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TITLE 8 SOCIAL SERVICES
CHAPTER 249 MEDICAL ASSISTANCE PROGRAM ELIGIBILITY - REFUGEE MEDICAL ASSISTANCE (RMA) PROGRAM
PART 400 RECIPIENT REQUIREMENTS

8.249.400.1 ISSUING AGENCY: New Mexico Health Care Authority (HCA).
[8.249.400.1 NMAC - Rp, 8.249.400.1 NMAC, 1/1/2014; A, 7/1/2024]

8.249.400.2 SCOPE: The rule applies to the general public.
[8.249.400.2 NMAC - Rp, 8.249.400.2 NMAC, 1/1/2014]

8.249.400.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See Section 27-1-12 et seq. NMSA 1978. Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (HCA) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.249.400.3 NMAC - Rp, 8.249.400.3 NMAC, 1/1/2014; A, 7/1/2024]

8.249.400.4 DURATION: Permanent.
[8.249.400.4 NMAC - Rp, 8.249.400.4 NMAC, 1/1/2014]

8.249.400.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.249.400.5 NMAC - Rp, 8.249.400.5 NMAC, 1/1/2014]

8.249.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual 8.200 NMAC, *Medicaid Eligibility - General Recipients Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions policy manual 8.100 NMAC, *General Provisions for Public Assistance Programs*. Refugee medical assistance (RMA): The RMA offers health coverage for a refugee for a period established yearly by the office of refugee resettlement (ORR) based on appropriated funds for the fiscal year from their date of entry to the United States (U.S.) when they do not qualify for other medicaid eligibility categories. An RMA eligible refugee has access to a benefit package that parallels the full medicaid services. This program is not funded by medicaid; funds are provided through a grant under Title IV of the Immigration and Nationality Act. The purpose of this grant is to provide for the effective resettlement of a refugee and to assist him or her to achieve economic self-sufficiency as quickly as possible.
[8.249.400.6 NMAC - Rp, 8.249.400.6 NMAC, 1/1/2014; A, 1/1/2023; A/E, 5/1/2025]

8.249.400.7 DEFINITIONS: "Refugee" is an immigrant, who because of persecution or fear of persecution on account of race, religion or political opinion, fled from their home country and cannot return because of fear of persecution because of race, religion or political opinion.
[8.249.400.7 NMAC - N, 1/1/2014; A, 1/1/2023]

8.249.400.8 MISSION: We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.
[8.249.400.8 NMAC - N, 1/1/2014; A, 1/1/2022; A/E, 5/1/2025]

8.249.400.9 REFUGEE MEDICAL ASSISTANCE ONLY - CATEGORY 049 AND 059:

A. A medicaid eligible refugee recipient must meet the following non-financial eligibility requirements:

(1) is ineligible for full medicaid coverage;

(2) is not a full-time student in an institution of higher education, except where enrollment is part of an individual employability plan for a refugee enrolled in the refugee cash assistance program;

(3) is in the U.S. fewer than twelve months and meets one of the following statuses:

(a) is admitted as a refugee under Section 207 of the Immigration and Nationality Act;

(b) is paroled into the U.S. as a refugee or asylee under Section 212 (d)(5) of the Immigration and Nationality Act;

(c) is granted asylum under Section 208 of the Immigration and Nationality Act;

(d) is admitted as an Amerasian immigrant from Vietnam through the orderly departure program, under Section 584 of the Foreign Operations Appropriations Act, incorporated in the fiscal year 1988 Continuing Resolution P.L. 100-212;

(e) is a Cuban-Haitian entrant who was admitted as a public interest parolee under Section 212 (d)(5) of the Immigration and Nationality Act;

(f) is certified as a victim of human trafficking by the federal office of refugee resettlement (ORR);

(g) is an eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 Visa;

(h) is admitted as a special immigrant from Iraq or Afghanistan under Section 101 (a)(27) of the Immigration and Nationality Act; or

(i) is a lawful permanent resident (LPR) when the individual had previously met a status as listed in Subparagraphs (a) through (h) above;

(4) an individual who meets the following eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC of citizenship or non-citizen status, enumeration, residence, non-concurrent receipt of assistance and applications for other benefits;

(5) appropriate to the size of the budget group (not including the ineligible parent due to citizenship or non-citizen status or enumeration), countable gross income must be less than one hundred and eighty-five percent of the standard of need (SON) countable net income must be less than the SON pursuant to 8.200.520 NMAC and 8.202.500 NMAC; and

(6) an applicant or an eligible recipient may have other creditable health insurance coverage.

B. An eligible recipient may have other creditable health insurance coverage. If the eligible recipient has other creditable health insurance coverage, RMA is the second payor.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC.

[8.249.400.9 NMAC - Rp, 8.249.400.9 NMAC, 1/1/2014; A, 1/1/2022; A, 1/1/2023]

8.249.400.10 BASIS FOR DEFINING GROUP: At the time of application, an applicant or an eligible recipient and HCA shall identify everyone who is to be considered for inclusion in the assistance unit and budget group. Each member of the assistance unit and budget group, including each unborn child, is counted as one in the household size.

[8.249.400.10 NMAC - Rp, 8.249.400.10 NMAC, 1/1/2014; A/E, 5/1/2025]

8.249.400.11 [**RESERVED**]

8.249.400.12 ENUMERATION: Refer to 8.200.410.10 NMAC.

[8.249.400.12 NMAC - Rp, 8.249.400.12 NMAC, 1/1/2014]

8.249.400.13 CITIZENSHIP: Refer to 8.200.410.11 NMAC.

[8.249.400.13 NMAC - Rp, 8.249.400.13 NMAC, 1/1/2014]

8.249.400.14 RESIDENCE: Refer to 8.200.410.12 NMAC.

[8.249.400.14 NMAC - Rp, 8.249.400.14 NMAC, 1/1/2014]

8.249.400.15 [**RESERVED**]

8.249.400.16 [**RESERVED**]

8.249.400.17 AGE: Age is not an eligibility requirement.

[8.249.400.17 NMAC - Rp, 8.249.400.17 NMAC, 1/1/2014]

8.249.400.18 NON-CITIZEN SPONSORSHIP: The income support division (ISD) caseworker must notify the refugee's sponsor or local affiliate which provided for the resettlement of the refugee, when a refugee applies for refugee medical assistance.
[8.249.400.18 NMAC - Rp, 8.249.400.18 NMAC, 1/1/2014; A, 1/1/2022]

8.249.400.19 RECIPIENT RIGHTS AND RESPONSIBILITIES: Refer to 8.200.430 NMAC.
[8.249.400.19 NMAC - Rp, 8.249.400.19 NMAC, 1/1/2014]

8.249.400.20 ASSIGNMENT OF SUPPORT:

A. Assignment of medical support: Refer to 8.200.420.12 NMAC.

B. Assignments of child support: Assignment of child support is not required for refugee medical assistance.
[8.249.400.20 NMAC - Rp, 8.249.400.20 NMAC, 1/1/2014]

8.249.400.21 REPORTING REQUIREMENTS: Refer to 8.200.430.19 NMAC.
[8.249.400.21 NMAC - Rp, 8.249.400.21 NMAC, 1/1/2014]

8.249.400.22 ELIGIBLE ASSISTANCE UNIT: The assistance unit includes individuals who apply for RMA and who are determined eligible. Individuals may be ineligible for refugee cash assistance and eligible for RMA. An eligible recipient of refugee cash assistance who is not eligible for full medicaid services is eligible for RMA.
[8.249.400.22 NMAC - N, 1/1/2014]

8.249.400.23 BUDGET GROUP: The budget group includes all members of the assistance unit. Additional budget group members include individuals who live in the household with the assistance unit and have a financial obligation of support.

A. Except for an supplemental security income (SSI) recipient, the following individuals have a financial obligation of support for medicaid eligibility:

(1) spouses: married individuals as defined under applicable New Mexico state law (New Mexico recognizes common law and same sex marriages established in other states); and

(2) parents for children: there is a presumption that a child born to a married woman is the child of the spouse, or if the individual established parentage by some other legally recognized process.

B. The following individuals do not have a financial obligation of support for medicaid eligibility:

(1) an SSI recipient to the assistance unit;

(2) a father of the unborn child who is not married to the pregnant woman;

(3) a stepparent to a stepchild;

(4) a grandparent to a grandchild;

(5) a legal guardian or a conservator of a child;

(6) a non-citizen sponsor to the assistance unit; and

(7) a sibling to a sibling.

C. Budget group earned income disregards and childcare deductions vary based on the age group of the child. Refer to 8.232.500 NMAC.
[8.249.400.23 NMAC - N, 1/1/2014; A, 1/1/2022; A/E, 5/1/2025]

8.249.400.24 LIVING IN THE HOME

A. To be included in the assistance unit and budget group, an individual must be living, or considered to be living, in the budget group's home.

B. A child considered to be living in the home: A child is considered to be part of the budget group as evidenced by the child's customary physical presence in the home. If a child is living with more than one household, the following applies:

(1) when the child is actually spending more time with one household than the other, the child would be determined to be living with the household with whom the child spends the most time; or

(2) when the child is actually spending equal amounts of time with each household, the child shall be considered to be living with the household who first applies for medicaid enrollment.

C. Extended living in the home: An individual may be physically absent from the home for longer or shorter periods of time and be a member of the assistance unit and budget group.

(1) Extended living in the home includes:

(a) when an individual is attending college or boarding school; or

(b) when an individual is receiving treatment in a Title XIX medicaid facility, including institutionalized when meeting a nursing facility (NF) level of care (LOC) and intermediate care facilities for individuals with an intellectual disability (ICF-IID) LOC.

(2) When an individual has been a member of the assistance unit, eligibility for another medicaid eligibility category, such as long-term care medicaid, should be evaluated; until a determination of eligibility for another category can be made, the individual is considered to be living with the budget group.

D. Temporary absence such as extended living in the home: An individual may be physically absent from the home and be a member of the assistance unit and budget group. These other temporary absences include:

(1) an individual not living in the home due to an emergency, who is expected to return to the household within 60 calendar days, continues to be a member of the household;

(2) a child removed from the home of a parent or a specified relative by a child protective services agency (tribal, bureau of Indian affairs, or children, youth and families department), until an adjudicatory custody hearing takes place; if the adjudicatory hearing results in custody being granted to some other entity, the child will be removed from the assistance unit; or

(3) a child residing in a detention center:

(a) continues to be a member of the household if they reside fewer than 60 calendar days, regardless of adjudication as an inmate of a public institution; or

(b) is not eligible for medicaid enrollment if they reside 60 calendar days or more as an adjudicated inmate of a public institution pursuant to 8.200.410 NMAC.

[8.249.400.24 NMAC - N, 1/1/2014; A/E, 5/1/2025]

HISTORY OF 8.249.400 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

MAD Rule 822, Refugee Medical Assistance, filed 5/22/1992.

History of Repealed Material:

MAD Rule 822 Refugee Medical Assistance, filed 5/22/1992 - Repealed effective 2/1/1995.

8.249.400 NMAC Recipient Policies, filed 9/3/2013 - Repealed effective 1/1/2014.