



State of New Mexico
Health Care Authority
Human Services Register



HEALTH CARE
AUTHORITY

I. DEPARTMENT
NEW MEXICO HEALTH CARE AUTHORITY

II. SUBJECT
8.281.600 NMAC, MEDICAID ELIGIBILITY – INSTITUTIONAL CARE (CATEGORIES 081, 083 AND 084), BENEFIT DESCRIPTION
8.290.600 NMAC, MEDICAID ELIGIBILITY – HOME AND COMMUNITY-BASED SERVICES WAIVER (CATEGORIES 090, 091, 092, 093, 094, 095 AND 096), BENEFIT DESCRIPTION

III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID

IV. ACTION
FINAL RULES

V. BACKGROUND SUMMARY
The New Mexico Health Care Authority (HCA) Register Volume 48, Register 14, dated May 19, 2025, issued the proposed New Mexico Administrative Code (NMAC) 8.281.600, *Medicaid Eligibility – Institutional Care (Categories 081, 083 and 084), Benefit Description and 8.290.600, Medicaid Eligibility – Home and Community-Based Services waiver (Categories 090, 091, 092, 093, 094, 095 AND 096), Benefit Description.*

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: May 20, 2025
Hearing Date: June 23, 2025
Adoption Date: November 1, 2025
Technical Citations: 42 CFR 435.201 and 435.217

A public hearing was held on June 23, 2025, to receive public comments and testimony on these proposed rules. The Health Care Authority received one comment on the proposed changes.

Comment:

The commentor is opposed to the proposed rule change stating that the new rules now require that an annual level of care (LOC) determination is required for all individuals participating in Medical Assistance Division (MAD) programs, no matter how irreversible their medical conditions may be. In the past, the HCA has made allowances for individuals with chronic, progressive, and otherwise permanent disorders that will not change with time, granting that those participants were not required to engage in annual in-person LOC assessments. The commentor states these proposed changes will undoubtedly increase the administrative burden for the HCA, resulting in a delay of services to people who rely upon daily care from MAD programs for their very survival.

Department:

The HCAs intent with the proposed rule change was to remove outdated language in the rule and align Institutional Care and Home and Community-based Waiver level of care (LOC) policy. The HCA inadvertently removed language that allows for Community Benefit members to be eligible for an ongoing nursing facility level of care. The HCA is adding back into 8.290.600.12 that “certain community benefit members whose chronic condition is not expected to improve may be eligible for an ongoing nursing facility (NF) level of care.”

For 8.281.600.12 we are changing the wording slightly to add the acronym LOC for level of care and removing the word “all” as unnecessary. The last updated sentence will read “LOC reviews are required to be completed at least annually for all institutional care Medicaid programs.”

VI. RULE

These amendments will be contained in 8.281.600 and 8.290.600 NMAC. The final register and rule language is available on the HCA website at:

<https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/lookingforinformation/medical-assistance-division-1/>. If you do not have internet access, a copy of the final register and rules may be requested by contacting the Medical Assistance Division at (505) 827-1337.

VII. EFFECTIVE DATE

These rules will have an effective date of November 1, 2025

VIII. PUBLICATION

Publication of these rules is approved by:

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 KARI ARMIJO, SECRETARY
 HEALTH CARE AUTHORITY