



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

New Mexico Human Services Department (HSD)

II. SUBJECT

8.200.410 NMAC, General Recipient Rules-Recipient Requirements

**III. PROGRAM AFFECTED
(TITLE XIX) MEDICAID**

**IV. ACTION
PROPOSED RULE**

V. BACKGROUND SUMMARY

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule *8.200.410-General Recipient Requirements*. The Department is re-promulgating this section of the rule in full within six months of issuance of the emergency rule (Volume 40 Register 27) in accordance with the New Mexico State Rules Act.

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: April 24, 2018

Hearing Date: May 24, 2018

Adoption Date: Proposed as July 1, 2018

Technical Citations: 42 CFR 435.4, 435.406, 435.956, 8 USC Section 1641

Summary of Revisions:

8.200.410.11(A)(4) NMAC

The Department is deleting language that covers non-citizens permanently residing in the United States under color of law (PRUCOL) because the Department is aligning its rules for Medicaid eligibility to mirror the federal structure for eligibility. For individuals who entered the United States prior to August 22, 1996, it is unnecessary to look at whether their immigration standard met PRUCOL. PRUCOL immigration standards were no longer in effect under federal law, after

the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted on August 22, 1996.

8.200.410.11(B)(1)(I)

Language was added to state that the Department covers battered non-citizens under state general funds until the five year bar is met.

8.200.410.11(B)(3)(h)

Language was deleted to exclude non-citizens who are lawfully present in the Commonwealth of the Northern Mariana Islands. Federal rulemaking removes the language related to individuals who are lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. 1806(e) from the definition of lawfully present at 42 CFR 435.4. Most of these individuals will continue to be covered under the definition of lawfully present in other categories.

VI. RULE

This proposed rule will be contained in 8.200.410 NMAC. This register and the proposed rule are available on the HSD website at: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and <http://www.hsd.state.nm.us/public-notice-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at 505-827-6252.

VII. EFFECTIVE DATE

The Department proposes to implement this rule effective July 1, 2018.

VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico on Thursday, May 24, 2018 from 9:30 a.m. to 10:30 a.m., Mountain Daylight Time (MDT).

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-6252. The Department requests at least 10 working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

IX. ADDRESS

Interested persons may address written or recorded comments to:

Human Services Department
Office of the Secretary
ATTN: Medical Assistance Division Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MDT on May 24, 2018. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

X. PUBLICATION

Publication of this rule approved by:



BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT