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Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address:

Agency DFA code:

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐

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?

Please list attachments or Internet sites if applicable.

Yes ☐ No ☒

If materials are attached, has copyright permission been received?

Yes ☐No ☐Public domain ☐**Specific statutory or other authority authorizing rulemaking:**

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

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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.

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A public hearing was held on March 12, 2026, to receive public comments on this proposed NMAC. No comments were received regarding the proposed changes. The NMAC 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)

Date signed:

DocuSigned by:
Kari Armijo
1B49EB5EAD00499

8/4/2026

This is an amendment to 8.371.9 NMAC, Sections 1, 2 and 6-11, effective 9/1/2026.

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8.371.9.1 **ISSUING AGENCY:** New Mexico health care authority (HCA). 2026 AUG -5 PM 3:43
[8.371.9.1 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.2 **SCOPE:**

A. These regulations provide a systematic process for admission of persons requesting services from an intermediate care facility for ~~[the mentally retarded (ICF/MR)]~~ individuals with intellectual disabilities (ICF/IID); the transfer between ~~[ICF/MR]~~ ICF/IID facilities of persons previously determined eligible; and the discharge of persons residing in an ~~[ICF/MR]~~ ICF/IID.

B. These regulations apply to persons who request admission to an ~~[ICF/MR]~~ ICF/IID and who reside in the community; in a nursing facility; in a hospital; or, in an ~~[ICF/MR]~~ ICF/IID. In addition, these regulations apply to any ~~[ICF/MR]~~ ICF/IID in the state of New Mexico that is licensed under health care authority regulations governing long term care facilities.

C. These regulations are limited to the admission, transfer and discharge of persons receiving support and services funded in whole or in part by state funds or for whom services can reasonably be expected to be funded in whole or in part with state funds within six months of admission into an ~~[ICF/MR]~~ ICF/IID.
[8.371.9.2 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.6 **OBJECTIVE:** The purpose of these regulations is to:

A. establish the process for the admission of any and all persons requesting admission to an ~~[ICF/MR]~~ ICF/IID, to be transferred between ~~[ICF/MR]~~ ICF/IID facilities, or to be discharged from an ~~[ICF/MR]~~ ICF/IID;

B. establish admission, transfer and discharge procedures for ~~[ICF/MR]~~ ICF/IID facilities licensed and located in the state of New Mexico consistent with the Developmental Disabilities Act, Section 28-16A-15 NMSA 1978;
[8.371.9.6 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.7 **DEFINITIONS:**

~~[A. "Discharge" means the termination of services for a person previously admitted into an ICF/MR and the discharging facility ceases to be legally responsible for the care of the person.~~

~~[B. "Eligible central registry person" means a person who has requested admission to an ICF/MR, or discharge from an ICF/MR and transfer to a community-based HCA funded program, and who is determined by the HCA to meet pre-admission screening criteria for ICF/MR and home/community-based developmental disabilities services.~~

~~[C. "ICF/MR" means an intermediate care facility that provides food, shelter, health or rehabilitative and active treatment for persons with mental retardation or related conditions, and that has a current license issued by the HCA.~~

~~[D. "New admission" means a person requesting an ICF/MR admission for the first time and does not otherwise qualify as a re-admission. New admissions are subject to pre-admission screening.~~

~~[E. "NMSA" means the New Mexico Statutes Annotated 1978 compilation and all the revisions and compilations thereof.~~

~~[F. "Pre-admission screening" means the evaluation process of the health care authority to determine a person's choice between ICF/MR and community-based services, and whether the person has a developmental disability as described in the American association on mental retardation's manual on classification in mental retardation (1996) or a related condition as defined by 42 CFR 435.1009.~~

~~[G. "Readmission" means a person re-admitted to an ICF/MR from another type of institution to which they were transferred for the purpose of receiving acute, psychiatric care or rehabilitation following a temporary, acute care episode. A readmission is not subject to pre-admission screening.~~

~~[H. "Transfer" means movement of an individual from one ICF/MR to another ICF/MR, with or without an intervening hospital stay. A transfer is not subject to pre-admission screening.~~

~~[I. "State medicaid agency" means the health care authority.~~

~~[J. "Central registry" means a registry of persons who are requesting or receiving services established by the HCA in accordance with Section 28-16A-15 NMSA 1978.]~~

A. Definitions beginning with "A": [RESERVED]

B. Definitions beginning with "B": [RESERVED]

C. Definitions beginning with "C": "Central registry" means a registry of persons who are requesting or receiving services established by the HCA in accordance with Section 728A-15 NMSA 1978.

D. Definitions beginning with "D": "Discharge" means the termination of services for a person previously admitted into an ICF/IID and the discharging facility ceases to be legally responsible for the care of the person.

E. Definitions beginning with "E": "Eligible central registry person" means a person who has requested admission to an ICF/IID, or discharge from an ICF/IID and transfer to a community-based HCA funded program, and who is determined by the HCA to meet pre-admission screening criteria for ICF/IID and home/community-based developmental disabilities services.

F. Definitions beginning with "F": [RESERVED]

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": [RESERVED]

I. Definitions beginning with "I": "ICF/IID" means an intermediate care facility that provides food, shelter, health or rehabilitative and active treatment for persons with intellectual disabilities or related conditions, and that has a current license issued by the HCA.

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L": [RESERVED]

M. Definitions beginning with "M": [RESERVED]

N. Definitions beginning with "N":

(1) "New admission" means a person requesting an ICF/IID admission for the first time and does not otherwise qualify as a re-admission. New admissions are subject to pre-admission screening.

(2) "NMSA" means the New Mexico Statutes Annotated 1978 compilation and all the revisions and compilations thereof.

O. Definitions beginning with "O": [RESERVED]

P. Definitions beginning with "P": "Pre-admission screening" means the evaluation process of the health care authority to determine a person's choice between ICF/IID and community based services, and whether the person has a developmental disability as described in the *American Association on Intellectual Disability: Definition, Diagnosis, Classification, and Systems of Supports (12th edition, published in 2021)*, or a related condition as defined by 42 CFR 435.1009.

Q. Definitions beginning with "Q": [RESERVED]

R. Definitions beginning with "R": "Readmission" means a person re-admitted to an ICF/IID from another type of institution to which they were transferred for the purpose of receiving acute, psychiatric care or rehabilitation following a temporary, acute care episode. A readmission is not subject to pre-admission screening.

S. Definitions beginning with "S": "State medicaid agency" means the health care authority.

T. Definitions beginning with "T": "Transfer" means movement of an individual from one ICF/IID to another ICF/IID, with or without an intervening hospital stay. A transfer is not subject to pre-admission screening.

U. Definitions beginning with "U": [RESERVED]

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": [RESERVED]

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[8.371.9.7 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.8 ADMISSION:

A. No person shall be admitted into an [ICF/MR] ICF/IID unless the person has been pre-screened and referred to an [ICF/MR] ICF/IID by the health care authority central registry.

B. Consistent with the provisions of 42 CFR 431.51 any person who requests to be placed on the HCA's central registry will be provided the opportunity to indicate a choice between [ICF/MR] ICF/IID and home/community-based waiver services at the time of application to the central registry. The purpose of this information request is for system service planning to identify persons who may be potentially eligible for [ICF/MR] ICF/IID services.

C. All applicants to the central registry may choose to be placed on the central registry for both [ICF/MR] ICF/IID and home/community-based waiver services.

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D. All persons referred for admission into an [ICF/MR] ICF/IID from the central registry may choose to remain on the central registry for home/community-based waiver services. All persons referred for admission into home/community-based waiver services may choose to remain on the central registry for [ICF/MR] ICF/IID services.

E. All persons applying to the central registry will be pre-screened by the HCA before placement on the central registry to determine each person's choice between [ICF/MR] ICF/IID and home/community-based waiver services, and whether the person has a developmental disability or related condition. Pre-screening does not include determination of financial eligibility and level of care, which are functions performed by the state medicaid agency.

F. The HCA will implement application procedures for the central registry that identifies applicant's freedom to choose between [ICF/MR] ICF/IID and home and community based services.

G. Upon notification from a [ICF/MR] ICF/IID to the HCA that a vacancy exist in their facility, the HCA will identify three persons from the central registry, in the order of date of application to the central registry, who have indicated a choice for [ICF/MR] ICF/IID services, and who:

- (1) have never been admitted into an [ICF/MR] ICF/IID; or
- (2) were discharged from an [ICF/MR] ICF/IID for at least 30 days; or
- (3) did not qualify as a readmission;
- (4) the group of three individuals will be classified as "new admission" for the purposes of

these regulations.

H. The HCA will notify the three persons about the availability of a vacancy and request each person to reaffirm in writing their choice between [ICF/MR] ICF/IID, developmental disabilities home and community waiver services, or other services.

I. The HCA will furnish to an [ICF/MR] ICF/IID the names and contact information of any persons on the central registry who indicate a choice for [ICF/MR] ICF/IID services in the long term services division region in which the [ICF/MR] ICF/IID is located.

J. The [ICF/MR] ICF/IID will contact and review each person's request for admission in accordance with federal licensing and certification requirements.

K. The [ICF/MR] ICF/IID will refer any person referred by the central registry, and whom the [ICF/MR] ICF/IID determined appropriate for admission based on its admission decision, to the state medicaid agency for level of care and financial eligibility determination.

L. The [ICF/MR] ICF/IID will notify the HCA and the eligible central registry person of the results of its admission decision for all three persons referred by the HCA with an explanation for its decision on each person referred. The [ICF/MR] ICF/IID will notify any person not admitted of their right to a review of the admission decision.

M. The [ICF/MR] ICF/IID may admit any person who meets the definition of "readmission" without referral through the HCA's central registry. A readmission will not be subject to pre-screening by the HCA.

N. The health care authority central registry may refer an individual to an [ICF/MR] ICF/IID vacancy based on the HCA's determination that the referral is an emergency. The HCA may exempt an emergency referral from the central registry to be made based on the person's date of application to the central registry.

[8.371.9.8 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.9 TRANSFER:

A. A person may be transferred to another [ICF/MR] ICF/IID operated by the same entity, or an [ICF/MR] ICF/IID that operates independent of the [ICF/MR] ICF/IID where the person currently resides without referral through the central registry, provided:

- (1) the person's interdisciplinary team recommends the transfer;
- (2) the person's transfer is based on the person's freedom of choice of providers; and
- (3) the receiving [ICF/MR] ICF/IID has identified a vacancy.

B. An [ICF/MR] ICF/IID may transfer a person temporarily to a psychiatric acute care hospital, or temporarily to a nursing facility for care following a hospital stay. Persons returning to the [ICF/MR] ICF/IID under these conditions will be classified a "readmission" and will not be subject to pre-screening by the HCA.

C. Persons receiving services from an [ICF/MR] ICF/IID may be transferred to a home and community-based waiver program provided the person has been allocated to the program by the HCA in accordance with central registry policies and procedures.

D. The [ICF/MR] ICF/IID shall provide a complete copy of the person's medical and service records, including assessments required for individual program planning to the [ICF/MR] ICF/IID or community to which the person is transferred.
[8.371.9.9 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.10 DISCHARGE:

A. A person may be discharged from an [ICF/MR] ICF/IID when the individual/guardian requests to be discharged; when the person's interdisciplinary team recommends the facility cannot meet the individual's needs; the individual no longer requires an active treatment program in an [ICF/MR] ICF/IID setting; the discharge would be more beneficial to the person; or for any other good cause. Any decision to discharge a person from an [ICF/MR] ICF/IID based on good cause must be adequately justified in writing by the [ICF/MR] ICF/IID and reviewed by the HCA prior to discharge.

B. The [ICF/MR] ICF/IID will ensure the person's family/guardian and the person's advocate is involved in the interdisciplinary team process, involving a discussion and proposed decision regarding discharge.

C. The [ICF/MR] ICF/IID will ensure a transition plan is developed 30 working days prior to discharge in accordance with HCA policies on discharge and transition of persons in services.

D. The [ICF/MR] ICF/IID will ensure the person and their guardian are fully informed of their right to a fair hearing in accordance with 42 CFR 431.200-431.250.

E. The [ICF/MR] ICF/IID will ensure any discharge decision is carried out in accordance with provisions of 42 CFR 456.380.

[8.371.9.10 NMAC - N, 7/1/2024; A, 9/1/2026]

8.371.9.11 NOTIFICATION OF THE HCA:

A. The [ICF/MR] ICF/IID will notify the HCA of any vacancy or anticipated vacancy in their facility.

B. The [ICF/MR] ICF/IID will notify the HCA of any person requesting [ICF/MR] ICF/IID services and for whom state funding may be necessary.

C. The HCA will notify an [ICF/MR] ICF/IID of any person on the central registry indicating a choice of [ICF/MR] ICF/IID services in the long term services division region in which the [ICF/MR] ICF/IID located.

D. Notice by either party shall be based on timelines adopted by the HCA.
[8.371.9.11 NMAC - N, 7/1/2024; A, 9/1/2026]