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Volume: XXXVII **Issue:** 13 **Publication date:** 7/14/2026 **Number of pages:** 2 **(ALD Use Only) Sequence No.**

Issuing agency name and address: HCA - Medical Assistance Division

Agency DFA code: 630

Contact person's name: Tabitha Mondragon

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Type of rule action:

New ☐ **Amendment** ☑ **Repeal** ☐ **Emergency** ☐ **Renumber** ☐

(ALD Use) Recent filing date:

Title number: 8 **Title name:** Social Services

Chapter number: 308 **Chapter name:** Managed Care Program

Part number: 8 **Part name:** Member Rights, Responsibilities and Education

Amendment description (If filing an amendment): Amending (7) Sections.

Amendment's NMAC citation (If filing an amendment): Section 1, 8, 10, 11, 12, 15 and 16 of 8.308.8 NMAC

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** ☐

Specific statutory or other authority authorizing rulemaking:

42 CFR §438, NM Turquoise Care 1115 Demonstration Waiver

Notice date(s): 3/10/2026

Hearing date(s): 4/9/2026

Rule adoption date: 6/9/2026

Rule effective date: 8/1/2026

Concise Explanatory Statement For Rulemaking Adoption:

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.

A public hearing was held on April 9, 2026 to receive public comments and testimony. The HCA did not receive any comments. This rule is being implemented as proposed.

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

Kari Armijo

Check if authority has been delegated

Title:

Secretary

Signature: **(BLACK ink only OR Digital Signature)**

DocuSigned by:
Kari Armijo
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Date signed:

6/10/2026

This is an amendment to 8.308.8 NMAC, Sections 1, 8, 10, 11, 12, 15, and 16, effective 8/1/2026.

8.308.8.1 ISSUING AGENCY: New Mexico health care authority (HCA).
[8.308.8.1 NMAC - Rp, 8.308.8.1 NMAC, 5/1/2018; A, 7/1/2024; A, 8/1/2026]

8.308.8.8 [~~RESERVED~~] 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.
[8.308.8.8 NMAC - Rp, 8.308.8.8 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.10 WRITTEN MEMBER MATERIALS:

A. All written materials will be available in English and all languages spoken by approximately five percent or more of the MCO's membership, as determined by the [~~HSD~~] HCA contracted managed care organization (MCO) or [~~HSD~~] HCA. Upon consent from the appropriate [~~native~~] Native American tribal leadership, the MCO shall make every effort when a written form is not in the member's native language to translate the form in the member's native language.

B. The MCO is responsible for providing a member or potential member with its member handbook and provider directory, as requested by a member.

(1) The MCO shall send such information to the member within 30 calendar days of receipt of notification of enrollment in the MCO.

(2) Thereafter, upon the request from a member, the MCO shall send such information within 10 calendar days. The MCO shall provide the requestor the option to receive the material in a written or electronic form or by citation to be found on the member's MCO's website.

(3) On an annual basis, the MCO shall notify the member of the availability of updated materials and how to obtain such materials.

C. All written member materials must comply with provisions set forth in 42 CFR 438.10.
[8.308.8.10 NMAC - Rp, 8.308.8.10 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.11 MEMBER RIGHTS AND RESPONSIBILITIES: The MCO shall provide each member or the member's authorized representative with written information concerning [~~his or her~~] their rights and responsibilities.

A. These include the right:

(1) to be treated with respect and with due consideration for [~~his or her~~] their dignity and privacy;

(2) to receive information on available treatment options and alternatives, presented in a manner appropriate to [~~his or her~~] their condition and ability to understand such information;

(3) to make and have honored [~~his or her~~] their advance directive that is consistent with state and federal laws;

(4) to receive covered services in a nondiscriminatory manner;

(5) to participate in decisions regarding [~~his or her~~] their health care, including the right to refuse treatment;

(6) to be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation, as specified in federal regulations on the use of restraints and seclusion;

(7) to request and receive a copy of [~~his or her~~] their medical records and to request that they be amended or corrected as specified in 45 CFR 164.524 and 526;

(8) to choose an authorized representative to be involved, as appropriate, in making [~~his or her~~] their health care decisions;

(9) to provide informed consent;

(10) to voice grievances concerning the care provided by the MCO;

(11) to appeal any action regarding medicaid services that the member or [~~his or her~~] their authorized representative or authorized provider believes is erroneous;

(12) to protect the member, [~~his or her~~] their authorized representative or authorized provider who uses the grievance, appeal, and [~~HSD~~] HCA administrative hearing processes from fear of retaliation;

(13) to choose from among contracted providers in accordance with [~~his or her~~] their MCO's prior authorization requirements;

(14) to receive information about covered services and how to access these covered services, and providers;

(15) to be free from harassment by the MCO or its contracted providers in regard to contractual disputes between the MCO and the provider;

(16) to participate in understanding physical and behavioral health problems and developing mutually agreed-upon treatment goals; and

(17) to be assured that the MCO complies with any other applicable federal and state laws including: Title VI of the Civil Rights Act of 1964 as implemented by regulations in 45 CFR part 80; the Age Discrimination Act of 1975 as implemented by regulations 45 CFR part 91; the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972 (regarding education programs and activities); Titles II and III of the Americans with Disabilities Act; and section 1557 of the Patient Protection and Affordable Care Act.

B. The MCO shall ensure that each member or the member's authorized representative or authorized provider is free to exercise [~~his or her~~] their rights, and the exercise of those rights does not adversely affect the way that the MCO or provider treats the member or member's authorized representative or authorized provider.

C. The member or [~~his or her~~] their authorized representative or authorized provider, to the extent possible, has a responsibility:

(1) to provide information that the MCO and providers need in order to care for the member, such information includes, but is not limited to the member's:

(a) most current mailing address;

(b) most current email address, if one is available;

(c) most current phone number, including any land line and cell phone, if available; and

(d) most current emergency contact information;

(2) to follow the care plans and instructions from [~~his or her~~] their provider that have been agreed upon;

(3) to keep a scheduled appointment; and

(4) to reschedule or cancel a scheduled appointment rather than simply fail to keep it.

[8.308.8.11 NMAC - Rp, 8.308.8.11 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.12 MEMBER HEALTH RECORDS: The MCO shall provide a member with access to electronic or hard copy versions of [~~his or her~~] their personal health records.

[8.308.8.12 NMAC - Rp, 8.308.8.12 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.15 MEMBER TOLL-FREE LINE: The MCO shall operate a call center with a toll-free phone line to respond to member questions, concerns, inquiries and complaints from a member and [~~his or her~~] their provider. The line shall be equipped to handle calls from an individual with limited English proficiency, as well as calls from a member who is hearing impaired. It should be staffed 24 hours a day, seven days a week, with qualified nurses to triage urgent care and emergency calls from a member, and when necessary, to facilitate the transfer of such calls to a care coordinator.

[8.308.8.15 NMAC - Rp, 8.308.8.15 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.16 MEMBER ADVISORY BOARD: The MCO shall convene advisory boards that meet quarterly and are representative of its membership. The advisory board shall advise the MCO on issues concerning service delivery, quality of its covered services, and other member issues as needed or as directed by [~~HSD~~] HCA.

[8.308.8.16 NMAC - Rp, 8.308.8.16 NMAC, 5/1/2018; A, 8/1/2026]