income beneficiaries (SLIMB COE 045);

(13) qualified individuals (QII COE 042);

(14) qualified disabled working individuals (COE 050);

(15) refugees (COE 049); and

(16) institutional care medicaid (COEs 081, 083, and 084) excluding the program for all-inclusive care for the elderly (PACE).

E. The following categories do not have retroactive medicaid:

(1) emergency medical services for aliens (EMSA COE 085). EMSA provides coverage for emergency services, which may be provided prior to the application month, but is not considered retroactive medicaid. Eligibility is determined in accordance with 8.285.400, 8.285.500, and 8.285.600 NMAC;

(2) home and community based-services waivers (COEs 091, 093, 094, 095, and 096);

(3) PACE (COEs 081, 083, and 084);

(4) qualified medicare beneficiaries (COEs 041 and 044); and

(5) transitional medicaid (COEs 027 and 028).

[H.] F. Newborns (COE 031) are deemed to have applied and been found eligible for the newborn category of eligibility from birth through the month of the child's first birthday. This applies in instances where the labor and delivery services were furnished prior to the date of the application and covered by medicaid based on the mother applying for up to three months of retroactive eligibility.

[8.200.400.14 NMAC - Rp, 8.200.400.14 NMAC, 1/1/2019; A, 2/1/2020]