

From: [D](#)
To: [HCA-madrules](#)
Subject: [EXTERNAL] Public comment referencing rulemaking proposed in New Mexico Register Volume XXXVII, Issue 15 (August 11, 2026)
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To whom it may concern:

I am submitting these public comments regarding the new rule proposed by the New Mexico Healthcare Authority (HCA) Medical Assistance Division, as reported in the New Mexico Register, Volume XXXVII, Issue 15 (August 11, 2026). This rule relates to the implementation of new address confirmation and community engagement requirements for Medicaid beneficiaries beginning January 1, 2027.

I am deeply concerned about the impact these address confirmation rules will have on individuals experiencing homelessness. Specifically, the proposed rule inadvertently create a new eligibility requirement for homeless residents that is inconsistent with explicit New Mexico and federal Medicaid policies and regulations.

1. Conflict with Existing State and Federal Residency Standards

The state proposes adopting a new rule for Medicaid beneficiaries relating to "whereabouts unknown," at **8.291.410.27(D)(3)** requiring that:

"...If the HCA is unable to identify and confirm the beneficiary's address and the whereabouts remain unknown, the HCA must take appropriate steps to move the beneficiary to a fee-for-service delivery system or to terminate or suspend the beneficiary's coverage."

This language is manifestly inconsistent with current New Mexico law and social services regulations for both SNAP and Medicaid, as well as **42 CFR § 435.403(h)(1)(i)**. The conceptual flaw in the proposed rule is that it conflates an address for point-of-contact purposes with eligibility requirements based upon residency.

Current federal and state regulations do not require a homeless individual to establish, maintain, verify, or confirm an address to establish or maintain eligibility for public benefit programs:

SNAP Standards: Under **NMAC 8.139.410.10(D)**, an otherwise eligible household is not required to live in a permanent dwelling or have a fixed mailing address. Furthermore, **NMAC 8.139.410.10(G)** acknowledges that residency verification cannot reasonably be accomplished for homeless households.

Medicaid Standards: **NMAC 8.291.410.15(A)** explicitly states, "An applicant or recipient who is homeless is considered to have met the residence requirements if he or she intends to remain in the state." Intention—not address confirmation—is the current legal standard for eligibility. Moreover, **NMAC 8.291.410.15(E)** notes that in a dispute over residency, an

individual may be considered a resident where they are "physically located". It is physical location and not address confirmation that is the current legal standard.

Why does the proposed rule use inability to confirm an address and unknown whereabouts as a trigger for termination of Medicaid benefits, rather than an opportunity to reconsider whether the beneficiary no longer satisfies the residency requirements of **8.291.410.15**? It is unclear whether this new language stems from an oversight regarding pre-existing homeless eligibility protections or an unintended broadening of administrative rules into a substantive eligibility change. If it's the former, please don't inadvertently do the latter.

2. Disconnect from Current Federal Regulatory Status

The proposed "whereabouts unknown" language tracks verbatim the language CMS adopted in 2024 and codified at **42 CFR § 435.919(f)(4)(iii)**. However, CMS's June 3, 2026 interim final rule clarifies that Section 71102 of H.R. 1 / Public Law 119-21 prohibits HHS from implementing, administering, or enforcing the 2024 amendments to 42 CFR § 435.919 through September 30, 2034. That rule has been removed, and the digital version of the Code of Federal Regulations now lists § 435.919 as "Reserved."

Consequently, the state cannot argue that this rule implements current federal law, nor is it clear what independent state authority HCA relies upon to import outdated federal text into the New Mexico Administrative Code. Proposing a requirement at the state level which CMS itself is currently prohibited from enforcing at the federal level creates unnecessary federalism friction and comity concerns.

3. Proposed Resolution

While I recognize that federal law requires states to develop address information systems to support H.R. 1 § 71103 implementation, that mandate does not compel the adoption of the problematic "whereabouts unknown" termination language.

To ensure the new address confirmation procedures do not inadvertently dismantle New Mexico's long-standing protections for homeless beneficiaries, the "whereabouts unknown" paragraph located at **8.291.410.27.(D)(3)** be amended to include the following safe harbor at the end:

"A HOMELESS INDIVIDUAL THAT MEETS THE RESIDENCY REQUIREMENTS DESCRIBED IN NMAC 8.291.410.15 SHALL NOT BE CONSIDERED WHEREABOUTS UNKNOWN UNDER THIS PARAGRAPH NOR SHALL THEIR MEDICAID ELIGIBILITY BE TERMINATED FOR FAILURE TO ESTABLISH, MAINTAIN, VERIFY, OR CONFIRM AN ADDRESS."

Thank you for your consideration of these comments to protect vulnerable New Mexicans.

Daniel Thomas