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New Mexico Register

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New Mexico Register

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A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

Notices of Rulemaking and Proposed Rules

ENVIRONMENT DEPARTMENT

NOTICE AND CONCISE EXPLANATORY STATEMENT OF THE ENVIRONMENTAL IMPROVEMENT BOARD'S DECISION TO ADOPT 20.13.2 NMAC CASE NO. EIB 25-61(R)

Pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-8 and 74-1-9, the Department of Environment Act, NMSA 1978, Section 9-7A-6(C) and (D), and the Per- and Poly-Fluoroalkyl Substances Protection Act, NMSA 1978, Section 75-15-1, et seq. the Environmental Improvement Board ("EIB") is authorized to adopt the proposed rule 20.13.2 NMAC.

New Rule 20.13.2 NMAC phases out and prohibits certain products that contain intentionally added per or polyfluoroalkyl substances ("PFAS"), requires the reporting for manufacturers of products containing intentionally added PFAS, identifies currently unavoidable uses for PFAS that are essential for the health, safety, or functioning of society, requires labeling of consumer products containing intentionally added PFAS, establishes penalties and fees related to the new rule, and establishes enforcement provisions.

Petitioners brought the proposed new rule before the EIB in a petition for public hearing. Notice of the hearing was published at least 60 days prior to the hearing in accordance with 20.1.1.301 NMAC. A public hearing was docketed at EIB 25-61(R), was held from February 23, 2026, to February 26, 2026. The EIB deliberated on March 6, 2026, and March 23, 2026. After deliberating, the majority of the Board voted to adopt the new rule. In adopting the new rule, the EIB considered all the facts and circumstances and concluded that the standards in the new rule protect the health, welfare, animal and plant life, property and the environment and serve the purposes of the Environmental Improvement Act and the PFAS Protection Act. The EIB provided its reasons for the action taken in the Statement of Reasons and Final order dated April 16, 2026.

Adoption of the new rule occurred upon the signature of the Statement of Reasons and Final Order. 20.1.1.407(C) NMAC. The new rule adopted by the EIB shall become effective no less than thirty days after its filing in accordance with the provisions of the State Rules Act. NMSA 1978, § 74-1-9(G). In accordance with the State Rules Act, no rule shall be valid and enforceable until it is filed with the Administrative Law Division and published in the *New Mexico Register*. NMSA 1978, § 14-4-5. To ensure these requirements have been met, this rule will be effective no earlier than its publication in the *New Mexico Register* or thirty days from filing with the Administrative Law Division, whichever comes later.

A copy of the new rule is published along with this notice.

HEALTH CARE AUTHORITY
MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The New Mexico Health Care Authority (HCA), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) 8.200.410, *Medicaid Eligibility - General Recipient Rules and General Recipient Requirements*.

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 5, 2026
Hearing Date: June 5, 2026
Adoption Date: October 1, 2026
Technical Citations: Section 71109 of the Working Families Tax Cut Legislation

Background
Section 71109 of the Working Family Tax Cut Legislation passed on July 4, 2025, changes the definition of a qualified noncitizen. Effective October 1, 2026, Medicaid coverage is limited to the following individuals:

1) A citizen or national of the United States
2) Legal Permanent Residents
3) Cuban/Haitian entrants
4) Compact of Free Association (COFA) migrants
5) Lawfully residing children and pregnant individuals under CHIPRA 214

Section 71109 ends Medicaid eligibility for lawfully residing noncitizens, including refugees, asylees, parolees, certain abused spouses and children, individuals with temporary visas, individuals with Temporary Protected Status (TPS), certain victims of trafficking and others.

The HCA is proposing to amend the rule as follows:
8.200.410

Section 8 has been updated to include HCA's current mission statement.

Section 11 has been updated to remove non-citizens no longer eligible for Medicaid.

Throughout the NMAC, updates have been made to replace HSD with HCA and to revise other language to comply with formatting requirements.

I. RULE
These proposed rule changes will be contained in 8.200.410 NMAC. This

register and the proposed rule are available on the HCA website at: https://www.hca.nm.gov/lookingforinformation/registers/ and https://www.hca.nm.gov/2026-comment-period-open/. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

II. EFFECTIVE DATE

The HCA proposes implementing this rule effective October 1, 2026.

III. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held on June 5, 2026, at 9:00 a.m., MT. The hearing will be held in the Large Conference Room of the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Microsoft Teams.

Join Teams Meeting

Join: https://teams.microsoft.com/meet/25847709424724?p=Bt4bGWsJ5krp2oMddw
Meeting ID: 258 477 094 247 24
Passcode: ow2r7Uo7

Dial in by phone
+1 505-312-4308,,381910444#
United States, Albuquerque
Phone conference ID: 381 910 444#

If you are a person with a disability and you require this information in an alternative format or require special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The HCA requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodation.

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.

IV. ADDRESS

Interested persons may address written comments to:

New Mexico Health Care Authority
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: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5:00 p.m. MT on June 5, 2026**. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HCA website at https://www.hca.nm.gov/lookingforinformation/registers/ and https://www.hca.nm.gov/2026-comment-period-open/ along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

HEALTH CARE AUTHORITY
MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The New Mexico Health Care Authority (HCA), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules *8.200.510 NMAC, General Recipient Policies, Resource Standards, 8.200.520 NMAC, General Recipient Rules, Income Standards, and 8.291.430 NMAC, Affordable Care, Financial Responsibility Requirements.*

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 5, 2026
Hearing Date: June 5, 2026
Adoption Date: Proposed as September 1, 2026
Technical Citations: HHS 2026 Federal Poverty Guidelines and 2026 SSA COLA Fact Sheet

Background

The Department is amending these rules to implement the Department of Health and Human Services (HHS) updates to the Federal Poverty Level (FPL) income limits for Medicaid categories of eligibility to be effective April 1, 2026, as required by HHS. The Department is also implementing the annual cost of living allowance (COLA) increase that went into effect on January 1, 2026. The Department is repromulgating these sections of the rules in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

The HCA is proposing to amend the rule as follows:

8.200.510 NMAC

Section 11 has been amended to reflect current COLA for Community Spouse Resource Allowance.
Section 12 has been amended to reflect the current COLA for Post-Eligibility Calculation (Medical Care Credit).
Section 13 has been amended to reflect the current COLA for Average Monthly Cost of Nursing Facilities for Private Patients.
Section 15 has been amended to reflect the COLA for current Excess Home Equity Amount for Long-Term Care Services.

8.200.520 NMAC

Section 11 has been amended to reflect updated FPL limits.
Section 12 has been amended to reflect the COLA increase.
Section 13 has been amended to reflect the increase in the Federal Benefit Rate.
Section 15 has been amended to reflect the increase in SSI Living Arrangement Amounts.
Section 16 has been amended to reflect the increase in the monthly

income standard for Institutional Care and Home and Community Based Waiver Services Categories. Section 20 has been amended to reflect the increase in the Covered Quarter Income Standard.

8.291.430 NMAC
Section 10 has been amended to reflect 2026 FPL guidelines.

I. RULE
These proposed rule changes will be contained in 8.200.510, 8.200.520, and 8.291.430 NMAC. This register and the proposed rule are available on the HCA website at: https://www.hca.nm.gov/lookingforinformation/registers/ and https://www.hca.nm.gov/2026-comment-period-open/. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

II. EFFECTIVE DATE
The COLA rules are effective January 1, 2026. The FPL rules are effective April 1, 2026.

III. PUBLIC HEARING
A public hearing to receive testimony on these proposed rules will be held on June 5, 2026, at 11:00 p.m. The hearing will be held in the Large Conference Room of the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Microsoft Teams.
Join Teams Meeting
https://teams.microsoft.com/meet/239343914639758?p=93rZx7s9AcVrspFkJy
Meeting ID: 239 343 914 639 758
Passcode: E8dJ3KJ2

Dial in by phone
+1 505-312-4308,,950411824# United States, Albuquerque
Phone conference ID: 950 411 824#

If you are a person with a disability and you require this information in an alternative format or require special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The HCA requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodation.

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.

IV. ADDRESS
Interested persons may address written comments to:

New Mexico Health Care Authority
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: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5:00 p.m. MT on June 5, 2026**. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HCA website at https://www.hca.nm.gov/lookingforinformation/registers/ and https://www.hca.nm.gov/2026-comment-period-open/ along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed adoption of revisions to rules 7.5.2 NMAC (Immunization Requirement), 7.5.3 NMAC (Exemption from School, Childcare, and Pre-School Immunization), and 7.5.4 NMAC (Vaccine Purchasing Fund), and a new rule, 7.5.6 NMAC (Adult Immunizations). The hearing will be held on Friday, June 5, 2026 at 9:00 a.m. via a live web-based video conference and via telephone. Members of the public who wish to submit public comment regarding the proposed rules will be able to do so via video conference or via telephone during the course of the hearing, and by submitting written comment.

The rules 7.5.2, 7.5.3, and 7.5.4 NMAC are being revised to remove various references to the Advisory Committee on Immunization Practices (ACIP), consistent with recent changes in NM statute at section 24-5-1, NMSA 1978, adopted via House Bill 156 in the 2026 regular legislative session. The rules are also being revised to insert new definitions, and to delete and modify various existing definitions.

Rule 7.5.2 NMAC is also being revised to specify that the Department of Health shall develop annual guidelines establishing immunizations required for children, in consultation with PED and ECECD.

Rule 7.5.3 NMAC is also being revised, at section 8, to authorize a designee of the Public Health Division Director to receive exemption requests on behalf of the agency.

Rule 7.5.4 NMAC is also being revised to specify in various passages that vaccines that are purchased, stored, and distributed to children through the NM Vaccine Purchase Fund are vaccines that are recommended by the Department of Health.

Rule 7.5.6 NMAC is a proposed new rule concerning recommendations by the Department of Health regarding immunizations for adults residing in New Mexico, including recommended manner and frequency of administration; review and updates to the recommendations; and Department consideration of evidence-based guidance from ACIP

and the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, the American College of Physicians, and the Vaccine Integrity Project.

The purpose of the proposed rules is to implement the NM Immunization Act, sections 24-5-1 through -15, NMSA 1978.

The legal authority authorizing the adoption of these rules by the Department are the Department of Health Act, subsection E of section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions"; and the Immunization Act at section 24-5-1, NMSA 1978, which requires that the Department of Health "promulgate rules governing the immunization against diseases deemed to be dangerous to the public health, to be required of children attending licensed child care and licensed early childhood care programs and public, private, home or parochial schools in the state", and "promulgate rules governing the immunization against diseases deemed to be dangerous to the public health, to be recommended for adults residing in the state."

A free copy of the full text of the proposed rule can be obtained online from the New Mexico Department of Health's website at http://nmhealth.org/about/asd/cmo/rules/ or by contacting the Department using the contact information below.

The public hearing will be conducted to receive public comment on the proposed rule. Any interested member of the public may attend the hearing and may submit data, views, or arguments on the proposed rule either orally or in writing during the hearing.

The hearing will be held on June 5, 2026 via the Microsoft Teams online web conference platform.

To access the hearing via the Internet: please go to https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting and then enter the following meeting i.d. code and passcode where indicated on the screen: meeting i.d. code 262 970 165 142 192 and passcode x6bk3qp3 and then click the "Join a meeting" button.
To access the hearing by telephone: please call 1-505-312-4308 and enter phone conference i.d. 710 187 354#

All comments will be recorded.

Written public comment regarding the proposed rule can be submitted either by e-mail to Jacob Clark at jacob.clark@doh.nm.gov, or by U.S. postal mail to the following address:

Jacob Clark
NMDOH OGC
P.O. Box 26110
1190 St. Francis Dr., Suite N-4095
Santa Fe, NM 87502-6110

Written comments must be received by the close of the public rule hearing on June 5, 2026. All written comments will be published on the agency website at https://www.nmhealth.org/about/asd/cmo/rules/ within 3 days of receipt, and will be available at the New Mexico Department of Health for public inspection.

If you are an individual with a disability and need special assistance or accommodation to attend or participate in the hearing, please contact Jacob Clark by telephone at (505) 827-2997. The Department requests at least ten (10) days' advance notice to provide special accommodation.

MEDICAL BOARD

NOTICE OF PUBLIC RULE HEARING

Public Notice: The New Mexico Medical Board (NMMB) has filed an amendment to NMAC rule 16.10.2.10. This action adds additional language to the existing rule regarding accepted applications for expedited licensure.

Topic: Public Rule Hearing
Date: June 24, 2026
Time: 04:00 PM Mountain Time (US and Canada)
Place:
New Mexico Medical Board
2055 S. Pacheco Street, Bldg. 400
Santa Fe, NM 87505

Purpose: At the New Mexico Medical Board's (NMMB) regular Board Meetings held on November 6-7, 2025, and February 5-6, 2026, the Board discussed the addition of language to the existing NMAC rule 16.10.2.10 to include detailed information on the types of applications that the NMMB would accept for expedited licensure. The language was added to clarify all applicable types of applications that will be accepted for expedited licensure effective July 1, 2026. The Board voted on the final additional language at the April 1, 2026, Interim Board Meeting.

No technical information serves as a basis for this proposed rule amendment.

Public comment: Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Monique Parks , New Mexico Medical Board, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, or by electronic mail to MoniqueM.Parks@nmmb.nm.gov . All written comments must be received no later than 3:00 p.m. (MDT) on June 17, 2026. All written comments will be posted to the agency website within (3) three business days.

Copies of proposed rules: Copies of the proposed rules may be accessed through the New Mexico Medical Board's website at www.nmmb.state.nm.us or may be obtained from the Board office by calling (505) 476-7220 or via email at MoniqueM.

Parks@nmmb.nm.gov or at Natalie.Padilla@nmmb.nm.gov.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Monique Parks or Elishia Lucero at (505) 476-7220 or via email at MoniqueM.Parks@nmmb.nm.gov or Natalie.Padilla@nmmb.nm.gov. The New Mexico Medical Board requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

Summary of proposed changes: The Board summarizes its proposed changes to its administrative rules as follows:

16.10.2.10 EXPEDITED LICENSURE:

A. Prerequisites for expedited licensure: Each applicant for a license to practice as a physician in New Mexico must be of good moral character, hold a full and unrestricted license to practice medicine in another state, and possess the following qualifications:

(1) have practiced medicine in the United States or Canada immediately preceding the application for at least three years;

(2) be free of disciplinary history, license restrictions, or pending investigations in all jurisdictions where a medical license is or has been held;

(3) graduated from a board approved school or hold current ECFMG certification; and

(4) current certification from a medical specialty board recognized by the ABMS or the AOA-BOS.

B. Required documentation for all applicants: Each applicant for a license must submit the required fees as specified in 16.10.9.8 NMAC and the following documentation:

(1) a completed signed application that has been verified as including all required documentation with a passport-quality photo taken within the previous six months; applications are valid for one year from the date of receipt by the board;

(2) verification of licensure in all states or territories where the applicant holds or has held a license to practice medicine, or other health care profession; verification must attest to the status, issue date, license number, and other information requested and contained on the form;

(3) two recommendation forms from physicians, chiefs of staff or department chairs or equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and competence to practice medicine; the recommending physician(s) must have personally known the applicant and have had the opportunity to personally observe the applicant's ability and performance; forms must be sent directly to the board from the recommending physician(s), chief(s) of staff, department chair(s) or equivalent(s). This information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;

(4) verification of all work experience and hospital affiliations in the last three years; if more than one work experience and hospital affiliation, provide at least three verifications of all work and hospital affiliations during the past three years, if applicable, not to include postgraduate training; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;

(5) a copy of all ABMS or AOA-BOS specialty board certifications, if applicable; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board; and

(6) the board may request that applicants be investigated by the biographical section of the AMA, the DEA, the FSMB, the NPDB, and other sources as may be deemed appropriate by the board. The board shall require fingerprints and, in its discretion, a state and national background check.

C. Expedited licensure process: Upon receipt of a completed application, required fees, and verification of licensure in all states or territories where the applicant actively holds a license to practice medicine, the board shall issue an expedited license to a qualified applicant within 30 days from the date the completed application was received unless the board may have other cause to deny the application pursuant to Section 61-6-15 NMSA 1978.

D. Expedited license expiration: Expedited licenses shall be valid for no more than 12 months from the date of issuance.

E. Procedure for incomplete application. If an incomplete application for an expedited license is received, the board shall notify the applicant in writing within 30 days from the date the incomplete application was received by the board. The written notification shall include how the application is incomplete and what is needed to complete the application; this written notification shall be titled "notice to cure." After receipt of the notice to cure, the applicant must submit a completed application within 30 days of the receipt of the notice to cure. An extension may be granted, at the board's discretion and based on good cause, for submission beyond 30 days after receipt of the notice to cure.

F. Accepted applications for expedited licensure: The NMMB will accept an application for expedited licensure from any individual who holds an active medical license in all 50 states of the United States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and all other territories or dependencies of the

United States. The NMMB will also accept an application for expedited licensure from individuals licensed to practice medicine in Canada, provided they meet the requirements outlined in 16.10.2.10 NMAC. Licensees from all other foreign countries are not eligible for expedited licensure, as their accreditation standards have not been verified as equivalent to those of the United States.

MEDICAL BOARD

NOTICE OF PUBLIC RULE HEARING

Public Notice: The New Mexico Medical Board (NMMB) has filed an amendment to NMAC rule 16.10.4.8. This action adds additional language to the existing rule regarding new requirements for Continuing Medical Education (CME).

Topic: Public Rule Hearing
Date: June 24, 2026
Time: 04:00 PM Mountain Time (US and Canada)
Place:
New Mexico Medical Board
2055 S. Pacheco Street, Bldg. 400
Santa Fe, NM 87505

Purpose: At the New Mexico Medical Board's (NMMB) regular Board Meeting held on February 5-6, 2026, the Board discussed the addition of language to the existing NMAC rule 16.10.4.8 to include one (1) hour of CME directed toward nutrition be added as a requirement per the Rural Healthcare Transformation Act includes specific CME requirements for physicians in the state of New Mexico. The second addition of language to NMAC rule 16.10.4.8 is focused on allowing the Board to determine the type and content of required CME for license renewal. This will allow the Board the ability to modify CME requirements as necessary. The Board voted on the final additional language at the April 1, 2026, Interim Board Meeting.

No technical information serves as a basis for this proposed rule amendment.

Public comment: Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Monique Parks , New Mexico Medical Board, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, or by electronic mail to MoniqueM.Parks@nmmb.nm.gov . All written comments must be received no later than 3:00 p.m. (MDT) on June 17, 2026. All written comments will be posted to the agency website within (3) three business days.

Copies of proposed rules: Copies of the proposed rules may be accessed through the New Mexico Medical Board's website at www.nmmb.state.nm.us or may be obtained from the Board office by calling (505) 476-7220 or via email at MoniqueM.Parks@nmmb.nm.gov or at Natalie.Padilla@nmmb.nm.gov.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Monique Parks or Elishia Lucero at (505) 476-7220 or via email at MoniqueM.Parks@nmmb.nm.gov or Natalie.Padilla@nmmb.nm.gov. The New Mexico Medical Board requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

Summary of proposed changes: The Board summarizes its proposed changes to its administrative rules as follows:

16.10.4.8 HOURS REQUIRED:

A. Seventy-five hours of continuing medical education are required for all medical licenses during each triennial renewal cycle. CME may be earned at any time during the licensing period, July 1 through June 30 immediately preceding the triennial renewal date.

B. One hour of required CME must be earned by reviewing the New Mexico Medical Practice Act and these board rules. Physicians must certify that they have completed this review at the time they submit their triennial renewal application.

C. Beginning July 1, 2026, the board will require that one hour of CME must be earned directed toward nutrition. The one hour of CME earned toward nutrition may apply toward the 75 hours required in Subsection A of this section and may be included as part of the required CME hours as set forth in Subsections A and B of 16.10.14.11 NMAC.

D. Continuing medical education is not required for federal emergency, telemedicine, postgraduate training, public service, temporary teaching or youth camp or school licenses.

E. The five hours of CME in pain management continuing education set forth in Subsections A and B of 16.10.14.11 NMAC may apply toward the 75 hours required in Subsection A of this section and may be included as part of the required CME hours in pain management in either the triennial cycle in which these hours are completed, or the triennial cycle immediately thereafter. Each subsequent triennial renewal cycle shall include five hours of CME hours in pain management.

F. The board may determine the type and or content of continuing medical education required for license renewal. The board may, by a majority vote, modify such requirements as necessary to address evolving standards of medical practice, and public health needs.

PUBLIC SAFETY, DEPARTMENT OF

NOTICE OF PUBLIC HEARING ON PROPOSED PERMANENT RULE

Public Notice. The New Mexico Department of Public Safety ["DPS"] gives notice that it will hold a public hearing at DPS's Law Enforcement Academy, Classroom 5, at 4491 Cerrillos Rd, Santa Fe, NM 87507, and via Microsoft Teams, on Friday, June 5, 2026, at 10:00 a.m. on the proposed permanent rule 10.2.5 NMAC CLASSIFYING CONFIDENTIALITY OF INFORMATION AND RECORDS IN MISSING PERSONS INVESTIGATIONS. The public may attend via DPS or Microsoft Teams on a computer, mobile device, or telephone. The videoconference's Meeting ID and Password, videoconference link, and telephone number are:

Join Microsoft Teams Meeting on Your Computer or Mobile App:
https://tinyurl.com/classifyingrule
Meeting ID: 251 816 751 466 22
Passcode:35RA24zm
Or Call in (Audio Only): 505-312-4308
Phone Conference ID: 672559840

Purpose of the Rule: The purpose of the rule is to enable DPS to classify confidential information and records in investigations of missing persons or unidentified human remains to ensure that law enforcement agencies recognize that the release of certain sensitive information would interfere with and be deleterious to active missing persons investigations, or otherwise harm a person, custodian, or reporter in compliance with NMSA 1978, Section 29-15-11.

Copies of the Rule. Copies of the rule may be obtained at all DPS districts, field offices, ports of entry, and regional offices, at the DPS website at https://www.dps.nm.gov/public-information/rule-making/, the sunshine portal at https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic, or by contacting Barbara Ryan, Assistant General Counsel, at 505.538-0262 or barbara.ryan@dps.nm.gov.

Statutory Authorization. The statutory authorization for this rule, NMAC 10.2.5 CLASSIFYING CONFIDENTIALITY OF INFORMATION AND RECORDS IN MISSING PERSONS INVESTIGATIONS, is set forth in Subsection E of Section 9-19-6 NMSA 1978; and NMSA 1978, Section 29-15-11.

Permanent Rule. The proposed rule will be a permanent rule.

Comment on the Rule. Interested persons may comment on the proposed permanent rule either at the hearing, by submitting written statements to Monique Barreras, DPS Office of Legal Affairs Law Clerk at 4491 Cerrillos Rd., P.O. Box 1628, 87504-1628, or by email at moniquet.barreras@dps.nm.gov. All mailed statements must be received by June 5, 2026. Early submission of written statements is encouraged. Interested persons may also comment in writing at the public hearing.

Reasonable Accommodation. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing, including a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service, are asked to contact Monique Barreras by telephone at 505.660.9270 or by email at moniquet.barreras@dps.nm.gov as soon as possible and no later than May 24, 2026. DPS requires at least ten calendar days' advance notice to provide special accommodations.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF ISSUANCE OF EMERGENCY RULE 13.10.41 NMAC COVERAGE FOR SPECIFIED SEX TRAIT MODIFICATION PROCEDURE

Effective Date: May 5, 2026

The New Mexico Office of Superintendent of Insurance (OSI) will issue 13.10.41 NMAC, *Coverage for Specified Sex Trait Modification Procedure*, as an emergency rule pursuant to NMSA 1978, Section 14-4-5.6 on May 5, 2025. As 13.10.41 NMAC will be a temporary rule, OSI will subsequently adopt a final rule that will follow the regular statutory requirements of the State Rules Act, NMSA 1978, 14-4-1 *et seq*., within 180 days.

Recent updates to federal regulations created ambiguity about whether health insurers needed to cover aspects of gender-affirming health care described as specified sex trait modification procedures. OSI determined that this emergency rule was necessary to reinforce that existing state law under Sections 59A-16-11 and 59A-23E-11 NMSA 1978, prohibits discrimination. A health insurer who is required to provide any specified sex trait modification procedure under this rule shall do so without discriminating against the covered person on the basis of race, color, national origin, sex, sexual orientation, gender identity, marital status, age, citizenship, immigration status, or disability. This emergency rule requires health insurers to cover any specified sex trait modification procedure that an insured's provider determines to be medically necessary in consultation with the health insurer. It will also establish parameters for health insurers to receive defrayal of costs for plans sold on BeWell.

A copy of the rule and related information is available on the on the OSI eDocket at Docket No. 2026-0115.

Please send any questions regarding this notice to this email address: osi.rulemaking@osi.nm.gov.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department" or "NMDWS") hereby gives notice that the Department will conduct a public hearing to receive comments regarding proposed repeal of the current NMAC 11.1.3 (the Public Works Apprenticeship and Training Act Manual) to be replaced with a new NMAC 11.1.3 in the Leo Griego Auditorium located in the State Personnel Office (Willie Ortiz Building) at 2600 Cerrillos Road in Santa Fe, New Mexico, 87505 on June 8, 2026 from 10:00 am to 12:00 pm.

The purpose and summary of the hearing is to amend the Public Works Apprenticeship and Training Act Policy Manual regulation to clarify the processes, to align the procedures with NMSA 13-4D-1 *et seq.* and to eliminate outdated language in the current regulation.

Under Section 13-4D-5, NMSA 1978, the Workforce Solutions Department shall adopt rules necessary to implement the provisions of the Public Works Apprentice and Training Act.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing for consideration. Written comments must be received no later than 5 p.m. on June 5, 2026. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed online at **https://www.dws.state.nm.us/** or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@dws.nm.gov. The proposed rule will be available at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department" or "NMDWS") hereby gives notice that the Department will conduct a public hearing to receive comments regarding proposed amendments to NMAC 11.1.2 (the Public Works Minimum Wage Act Policy Manual) in the Leo Griego Auditorium located in the State Personnel Office (Willie Ortiz Building) at 2600 Cerrillos Road in Santa Fe, New Mexico, 87505 on June 8, 2026 from 2:00 pm to 4:00 pm.

The purpose and summary of the public comment hearing will be to obtain input and public comment on an amendment to NMAC 11.1.2.9 NMAC to change the term "notice of award" to "notice of contractor designation", remove the requirement for the contractor to notify the Department prior to the date by which bid is submitted, and to add apprentice rates to Type A building projects in NMAC 11.1.2.20 – Prevailing Wage and Fringe Benefit and Apprenticeship Contribution Rates.

Under Section 9-26-4, NMSA 1978, the Workforce Solutions Department is responsible for the administration of the Labor Relations Division ("LRD" or "Division"). which oversees setting prevailing-wage and fringe-benefit rates for public works projects. Pursuant to Section 13-4-11, NMSA 1978, the Director of the Division shall determine the prevailing-wage rates and the prevailing fringe-benefit rates and shall issue rules necessary to administer and accomplish the purposes of the Public Works Minimum Wage Act.

Interested individuals are encouraged to submit written comments to the New Mexico Department of Workforce Solutions, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman prior to the hearing for consideration. Written comments must be received no later than 5 p.m. on June 5, 2026. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed online at **https://www.dws.state.nm.us/** or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@dws.nm.gov. The proposed rule will be available at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

End of Notices of Rulemaking and Proposed Rules

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

ECONOMIC DEVELOPMENT DEPARTMENT
ECONOMIC DEVELOPMENT DIVISION

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 13 TRADE PORTS DEVELOPMENT ACT
PART 1 GENERAL PROVISIONS

12.13.1.1 ISSUING AGENCY: Economic Development Department.
[12.13.1.1 NMAC - N, 05/05/2026]

12.13.1.2 SCOPE: All public partners and private partners applying for Trade Ports Development Act funds through the economic development department.
[12.13.1.2 NMAC - N, 05/05/2026]

12.13.1.3 STATUTORY AUTHORITY: Subsection E of Section 9-15F-7, NMSA 1978.
[12.13.1.3 NMAC - N, 05/05/2026]

12.13.1.4 DURATION: Permanent.
[12.13.1.4 NMAC - N, 05/05/2026]

12.13.1.5 EFFECTIVE DATE: May 5, 2026, unless a later date is cited at the end of a section.
[2.95.1.5 NMAC - N, 05/05/2026]

12.13.1.6 OBJECTIVE:

A. Section 9-15F-3, NMSA 1978, provides that a private partner or a public partner may propose a specific geographic area for designation as a trade port district.

B. Section 9-15F-4, NMSA 1978, provides standards to approve proposed trade port grants, loans, and public-private partnership agreements, which include but are not limited to the effect the project will have on the further the development of a trade port, the cost-effectiveness and financial feasibility, the net environmental impact, and the projected time frame for completion.

C. Section 9-15F-5, NMSA 1978, creates the trade ports advisory committee, establishes the membership of the committee, and provides that the department shall provide necessary administrative services to the committee.

D. Section 9-15F-6, NMSA 1978, provides that the committee is granted authority to recommend approval or disapproval of specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements for a trade port project, applications for grants or loans from the trade ports development fund, and consult with state agencies on technical issues relevant to the trade ports advisory committee's consideration of an application.

E. Section 9-15F-7, NMSA 1978, provides that the secretary is granted the authority to review and approve or disapprove specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements for a trade port project subject to final approval by the state board of finance, applications for grants or loans from the trade ports development fund, and consult with state agencies on technical issues relevant to the secretary's consideration of an application, and take all other actions necessary to implement the Trade Ports Development Act, including entering into join powers agreements and retaining legal counsel and experts when appropriate.

F. Section 9-15F-9, NMSA 1978, creates the trade ports development fund which consists of appropriations, gifts, grants, donations, income from investment of the fund, payments of principal and interest on loans made from the fund and any other money distributed or otherwise allocated to the fund. Income from the fund shall be credited to the fund and provides that the department shall administer the fund.
[12.13.1.6 NMAC - N, 05/05/2026]

12.13.1.7 DEFINITIONS:

A. "**Act**" means the Trade Ports Development Act, Sections 9-15F-1 through 9-15F-13, NMSA 1978, as the same may be amended and supplemented.

B. "**Application**" means a written document made publicly available by the department and filed with the department for the purpose of evaluating a public partner's or private partner's application for designation as a trade port district and grants and loans from the trade port development fund.

C. "**Committee**" means the trade ports advisory committee created to recommend approval or disapproval of specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements, proposed rules, and applications for grants and loans from the trade ports development fund.

D. "**Department**" is the economic development department.

E. "**Feasibility Study Grant**" means a grant award to a public partner for the purpose of studying the costs and benefits of entering into a public-private partnership for a proposed trade port project pursuant to the act.

F. "**Match requirement**" means a private

partner's matching funds, including cash or in-kind contributions, that exceed the public partner's monetary obligation for the public-private partnership agreement.

G. "**Private partner**" means an individual, a foreign or domestic corporation, a general partnership, a limited liability company, a limited partnership, a joint venture, a business trust, a public benefit corporation, a nonprofit entity or other private business entity or a combination thereof.

H. "**Public partner**" means the state and the state's branches, agencies, departments, boards, instrumentalities or institutions, public universities and related agencies, special purpose district, public improvement districts, tax increment development districts, and all political subdivisions of the state and their agencies, instrumentalities and institutions, including a department, an agency, an institution of higher education, a board or a commission, and includes Indian nations, tribes and pueblos that have entered into a partnership with a private partner that has been approved by the secretary.

I. "**State board of finance**" means the department of finance and administration board of finance division.

J. "**Trade port corridor**" means a strategic route or network that facilitates the efficient movement of goods, commodities and services to other locations.

K. "**Trade ports development fund**" means the fund created in the state treasury by Section 9-15F-9 NMSA 1978.

L. "**Trade port regional infrastructure accelerator**" means a designation by the United States department of transportation as a trade port regional infrastructure accelerator to assist entities in developing improved infrastructure priorities and financing strategies for local projects.

[12.13.1.7 NMAC - N, 05/05/2026]

12.13.1.8 ELIGIBILITY AND PRIORITIZATION POLICIES: The secretary, in consultation with the committee, will develop policies and consider a variety of factors in reviewing proposed public-private partnerships for a trade port project, specific geographic areas to be designated as trade port districts, and applications for grants or loans from the fund for trade port projects. The committee shall give priority to proposed public-private partnerships that meet the requirements of Section 9-15F-8 NMSA 1978. The committee shall give priority to proposed specific geographic areas to be designated as a trade port district that meets the requirements of Section 9-15F-3 NMSA 1978. In considering whether to approve a proposed grant, loan and public-private partnership agreement, the secretary shall consider the criteria set forth in Section 9-15F-4 NMSA 1978. The secretary, in consultation with the committee, shall establish policies for prioritization of loans and grants.

[12.13.1.8 NMAC - N, 05/05/2026]

12.13.1.9 PRE-APPLICATION AND APPLICATION PROCESS:

A. Prior to initiating the preparation of an application, a public partner or public-private partnership is encouraged to schedule a "pre-application conference" to discuss the proposed trade port district or request for a grant or loan from the trade port development fund with department staff, the secretary, as well as consultants and/or professionals that the department may propose. The purpose of this conference is to allow the applicant and department staff to discuss areas of strength and opportunities of the application in order to optimize the application review process.

B. Applications must be submitted at least eight business days prior to the committee's upcoming meeting to be considered during the upcoming meeting.

C. The application review process commences when an applicant files a completed application with the department. The department shall endeavor to review and evaluate each completed application within 90 days of receipt to allow the committee, department staff, and the secretary to perform a thorough review. The chair may call a special meeting of the committee to expedite an application as needed, or at the secretary's request. Meetings of a quorum of committee members are public meetings subject to the New Mexico open meetings act.

[12.13.1.9 NMAC - N, 05/05/2026]

12.13.1.10 REVIEW AND APPROVAL PROCESS:

A. The committee shall review specific geographic areas to be designated as trade port districts, proposed public-private partnership agreements for a trade port project, and applications for grants or loans from the trade ports development fund, and make recommendations to the secretary.

B. Upon the recommendation of the committee, the secretary shall:

(1) determine whether further information is needed to make a final decision; or

(2) determine whether the recommendation of the committee should be accepted.

C. All determinations by the secretary shall be considered final, with the exception of public-private partnership agreements that require state board of finance approval.

[12.13.1.10 NMAC - N, 05/05/2026]

12.13.1.11 TRADE PORT DISTRICT PROPOSAL, APPLICATION, REVIEW AND DESIGNATION CRITERIA:

A. The committee, in consultation with the secretary and the department, will administer an outreach program to public and private partners and notify applicants regarding proposals for specific geographic areas to be considered for designation as a trade port district.

B. Proposals for specific geographic areas to be considered as a trade port district shall meet the criteria set forth in the

policies established by the secretary and consistent with the act.

C. A public partner or private partner requesting the designation of a trade port district for a specific geographical area shall submit an application to the committee and the secretary that includes, without limitation and subject to policies established by the secretary and criteria set forth in the act:

(1) public partner information;

(2) private partner information;

(3) market and geographical analysis, including:

(a) proximity to a designated federal interstate highway or other four-lane vehicular highway;

(b) proximity to an airport that can provide national and international passenger and air freight service;

(4) list of existing infrastructure suitable for redevelopment or expansion;

(5) project overview, including without limitation and subject to policies established by the secretary:

(a) specific geographic location, including information regarding ownership;

(b) beneficial impact on economically disadvantaged communities;

(c) availability of a public partner capable of coordinating development activities;

(d) ability to use any available economic development incentive programs for projects;

(e) technological feasibility;

(f) projected time frame; and

(g) availability of a qualified labor pool that can address workforce development needs;

(6) financial plan, including cost-effectiveness and financial feasibility;

(7) whether the proposed district has been designated as a trade port regional infrastructure accelerator by the United States department of transportation or a federal designation as a foreign-trade zone or subzone;

(8) environmental and compliance, including a description of the environmental impact and mitigation measures; and

(9) supporting documentation as requested by the secretary in consultation with the committee relevant to the criteria established in the act and subject to the policies established by the secretary.

D. The committee will complete the initial evaluation of the specific geographic area proposals and shall make a recommendation to the secretary for consideration. The secretary may consult with other agencies and experts as deemed appropriate in order for the secretary to make a final decision.

[12.13.1.11 NMAC - N, 05/05/2026]

12.13.1.12 TRADE PORT PROJECT FUNDING, REVIEW AND APPROVAL PROCESS:

For all proposed trade port projects, in deciding whether to approve a proposed grant, loan and public-private partnership agreement, the secretary shall consider, at a minimum, the criteria set forth in Section 9-15F-4 NMSA 1978, as may be amended and supplemented from time to time, as well as any criteria set forth in policies established by the secretary.

[12.13.1.12 NMAC - N, 05/05/2026]

12.13.1.13 PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, APPROVAL, RESTRICTIONS:

A. A public partner is authorized to enter into public-private partnership agreements with a private partner to provide economic and administrative efficiencies in connection with the development of trade port projects. Prior to entering into a public-private partnership agreement, a public partner shall provide the committee with all information required by the act and policies established by the secretary.

B. In addition to the provisions required by the act, a public-private partnership agreement shall meet the criteria contained in policies established by the secretary in consultation with the committee, including clawback provisions specific to each public-private partnership agreement as determined by the secretary.

C. A public-private partnership agreement for a trade port project shall not become effective until it receives preliminary approval by the secretary pursuant to the act and final approval by the state board of finance.

[12.13.1.13 NMAC - N, 05/05/2026]

12.13.1.14 TRADE PORTS DEVELOPMENT FUND APPLICATIONS, REVIEW:

A. a public partner requesting a grant from the trade ports development fund, or a public partner or public-private partnership requesting a grant or loan from the trade ports development fund for a trade port project shall submit an application to the committee and the secretary that includes:

(1) public partner information;

(2) private partner information;

(3) project overview;

(4) project narrative;

(5) financial plan;

(6) partnership and governance;

(7) impact and workforce development;

(8) environmental and compliance, including a description of the environmental impact and mitigation measures;

(9) supporting documentation; and

(10) a certification by the applicant that all information is true and correct.

B. The committee will complete the initial evaluation of the request for a grant or loan and shall make a recommendation to the secretary for consideration. The secretary may consult with other agencies and experts as deemed appropriate in order for the secretary to make a final decision.
[12.13.1.14 NMAC - N, 05/05/2026]

12.13.1.15 ADMINISTRATIVE COSTS: Money in the trade ports development fund may be used for administrative and reimbursable costs incurred by the department, the state board of finance and the department of transportation, subject to the legislative appropriation process.
[12.13.1.15 NMAC - N, 05/05/2026]

12.13.1.16 ADMINISTRATION OF THE TRADE PORTS DEVELOPMENT FUND:

A. Pursuant to Section 9-15F-9 NMSA 1978, the trade ports development fund is created in the state treasury and shall be administered by the department pursuant to policies established by the secretary for the purposes of carrying out the provisions of the act, including the planning, renovation or construction of trade ports and associated facilities and infrastructure.

B. The trade ports development fund consists of appropriations, gifts, grants, donations, income from investment of the fund, payments of principal and interest on loans made from the fund and any other money distributed or otherwise allocated to the fund. Income from the trade ports development fund shall be credited to the fund. Money in the trade ports development fund shall not revert or be transferred to any other fund at the end of the fiscal year.

C. Money in the trade ports development fund may be used to make grants of up to two hundred fifty thousand dollars ($250,000) to a public partner for the purposes of studying the costs and benefits of entering into a public-private partnership for a proposed trade port project.

D. Money in the trade ports development fund may be used to provide grants and loans for financing a trade port project through a public-private partnership agreement, provided that the private partner provides funds that match or exceed the public partner's monetary obligation for the public-private partnership agreement, and the public partner certifies to the secretary that the public partner has taken all action necessary to approve the public-private partnership agreement and that the agreement contains all terms and conditions required by Subsection D of Section 9-15F-8 NMSA 1978 of the act.

E. Money in the trade ports development fund may be used pursuant to Subsections A and C of 12.13.1.14 NMAC only for grants or loans to a public partner for a trade port project.

F. Money in the trade ports development fund may be used for grants or loans to an Indian nation, tribe or pueblo that has entered into a partnership with a private partner for the development of a trade port project only if:

(1) The agreement between the Indian nation, tribe or pueblo and the private partner is approved by the secretary; and

(2) The grant or loan application is approved by the secretary.
[12.13.1.16 NMAC - N, 05/05/2026]

12.13.1.17 REPORTING: As required by the act, the secretary shall provide a report to the governor and the legislative finance committee regarding:

A. trade port districts and trade port projects approved by the secretary;

B. a description of the businesses and industries participating in each approved trade port district and trade port project;

C. grant and loan applications approved by the secretary;

D. public-private partnership agreements approved by the secretary;

E. the status of the trade ports development fund; and

F. any recommended changes to the act.
[12.13.1.17 NMAC - N, 05/05/2026]

12.13.1.18 AMENDMENT OF RULES: This rule may be amended or repealed at any time by the department in accordance with the provisions of the state rules act.
[12.13.1.18 NMAC - N, 05/05/2026]

HISTORY OF 12.13.1 NMAC: [RESERVED]

ENVIRONMENT DEPARTMENT

At a hearing commencing on 3/23/2026, the Environmental Improvement Board repealed its rule Operating Permit Emissions Fees, 20.2.71 NMAC, filed 10/16/2002, and replaced it with a new rule entitled Operating Permit Emissions Fees, 20.2.71 NMAC, adopted 4/17/2026 and effective 6/1/2026.

At a hearing commencing on 3/23/2026, the Environmental Improvement Board repealed its rule Construction Permit Fees, 20.2.75 NMAC, filed 1/31/2001, and replaced it with a new rule entitled Construction Permit Fees, 20.2.75 NMAC, adopted 4/17/2026 and effective 6/1/2026.

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 71 OPERATING PERMIT EMISSIONS FEES

20.2.71.1 ISSUING AGENCY: Environmental Improvement Board.
[20.2.71.1 NMAC - Rp, 20.2.71.1 NMAC, 6/1/2026]

20.2.71.2 SCOPE: This part applies to all persons required to obtain a permit under 20.2.70 NMAC (Operating Permits).
[20.2.71.2 NMAC - Rp, 20.2.71.2 NMAC, 6/1/2026]

20.2.71.3 STATUTORY AUTHORITY: Environmental Improvement Act, Sections 74-1-1 to -18 NMSA 1978, including specifically Paragraph (4) of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Sections 74-2-1 to -17 NMSA 1978, including specifically Paragraph (7) of Subsection B of Section 74-2-7 NMSA 1978.
[20.2.71.3 NMAC - Rp, 20.2.71.3 NMAC, 6/1/2026]

20.2.71.4 DURATION: Permanent.
[20.2.71.4 NMAC - Rp, 20.2.71.4 NMAC, 6/1/2026]

20.2.71.5 EFFECTIVE DATE: June 1, 2026, unless a later date is cited at the end of a section.
[20.2.71.5 NMAC - Rp, 20.2.71.5 NMAC, 6/1/2026]

20.2.71.6 OBJECTIVE: The objective of this part is to establish a schedule of operating permit emissions fees.
[20.2.71.6 NMAC - Rp, 20.2.71.6 NMAC, 6/1/2026]

20.2.71.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this part, the following definitions apply.

A. "Allowable emission rate" means the maximum emission allowed by the more stringent emission limitation applicable to the source contained in:

(1) any New Mexico air quality control regulation;

(2) any federal standard of performance, emission limitation, or emission standard adopted pursuant to 42 U.S.C. Section 7411 or 7412; or

(3) any condition within a construction or operating permit issued by the department.

B. "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any fee pollutant.

C. "Fee pollutant" means:

(1) sulfur dioxide, nitrogen dioxide, carbon monoxide, PM10, PM2.5, and volatile organic compounds; and

(2) any hazardous air pollutant that is subject to any standard promulgated pursuant to Section 112 of the federal act.

D. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

E. "Hazardous air pollutant" means an air contaminant that has been classified as a hazardous air pollutant pursuant to Section 112 of the federal act.

F. "Operator" means the person or persons responsible for the overall operation of a facility.

G. "Owner" means the person or persons who own a facility or part of a facility.

H. "Stationary source" means any building, structure, facility, or installation that emits or may emit any air pollutant.
[20.2.71.7 NMAC - Rp, 20.2.71.7 NMAC, 6/1/2026]

20.2.71.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulation (AQCR) 771 - Operating Permit Emission Fees, filed November 15, 1993, as amended.

A. All references to AQCR 771 in any other rule shall be construed as a reference to this part.

B. The amendment and supersession of AQCR 771 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 771.
[20.2.71.8 NMAC - Rp, 20.2.71.8 NMAC, 6/1/2026]

20.2.71.9 DOCUMENTS: Documents cited in this part may be viewed at the New Mexico environment department, air quality bureau. (As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Santa Fe, New Mexico 87505).
[20.2.71.9 NMAC - Rp, 20.2.71.9 NMAC, 6/1/2026]

20.2.71.10 SEVERABILITY: If any provision of this part, or the application of this provision to any person or circumstance is held invalid, the remainder of this part, or the application of this provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.
[20.2.71.10 NMAC - N, 6/1/2026]

20.2.71.11 to 20.2.71.108 [RESERVED]

20.2.71.109 [RESERVED]
[20.2.71.109 NMAC – Repealed, 6/1/2026]

20.2.71.110 FEE REQUIREMENT:

A. An annual emissions fee shall be paid to the department by each owner or operator subject to this part.

B. The annual emissions fee shall be assessed:

(1) for a major source as defined in 20.2.70 NMAC (Operating Permits), for all emissions units;

(2) for all other stationary sources, for emissions units which cause the source to be subject to 20.2.70 NMAC; and

(3) for emissions above annual allowable emission limits for the source categories in Paragraphs (1) and (2) of this Subsection.

C. The annual emissions fee shall be calculated in conformance with 20.2.71.111 NMAC.
[20.2.71.110 NMAC - Rp, 20.2.71.110 NMAC, 6/1/2026]

20.2.71.111 FEE DETERMINATION:

A. Annual emissions fee calculation.

(1) The annual emissions fee shall be calculated by taking the product of the allowable emission rate for each fee pollutant expressed in tons per year and the appropriate fee per ton of pollutant listed in 20.2.71.112 NMAC.

(2) The allowable emission rate which shall be used in the fee calculation for this Subsection is the allowable emission rate which exists on December 31 for each year.

(3) Allowable emission rates shall be calculated to the tenth of a ton for each emissions unit and then summed to determine the tons per year for the facility. Total facility tons per year quantities shall be determined by rounding amounts equal to or greater than five tenths of a ton upward and amounts lower than five tenths of a ton downward.

(4) Emissions from those operations determined to be insignificant activities by the department under 20.2.70 NMAC shall not be included in the fee calculation for this subsection.

(5) Fugitive emissions which have an allowable emission rate shall be included in the fee calculation for this subsection.

(6) Any quantity of a pollutant which is assessed a fee pursuant to this Subsection because it is a hazardous air pollutant shall not be assessed additional fees.

(7) A maximum of 3,000 tons per year of any one fee pollutant shall be used in the fee calculation for this subsection.

(8) For facilities with allowable emission rates for both PM10 and PM2.5, a fee shall only be assessed pursuant to this Subsection for one of these fee pollutants, and shall be based on whichever has the higher allowable emission rate.

(9) The failure of an owner or operator to include the correct information in a permit application, resulting in incorrect allowable emissions in a permit issued under 20.2.70 NMAC, 20.2.72 NMAC, or 20.2.74 NMAC, shall not preclude the department from requiring payment for the correct emissions from the time payment would have been first due.

B. Source shutdown.

(1) The annual emissions fee shall not be reduced due to lack of operation of any emissions unit, except when:

(a) the discontinued operation is accounted for in an allowable emission rate contained within a construction or operating permit issued by the department;

(b) a construction or operating permit issued by the department has been discontinued or terminated and the source ceased operation; or

(c) the emissions unit is located at a stationary source which meets the criteria of Paragraph (2) of this subsection.

(2) The annual emissions fee shall be reduced when all operations at a stationary source have been shut down for a period greater than 60 consecutive days within a calendar year. In this case, the annual emissions fee calculation shall be adjusted by reducing the annualized allowable emission rate for each day the stationary source was shut down.

C. Annual emissions fee for emissions above annual allowable emission limits.

(1) The annual emissions fee for emissions above annual allowable emission limits shall be based on all emissions above annual allowable emission limits of fee pollutants reported or required to be reported by a stationary source through December 31 in accordance with Subsection E of 20.2.70.302 NMAC. The fee shall be calculated by taking the product of the emissions above annual allowable emission limits for each fee pollutant above and beyond the allowable annual emission limit per unit expressed in tons per year and the appropriate fee per ton of pollutant listed in 20.2.71.112 NMAC.

(2) Total facility tons per year quantities of emissions above annual allowable emission limits shall be determined by rounding amounts equal to or greater than five tenths of a ton upward and amounts lower than five tenths of a ton downward.

(3) Any quantity of a pollutant which is assessed a fee pursuant to this Subsection because it is a hazardous air pollutant shall not be assessed additional fees.

(4) A maximum of 3,000 tons per year of any one fee pollutant shall be used in the fee calculation for this subsection.

(5) For facilities with allowable emission rates for both PM10 and PM2.5, a fee shall only be assessed pursuant to this subsection for one of these fee pollutants, and shall be based on whichever has higher emissions above annual allowable emission limits.

[20.2.71.111 NMAC - Rp, 20.2.71.111 NMAC, 6/1/2026]

20.2.71.112 EMISSIONS FEE:

A. The fee for each fee pollutant shall be $85 per ton on an annual basis, except as provided for in Subsection B of this Section.

B. The fee for each hazardous air pollutant shall be $258 per ton on an annual basis for any stationary source which is only a major source, as defined in 20.2.70 NMAC, for any hazardous air pollutant.

C. The fee per ton of emissions above annual allowable emission limits shall be identical to the fee per ton of allowable emissions.

D. Beginning in 2028, the fees referenced in this Section shall be changed annually on January 1 by the percentage, if any, of any annual increase in the consumer price index (CPI) in accordance with Section 502(b)(3)(B)(v) of the federal act. In the event there is a decrease or absence of change in the CPI, fees shall remain the same until the next

increase in the CPI.
[20.2.71.112 NMAC - Rp, 20.2.71.112 NMAC, 6/1/2026]

20.2.71.113 NOTIFICATION, PAYMENT, LATE FEE AND ENFORCEMENT:

A. Schedule:

(1) The department shall by April 1 of each year provide to each owner or operator subject to this part notification, which shall contain:

(a) the annual emissions fee based on the requirements of this part which is currently due; and

(b) a summary of the basis for the required annual emissions fee.

(2) Upon discovery of an error in any past notification of annual emissions fees due, the department shall promptly notify the owner or operator and provide credit for overcharges or require payment for undercharges.

(3) Each owner or operator shall pay by June 1 the annual emissions fee contained in the department's notification required under Paragraph (1) of this Subsection. Failure to remit the full annual emissions fee by this date shall subject the owner or operator to a late fee equal to fifty percent of the annual emissions fee or $5,000, whichever is less. The department shall provide to each owner or operator assessed a late fee pursuant to this Subsection notification, which shall state the late fee and unpaid annual emissions fee balance currently due. The owner or operator shall pay the amount stated in the department's notification within 30 days of the date of the notification. If the amount stated in the notification is not timely paid, the late fee shall increase to one hundred percent of the annual emissions fee or $10,000, whichever is less, and shall be due immediately without further notification from the department, along with the unpaid annual emissions fee balance.

(4) Each owner or operator shall pay invoices based on notices of errors in past notifications within 60 days of the invoice date.

B. Payment:

(1) Annual emissions fees shall be remitted in the form of a certified check or money order made payable to the environment department, electronic payment, or other method as allowed by the state. Annual emissions fees remitted in the form of a certified check or money order shall be submitted to the air quality bureau at the address specified in the notice.

(2) Upon receipt of the annual emissions fee payment, it shall be deposited in the state air quality permit fund.

(3) Annual emissions fees shall be paid in U.S. dollars.

C. Nonpayment: Failure to remit the full annual emissions fee, including any late fees, required by the due date specified in Subsection A of this section is a violation of this part and may subject the owner or operator to:

(1) civil penalties of up to $15,000 for each day of noncompliance as provided for in the Air Quality Control Act, Section 74-2-12.1 NMSA 1978; and

(2) the enforcement provisions of the Air Quality Control Act, Section 74-2-12 NMSA 1978, which includes suspension or revocation of any permit.
[20.2.71.113 NMAC - Rp, 20.2.71.113 NMAC, 6/1/2026]

20.2.71.114 ANNUAL REVIEW: The department shall prepare a review of the operating permit fees and operating permit program costs annually. The review shall include information on the budgets, expenditures, fund balance, and related projections. The review shall be presented to the board within six months following the end of the fiscal year.
[20.2.71.114 NMAC – N, 6/1/2026]

HISTORY OF 20.2.71 NMAC:
Pre NMAC History: The material in this Part was derived from that previously filed with the commission of public records - state records center and archives.
EIB/AQCR 771, Air Quality Control Regulation 771 - Operating Permit Emission Fees, filed 11/15/93.

History of Repealed Material:
20.2.71 NMAC, Operating Permit Emissions Fees, effective 10/31/02, repealed, effective 6/1/26.

Other History:
EIB/AQCR 771, Air Quality Control Regulation 771 - Operating Permit Emission Fees, filed 11/15/93, was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.71, Operating Permit Emission Fees, filed 10/30/95;
20 NMAC 2.71, Operating Permit Emission Fees, filed 10/30/95, was **renumbered, reformatted and replaced** by 20.2.71 NMAC, Operating Permit Emission Fees, effective 10/31/02.

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 75 CONSTRUCTION PERMIT FEES

20.2.75.1 ISSUING AGENCY: Environmental Improvement Board.
[20.2.75.1 NMAC - Rp, 20.2.75.1 NMAC, 6/1/2026]

20.2.75.2 SCOPE: This part applies to all persons who apply for a permit to construct or modify a source, apply to register under a general construction permit, apply for a permit revision, or request a technical review of an existing permit under 20.2.72 NMAC, and all persons who file a notice of intent under 20.2.73 NMAC. Annual emissions fees for sources required to obtain a permit under 20.2.70 NMAC (Operating Permits) are covered under 20.2.71 NMAC.

[20.2.75.1 NMAC - Rp, 20.2.75.2 NMAC, 6/1/2026]

20.2.75.3 STATUTORY AUTHORITY: Environmental Improvement Act, Sections 74-1-1 to -18 NMSA 1978, including specifically Paragraph (4) of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Sections 74-2-1 to -17 NMSA 1978, including specifically Paragraph (6) of Subsection B of Section 74-2-7 NMSA 1978.
[20.2.75.1 NMAC - Rp, 20.2.75.3 NMAC, 6/1/2026]

20.2.75.4 DURATION: Permanent.
[20.2.75.4 NMAC - Rp, 20.2.75.4 NMAC, 6/1/2026]

20.2.75.5 EFFECTIVE DATE: June 1, 2026, except where a later date is cited at the end of a section.

A. For applications received prior to the effective date of this part, the provisions in 20.2.75 NMAC, as effective as of the date of the receipt of the application, remain effective, and application review fees (formerly permit fees) shall be so determined.

B. For applications received following the effective date of this part, application review fees shall be based on the current regulation.
[20.2.75.5 NMAC - Rp, 20.2.75.5 NMAC, 6/1/2026]

20.2.75.6 OBJECTIVE: The objective of this part is to establish a schedule of fees for the construction permit program, including notices of intent, construction permits, registrations under general construction permits, permit revisions, and technical reviews of existing permits.
[20.2.75.6 NMAC - Rp, 20.2.75.6 NMAC, 6/1/2026]

20.2.75.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions) or 20.2.72 NMAC (Construction Permits), as used in this part, the following definitions apply.

A. "**Air toxics review"** means the required review of a permit application for the potential emission of an air toxic regulated by 20.2.72.400 NMAC - 20.2.72.499 NMAC. As used in this part, a level I air toxics review consists of modeling to determine whether one one-hundredth of the occupational exposure limit, as defined in 20.2.72.401 NMAC, is met; a level II air toxics review consists of either a health assessment or best available control technology (BACT) determination, whichever is required by 20.2.72.400 NMAC - 20.2.72.499 NMAC.

B. "Applicable regulations" means, for the purpose of assessing application review fee points, those regulations that are applicable to the source and not the review to determine whether the regulation is applicable. Applicable regulations do not include 20.2.1 NMAC (General Provisions), 20.2.2 NMAC (Definitions), 20.2.3 NMAC (Ambient Air Quality Standards), 20.2.5 NMAC (Source Surveillance), 20.2.7 NMAC (Excess Emissions), 20.2.8 NMAC (Emissions Leaving New Mexico), 20.2.60 NMAC (Open Burning), 20.2.70 NMAC (Operating Permits), 20.2.71 NMAC (Operating Permit Emissions Fees), 20.2.72 NMAC (Construction Permits), 20.2.73 NMAC (Notice Of Intent And Emissions Inventory Requirements), 20.2.74 NMAC (Permits - Prevention Of Significant Deterioration (PSD)), 20.2.75 NMAC (Construction Permit Fees), 20.2.77 NMAC (New Source Performance Standards), 20.2.78 NMAC (Emission Standards For Hazardous Air Pollutants), 20.2.79 NMAC (Permits - Nonattainment Areas), 20.2.80 NMAC (Stack Heights), and 20.2.82 NMAC (Maximum Achievable Control Technology Standards For Source Categories Of Hazardous Air Pollutants). All other Title 20, Chapter 2 NMAC parts and all new source performance standards (excluding Subpart A) and national emission standards for hazardous air pollutants/maximum achievable control technology (NESHAP/MACT) (excluding 40 CFR Part 61 Subparts A and M and 40 CFR Part 63 Subpart A) regulations that are applicable to the source shall be counted and shall result in additional points for application review fee purposes, in accordance with the fee schedule in this part.

C. "Fee unit" means any equipment or process which generates, creates, or is the source of a regulated air contaminant, which is listed or identified in a construction permit application or application to revise a permit and which requires review and evaluation against state and federal regulations and standards. This definition does not include sources which are exempt under 20.2.72.202 NMAC or sources for which no applicable requirements are identified in the permit. In the case of a permit modification, revision or technical review of an existing permit, the requirements of Subsection A of 20.2.75.11 NMAC apply only to the equipment or process involved in such modification, revision or review.

D. "Fugitive emissions fee unit" means sources of fugitive emissions for which applicable requirements are identified in the permit. A maximum of one fugitive emissions fee unit shall be applied to any given application.

E. "Revision" means any change requested by an applicant to any term or condition of a permit including emission limitations, control technology, operating conditions and monitoring requirements. For the purposes of this part, revision does not include administrative revision as used in 20.2.72 NMAC.

F. "Small business" means a company that employs no more than 10 employees at any time during the calendar year. Employees include part-time, temporary, or limited service workers. For the purposes of this part, small business does not include:

(1) any source which may emit more than 50 tons per year of any regulated air contaminant for which there is a national or New

Mexico ambient air quality standard, or 75 tons per year of all regulated air contaminants for which there are national or New Mexico ambient air quality standards; and

(2) any major source for hazardous air pollutants under 20.2.70 NMAC.

G. **"Technical review of an existing permit"** means the department's technical review of new information submitted by a permittee as required by an existing permit condition and in conjunction with proposed changes at the source that do not involve any changes to the existing permit. The review must be necessary to demonstrate that all applicable state and federal regulations and standards will continue to be met and that the existing permit will continue to be valid. For the purposes of this part, technical review of an existing permit does not include the department's review of required periodic reports.

[20.2.75.7 NMAC - Rp, 20.2.75.7 NMAC, 6/1/2026]

20.2.75.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This part amends and supersedes Air Quality Control Regulation (AQCR) 700 - Filing and Permit Fees, filed November 20, 1989, as amended.

A. All references to AQCR 700 in any other rule shall be construed as a reference to this part.

B. The amendment and supersession of AQCR 700 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 700.

[20.2.75.8 NMAC - Rp, 20.2.75.8 NMAC, 6/1/2026]

20.2.75.9 DOCUMENTS: Documents cited in this Part may be viewed at the New Mexico environment department, air quality bureau. (As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Santa Fe, New Mexico 87505.)

[20.2.75.9 NMAC - Rp, 20.2.75.9 NMAC, 6/1/2026]

20.2.75.10 FILING FEE:

A. A filing fee of $500 shall be submitted with each filing of an application for a permit to construct or modify a source or permit revision. The filing fee shall be applied to the application review fee determined from the fee schedule in 20.2.75.11 NMAC.

B. For applications submitted under 20.2.72.221 NMAC, an accelerated review filing fee of $1,000 shall be submitted in lieu of any other filing fees under this section. One-half of the accelerated review filing fee shall be applied to the cost of the accelerated review submitted by the qualified outside firm. In the event that:

(1) there are no qualified outside firms on contract with the department, or if all of the qualified outside firms have a conflict of interest, the entire accelerated review filing fee shall be applied to the application review fee determined from the fee schedule in 20.2.75.11 NMAC;

(2) no qualified outside firm submits a proposal for the accelerated review, one-half of the accelerated review filing fee shall be applied to the application review fee determined from the fee schedule in 20.2.75.11 NMAC;

(3) one or more qualified outside firms submit a proposal but all such proposals are rejected by the applicant, the accelerated review filing fee shall be forfeited and retained by the department; or

(4) the applicant withdraws the application for any reason, the accelerated review filing fee shall be forfeited and retained by the department.

[20.2.75.10 NMAC - Rp, 20.2.75.10 NMAC, 6/1/2026]

20.2.75.11 APPLICATION REVIEW FEE AND ANNUAL FEE:

A. The application review fee shall be based on the following point-based fee schedule.

ACTION	# OF POINTS
1. CONSTRUCTION PERMIT/TECHNICAL REVIEW OF EXISTING PERMIT	
Technical Complexity	
1-5 Fee Units	5
6-15 Fee Units	1 point per fee unit
>15 Fee Units	15
Fugitive Emissions Fee Unit	5
Portable Source Relocation (Paragraph (3) of Subsection D of 20.2.72.202 NMAC)	1

Non-Attainment Area (20.2.79 NMAC)	75
Each Modeling Review	30
Air Toxics Review (20.2.72.400 NMAC – 20.2.72.499 NMAC)	
Level I	8
Level II	
Best Available Control Technology (BACT) Analysis	60
Health Assessment	100
Applicable Regulations	
20.2.X NMAC (per each)	3
NSPS (per each)	5
NESHAP/MACT (per each)	5
Case-by-Case MACT (20.2.83 NMAC)	100
PSD netting only (no additional PSD analysis is required)	20
PSD review (including netting) (20.2.74 NMAC)	75
2. OTHER PERMITTING ACTIONS	
Notices of Intent (20.2.73.200 NMAC)	10
General Permit Registrations other than GCP-Oil & Gas (20.2.72.220 NMAC)	10
GCP-Oil & Gas Registrations (20.2.72.220 NMAC)	30
Streamline (each site) (20.2.72.300 NMAC – 20.2.72.399 NMAC)	10

B. The application review fee shall be the sum of all of the points that are applicable to the application as determined by the department, multiplied by $585.

C. The department may, at its discretion, assess additional points and fees each time the department is required to repeat an action listed in Subsection A of this section because the applicant updated the application after submission.

D. For sources that satisfy the definition of "small business" as defined in Subsection F of 20.2.75.7 NMAC, the application review fee determined by Subsection B of this section, additional fees (if any) assessed pursuant to Subsection C of this section, and annual fee assessed pursuant to Subsection F of this section shall be reduced by half. To qualify for the small business fee reduction, sources must submit a small business certification form to the department certifying that the company employs no more than 10 employees at any time during the calendar year, or for new sources, that the company does not expect to employ any more than 10 employees in the first year of operations.

E. For applications processed by an outside firm under 20.2.72.221 NMAC, the application review fee determined by Subsection B of this Section shall be reduced by half and shall be in addition to the cost of the accelerated review bid.

F. Sources that have been issued a construction permit or registered under a general construction permit under 20.2.72 NMAC shall be assessed an annual fee of $2,800. Sources that have filed a notice of intent under 20.2.73 NMAC and received a written determination by the department that a permit is not required shall be assessed an annual fee of $700. The applicable annual fee shall be assessed if the construction permit, general construction permit registration or notice of intent was in active status as of December 31 of the preceding year, regardless of the source's operational status. The annual fee required by this Subsection shall not apply to sources which are assessed an annual

emissions fee in accordance with 20.2.71 NMAC.

G. Beginning in 2028, the cost per point and annual fees in Subsections B and F of this section shall be changed annually on January 1 by the percentage, if any, of any annual increase in the consumer price index (CPI). The adjusted cost per point and annual fees shall be determined by multiplying the current cost per point and annual fees by the increase in the CPI for the most recent calendar year and rounding the result to the nearest dollar. The CPI for any calendar year is the average of the CPI for all urban consumers published by the United States department of labor, as of the close of the 12-month period ending on August 31 of that year. In the event there is a decrease or absence of change in the CPI, the cost per point and annual fees shall not be changed and shall remain the same until the next increase in the CPI.

[20.2.75.11 NMAC - Rp, 20.2.75.11 NMAC, 6/1/2026]

20.2.75.12 INVOICING, PAYMENT, LATE FEE AND ENFORCEMENT:

A. The department shall refuse to accept any application for a permit to construct or modify a source or permit revision without payment of the filing fee at the time the application is submitted to the department. The filing fee and the accelerated review filing fee are non-refundable. The department shall refuse to accept any notice of intent or application to register under a general construction permit without payment of the application review fee at the time the notice or application is submitted to the department.

B. For an application for a permit to construct or modify a source or permit revision other than a technical permit revision, an invoice for the application review fee, minus the filing fee, shall be mailed, or transmitted electronically or as otherwise allowed by the state, to the applicant at the time the department finds the application administratively complete pursuant to 20.2.72.207 NMAC. The department shall deny any application for a permit to construct or modify a source or permit revision other than a technical permit revision if the application review fee has not been paid within 30 days of the date of the invoice, unless the department has granted an extension. If, upon completion of the application review, the department determines additional fees are due pursuant to Subsection C of 20.2.75.11 NMAC, the department shall mail another invoice to the applicant along with its grant or denial of the permit or permit revision. The applicant shall pay this invoice within 30 days of the date of the invoice, unless the department has granted an extension.

C. For an application for a technical permit revision, an invoice for the application review fee, minus the filing fee, and any additional fees the department determines are due pursuant to Subsection C of 20.2.75.11 NMAC upon completion of the application review, shall accompany the department's grant or denial of the technical permit revision. The applicant shall pay this invoice within 30 days of the date of the invoice, unless the department has granted an extension.

D. For a notice of intent or application to register under a general construction permit, the application review fee shall be paid at the time of filing. If, upon completion of the application review, the department determines additional fees are due pursuant to Subsection C of 20.2.75.11 NMAC, an invoice shall accompany the department's notification of its determination that an air quality permit is not required or its grant or denial of the registration. The applicant shall pay this invoice within 30 days of the date of the invoice, unless the department has granted an extension.

E. An invoice for a request for technical review of an existing permit shall accompany the department's response if any fees are due. The applicant or permittee shall pay this invoice within 30 days of the date of the invoice, unless the department has granted an extension.

F. Except for the refund of excess fees paid, all fees paid under this part shall be non-refundable.

G. All fees paid pursuant to this part shall be remitted in the form of a corporate or certified check or money order made payable to the environment department at the address specified in the notice, electronic payment, or other method as allowed by the state. Upon receipt of the fee payment, it shall be deposited in the state air quality permit fund established by Section 74-2-15 NMSA 1978.

H. Owners or operators shall pay annual fees assessed pursuant to Subsection F of 20.2.75.11 NMAC within 30 days of the date of the invoice. Failure to remit the full annual fee by this date shall subject the owner or operator to a late fee equal to fifty percent of the annual fee. The department shall provide to each owner or operator assessed a late fee pursuant to this Subsection notification, accompanied by an invoice for the late fee and unpaid annual fee balance. The owner or operator shall pay this invoice within 30 days of the date of the invoice. If the invoice is not timely paid, the late fee shall increase to one hundred percent of the annual fee and shall be due immediately without further notification from the department, along with the unpaid annual fee balance.

I. All fees shall be paid in U.S. dollars.

J. Failure to remit the full annual fee, including any late fees, required by the due date specified in Subsection H of this section is a violation of this part and may subject the owner or operator to:

(1) civil penalties of up to $15,000 per day for each day of noncompliance as provided for in the Air Quality Control Act, Section 74-2-12.1 NMSA 1978; and

(2) the enforcement provisions of the Air Quality Control Act, Section 74-2-12 NMSA 1978, which includes the suspension or revocation of any permit.

[20.2.75.12 NMAC - Rp, 20.2.75.12 NMAC, 6/1/2026]

20.2.75.13 PERIODIC REVIEW: The Department shall prepare a review of the construction permit fees and construction permit program costs annually. The review shall include information on the budgets, expenditures, fund balance, and related projections. The review shall be presented to the board within six months following the end of the fiscal year.
[20.2.75.13 NMAC - Rp, 20.2.75.13 NMAC, 6/1/2026]

20.2.75.14 SEVERABILITY: If any provision of this part, or the application of this provision to any person or circumstance is held invalid, the remainder of this part, or the application of this provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.
[20.2.75.14 NMAC - N, 6/1/2026]

HISTORY OF 20.2.75 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives:
AQCR 700, Air Quality Control Regulation 700 - Filing and Permit Fees, filed 11/20/89.

History of Repealed Material:
20 NMAC 2.75, Construction Permit Fees, filed 10/30/95, repealed, effective 03/02/01;
20.2.75 NMAC, Construction Permit Fees, effective 03/02/01, repealed, effective 6/1/26.

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 13 PER- AND POLY-FLUOROALKYL SUBSTANCES IN CONSUMER PRODUCTS
PART 2 PROHIBITIONS ON PRODUCTS CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES; CURRENTLY UNAVOIDABLE USE; REPORTING; LABELING; TESTING; FEES AND PENALTIES

20.13.2.1 ISSUING AGENCY: Environmental Improvement Board.
[20.13.2.1 NMAC – N, 07/01/2026]

20.13.2.2 SCOPE: This part applies to manufacturers, distributors, and retailers that sell, offer for sale, distribute or distribute for sale in the state of New Mexico, directly or indirectly or through intermediaries, certain products to which per- or poly-fluoroalkyl substances (PFAS) are intentionally added.
[20.13.2.2 NMAC – N, 07/01/2026]

20.13.2.3 STATUTORY AUTHORITY: Statutory authority comes from the Environmental Improvement Act, Sections 74-1-1 NMSA 1978 et seq., the Per- and Poly-Fluoroalkyl Substances Protection Act, Sections 74-15-1 NMSA 1978 et seq., and the Department of Environment Act, Sections 9-7A-1 NMSA 1978 et seq.
[20.13.2.3 NMAC – N, 07/01/2026]

20.13.2.4 DURATION: Permanent.
[20.13.2.4 NMAC – N, 07/01/2026]

20.13.2.5 EFFECTIVE DATE: July 1, 2026, unless a later date is cited at the end of a section.
[20.13.2.5 NMAC – N, 07/01/2026]

20.13.2.6 OBJECTIVE: The objective of this part is to establish rules for the prohibition of certain products that contain an intentionally added per- or poly-fluoroalkyl substance, for the reporting of information and testing of products sold, offered for sale, distributed or distributed for sale in New Mexico that contain intentionally added per- and poly-fluoroalkyl substances, and for the labeling of certain products sold, offered for sale, distributed or distributed for sale in New Mexico that contain intentionally added per- and poly-fluoroalkyl substances. In addition, the objective of this part is to establish fees for mandatory reporting and applications for currently unavoidable use designations. Further, this part establishes provisions for enforcement, penalties and administrative costs related to violations of the Per- and Poly-Fluoroalkyl Substances Protection Act, Sections 74-15-4 NMSA 1978 et seq. Penalties, fees, and administrative costs paid are for deposit into the recycling and illegal dumping fund.
[20.13.2.6 NMAC – N, 07/01/2026]

20.13.2.7 DEFINITIONS: The definitions in the Per- and Poly-Fluoroalkyl Substances Protection Act, Section 74-15-2 NMSA 1978 shall apply in this part. The following terms, as used in this part, have the following meanings:

A. "Brand name" means a name, symbol, word, or mark that identifies a product, and attributes the product to the owner of the brand;

B. "Commercially available analytical method" means any test methodology used by a laboratory that performs analyses or tests for third parties to determine the concentration of per- and poly-fluoroalkyl substances in a product or a methodology which is publicly available or available for purchase. Commercially available analytical methods do not need to be performed at a third-party laboratory; however, the method must remain unmodified. Laboratories performing commercially available analytical methods must be certified by the department or by a national or regional certifying authority recognized by the department;

C. "Complex durable good" means a product that is a manufactured good composed of 100 or more manufactured components, with an intended useful life of five or more years, where the product is typically not consumed, destroyed, or discarded after a single use;

D. "Consumer" means one who seeks or acquires by purchase or lease, any consumer

product as that term is defined in Section 2 of the Per- and Poly-Fluoroalkyl Substances Protection Act, Section 74-15-2 NMSA 1978;

E. "Consumer information" means warnings, directions for use, ingredients lists, and nutritional information. "Consumer information" does not include the brand name, product name, company name, location of manufacturer, or product advertising;

F. "Consumer packaging" means packaging constituting, with its contents, a sales unit to the final user or consumer at the point of retail. Also referred to as retail packaging, sales packaging, or primary packaging;

G. "Distribute for sale" means to ship or otherwise transport a product with the intent or understanding that it will be sold or offered for sale in New Mexico by a receiving party subsequent to its delivery;

H. "Labeling" means any written, printed, graphic, or electronically provided communication that accompanies a product, such as a package insert;

I. "Legible" means capable of being read by a person with normal vision;

J. "Product class" means a group of products that share similar essential physical characteristics, function and may be substitutable;

K. "Product label" means a display of written, printed, or graphic material that appears on, or is affixed to, the exterior of a product, or its exterior container or wrapper that is visible to a consumer, if the product has an exterior container or wrapper;

L. "Publicly available" means information that is lawfully made available to the general public from federal, state, or local government records, widely distributed media, or disclosures made to the general public that are required by federal, state, or local law;

M. "Retailer" means any person or business that sells or otherwise provides products containing intentionally added per- and poly-fluoroalkyl substances in New Mexico, including persons who sell directly to consumers and persons who sell to others for resale by any means, including via the internet;

N. "Significant change" means a change in the composition of a product that results in the intentional addition of a specific per- and poly-fluoroalkyl substance; a change in the amount of per- and poly-fluoroalkyl substances of more than a ten percent increase, above the method variability allowed by the commercially available analytical method used, of the concentration that has been reported when compared to the existing notification; or a change in responsible official or contact information. Significant change includes when information used to obtain a waiver is no longer accurate;

O. "Substantially equivalent information" means information that the department can reasonably identify as conveying the same information required in Section 20.13.2.12 NMAC of this rule. Substantially equivalent information must all be in a single document or location. Substantially equivalent information may include an existing notification by a person who manufactures a product or product component when the same product or product component is offered for sale under multiple brands;

P. "Used" means the condition of a product having been installed, operated, or utilized for its intended purpose by at least one owner or operator. Used does not apply to a product that has been returned to a retailer or that is otherwise offered for resale without the product having been installed, operated, or utilized;

Q. "Watercraft" means any contrivance used or designed for navigation on water including but not limited to any vessel, ship, boat, motor vessel, personal watercraft, steam vessel, vessel operated by machinery either permanently or temporarily affixed, motorboat, sailboat, barge, tugboat and rowboat.

[20.13.2.7 NMAC – N, 07/01/2026]

20.13.2.8 SEVERABILITY: If any provision or application of this part is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

[20.13.2.8 NMAC – N, 07/01/2026]

20.13.2.9 PROHIBITIONS ON PRODUCTS CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES: This section pertains to the prohibition of the sale, offering for sale, distribution, or offering for distribution of certain products containing intentionally added per- or poly-fluoroalkyl substances. Manufacturers are responsible for determining if their products contain an intentionally added per- or poly-fluoroalkyl substance as enumerated in Subsection A through C of this section.

A. Except as provided in 20.13.2.10 NMAC of this rule, beginning January 1, 2027, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, the following products if that product contains an intentionally added per- or poly-fluoroalkyl substance:

(1) cookware;

(2) food packaging;

(3) dental floss;

(4) juvenile products; and

(5) firefighting foam.

B. Except as provided in 20.13.2.10 NMAC of this rule, beginning January 1, 2028, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, the following products if that product contains an intentionally added per- or poly-fluoroalkyl substance:

(1) carpets or rugs;

(2) cleaning products;

(3) cosmetics;

(4) fabric treatments;

(5) feminine hygiene products;

(6) textiles;

(7) textile furnishings;

(8) ski wax; and

(9) upholstered furniture.

C. Except as provided in 20.13.2.10 NMAC of this rule, beginning January 1, 2032, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product containing an intentionally added per- or polyfluoroalkyl substance, unless the board has adopted a rule providing that the use of the per- or poly-fluoroalkyl substance in that product is a currently unavoidable use or is or otherwise exempt pursuant to 20.13.2.10 NMAC of this rule.

D. On or after January 1, 2028, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product if testing requested by the department, as enumerated in 20.13.2.14 NMAC of this rule, demonstrates that the product contains an intentionally added per- or poly-fluoroalkyl substance and the manufacturer has failed to provide the department the information required by 20.13.2.12 NMAC of this rule.

E. On or after January 1, 2028, a manufacturer, trade association, or other responsible party may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product that contains an intentionally added per- or poly-fluoroalkyl substance unless the manufacturer has submitted to the department the information required by 20.13.2.12 NMAC of this rule.
[20.13.2.9 NMAC – N, 07/01/2026]

20.13.2.10 EXEMPTIONS: The following are exempt from the requirements in Sections 20.13.2.11 NMAC, 20.13.2.12 NMAC, and 20.13.2.14 NMAC (limited to medical devices outlined in Subsection C of this section) of this rule:

A. A product for which federal law governs the presence of a per- or poly-fluoroalkyl substance in the product in a manner that preempts state authority;

B. Used products offered for sale or resale;

C. Medical devices or drugs and the packaging of the medical devices or drugs that are regulated by the United States food and drug administration, including prosthetic and orthotic devices;

D. Cooling, heating, ventilation, air conditioning or refrigeration equipment that contains intentionally added per- or poly-fluoroalkyl substances or refrigerants listed as acceptable, acceptable subject to use conditions or acceptable to narrowed use limits by the United States environmental protection agency pursuant to the significant new alternatives policy program, Subpart G of 40 CFR Part 82, and sold, offered for sale, distributed or distributed for sale for the use for which the refrigerant is listed pursuant to that program;

E. A veterinary product and its packaging intended for use in or on animals, including diagnostic equipment or test kits and the veterinary product's components and any product that is a veterinary medical device, drug, biologic or parasiticide or that is otherwise used in a veterinary medical setting or in veterinary medical applications that are regulated by or under the jurisdiction of:

(1) The United States food and drug administration;

(2) The United States department of agriculture pursuant to the federal Virus-Serum-Toxin Act; or

(3) The United States environmental protection agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), except that any such products approved by the United States environmental protection agency pursuant to that law for aerial and land application are not exempt from this section;

F. A product developed or manufactured for the purpose of public health or environmental or water quality testing;

G. A motor vehicle or motor vehicle equipment regulated under a federal motor vehicle safety standard, as defined in 49 United States Code, Section 30102(a)(10), except that the exemption under this paragraph does not apply to any textile article or refrigerant that is included in or as a component part of such products;

H. Any other motor vehicle, including an off-highway vehicle or a specialty motor vehicle, such as an all-terrain vehicle, a side by-side vehicle, farm equipment or a personal assistive mobility device;

I. A watercraft, an aircraft, a lighter-than air aircraft or a seaplane;

J. A semiconductor, including semiconductors incorporated in electronic equipment, and materials used in the manufacture of semiconductors;

K. Non-consumer electronics and non-consumer laboratory equipment not ordinarily used for personal, family or household purposes;

L. A product that contains intentionally added per- or poly-fluoroalkyl substances with uses that are currently listed as acceptable, acceptable subject to use conditions or acceptable subject to narrowed use limits in the United States environmental protection agency's rules under the significant new alternatives policy program; provided that the product contains per- or poly-fluoroalkyl substances that are being used as substitutes for ozone-depleting substances under the conditions specified in the rules;

M. A product used for the generation, distribution or storage of electricity;

N. Equipment directly used in the manufacture

or development of the products described in Subsections A through M of this section;

O. A product for which the board has adopted a rule providing that the use of the per- or poly-fluoroalkyl substances in that product is a currently unavoidable use; or

P. A product that contains fluoropolymers consisting of polymeric substances for which the backbone of the polymer is either a per- or polyfluorinated carbon-only backbone or a perfluorinated polyether backbone that is a solid at standard temperature and pressure.

Q. A pesticide that is regulated by or under the jurisdiction of the Federal Insecticide, Fungicide, and Rodenticide Act.

[20.13.2.10 NMAC – N, 07/01/2026]

20.13.2.11 CURRENTLY UNAVOIDABLE USE: This section provides directions for submitting CUU proposals.

A. Proposals for currently unavoidable use (CUU) determinations may be submitted by manufacturers individually or collectively. A separate proposal must be submitted for each individual combination of product category and the associated industrial sector (i.e., North American Industry Classification System (NAICS) code). Proposals will be submitted using the department's online submission portal. For initial currently unavoidable use proposals, the requester shall submit the information identified in this section of the rule no later than 12 months prior to the applicable sales prohibition. The department will not consider any proposals for an initial currently unavoidable use determination prior to 60 months in advance of the applicable sales prohibition; any proposals received prior to this date will need to be updated and resubmitted between 60 and 12 months before the effective date of the applicable sales prohibition (with the exception of CUU proposals for sales prohibitions taking effect January 1, 2027, which must be submitted no later than October 31, 2026. Complete CUU proposals for sales prohibitions effective January 1, 2027, received by October 31, 2026, will be considered approved pending review and a final determination of whether to approve or deny the proposals will be issued by the department by March 1, 2027). A proposal must, at a minimum, contain:

(1) Identification of the specific per- or poly-fluoroalkyl substance(s) intentionally added to the product or its components as identified by:

(a) The chemical name, and

(b) The Chemical Abstracts Service Registry number (CASRN), or if no CASRN exists, another chemical identifying number.

(2) A brief description of the type of product to which a per- or poly-fluoroalkyl substance is intentionally added including:

(a) A brief narrative of the product; its physical structure and appearance; how it functions; and if applicable its place in larger items, systems, or processes;

(b) If applicable, the universal product code, stock keeping unit or other numeric code assigned to the product; and

(c) NAICS code for the sector or sectors in which the products containing intentionally added per- and poly-fluoroalkyl substances will be used.

(3) An explanation of why the inclusion of per- or poly-fluoroalkyl substances in the specific product is essential for health, safety or the functioning of society. This explanation may include or take the form of a description of the negative impact that would be caused by the removal of per- or poly-fluoroalkyl substances for use in the product and the subsequent unavailability or unsatisfactory performance of the product;

(4) A description of how the specific use of per- or poly-fluoroalkyl substances in the product is essential to the function of the product. Including:

(a) If the use of per- or poly-fluoroalkyl substances in the product is required by federal or state law or regulation, provide citations to that requirement. For the purposes of this section, "required" means the applicable statute or regulation specifically states that per- or poly-fluoroalkyl substances or a specific per- or poly-fluoroalkyl substance is required to be present in the product, not that the proposer's understanding or experience of per- or poly-fluoroalkyl substances is necessary to meet a performance standard; such performance standards may be addressed below; and

(b) The required specific characteristic or combination of characteristics that necessitate the use of per- and poly-fluoroalkyl substances.

(5) A description of whether there are alternatives for this specific use of per- or poly-fluoroalkyl substances that are reasonably available including:

(a) Identification of specific compounds, classes of materials, or combinations of materials identified as potential alternatives including the removal of per- and poly-fluoroalkyl substances without substitution;

(b) An assessment of how the materials above meet or fail to meet the criteria identified in Subparagraph (b) of Paragraph (4) of Subsection A of 20.13.2.11 NMAC of this rule;

(c) An assessment if materials identified in Subparagraph (a) of Paragraph (5) of Subsection A of 20.13.2.11 NMAC of this rule are anticipated to be available in sufficient quantities to meet production needs without regard to cost;

(d) An assessment of the anticipated cost difference between obtaining per- or poly-fluoroalkyl substances for use in a product and obtaining the material identified for the same purpose;

(e) A comparison of the known risks to human health and the environment between per- or poly-fluoroalkyl substances and the materials identified; and

(f) An assessment of whether there are feasible changes to the manufacturing process of the product that would eliminate the need for per- and poly-fluoroalkyl substances.

(6) A list of federal regulations, other State of New Mexico rules, and regulations of other states to which the product described in Subsection A of Section 20.13.2.11 NMAC of this rule is subject by reason of containing intentionally added per- or poly-fluoroalkyl substances, including details of any sales prohibition the product is subject to because of containing intentionally added per- or poly-fluoroalkyl substances including;

(a) Whether that sales prohibition is absolute or if there is a process similar to the state of New Mexico's currently unavoidable use determination.

(b) If there is a similar process available, whether the requester has filed a proposal under the relevant state or federal program, and its status.

(7) If, in another jurisdiction the product is subject to an absolute prohibition or no currently unavoidable use determination or similar has been made, a list of comparable products that the proposer is aware of remaining available for sale, offered for sale, distributed or distributed for sale within that jurisdiction;

(8) If a similar program's sales prohibition is identified as applicable in Paragraph (6) of Subsection A of 20.13.2.11 NMAC of this rule and similar products are available for sale, offered for sale, distributed or distributed for sale;

(a) A justification explaining how products available in compliance with other similar sales prohibitions are not reasonably available alternatives for the product subject to the proposed CUU in the state of New Mexico. This justification may include demonstrating that additional sales in the state of New Mexico would result in such an increased demand for the per- or poly-fluoroalkyl substance alternative that it would no longer be available in sufficient quantities. Such a demonstration must include an assessment that an increase in production of the per- or poly-fluoroalkyl substance alternative is not possible; or

(b) Documentation demonstrating that products containing per- or poly-fluoroalkyl substance alternatives in other jurisdictions would not perform as intended in the state of New Mexico due to differing physical or climate conditions in the state of New Mexico;

(9) Contact information for the submitter of the proposal. The contact person or persons should be familiar with the contents of the proposal and, if necessary, be able to answer department questions or provide additional requested information; and

(10) Any information known or reasonably ascertainable by the manufacturer regarding the impacts on human health or the environment of per- or poly-fluoroalkyl substances in the product. At a minimum this information should include the following items, if available;

(a) Any information documenting impacts on human health as a result of the specific use of per- or poly-fluoroalkyl substance in the product;

(b) A description of the likely pathways of human exposure for the specific use of per- or poly-fluoroalkyl substances in the product;

(c) Any information documenting environmental impacts as a result of the specific use of per- or poly-fluoroalkyl substances in the product;

(d) A description of any likely pathways for environmental release of per- or poly-fluoroalkyl substances as a result of the specific use of per- or poly-fluoroalkyl substances in the product; and

(e) A description of the product's fate at the end of its lifecycle including;

(i) Documentation of any product stewardship programs or other government-imposed processes at the end of a product's lifecycle,

(ii) How the product is intended to be disposed of, such as landfilling or via a sewage or septage system, and

(iii) The recycling rate of the product.

Information submitted to the department must contain sufficient detail or supporting documentation to satisfy the requirements of the currently unavoidable use as essential for health, safety or the functioning of society for which alternatives are not reasonably available.

If any of the information above is omitted from the proposal, the requestor must explain why this information is omitted.

B. The department will consider CUU determinations made by other states for products subject to this rule. For consideration to be given, the manufacturer must provide the department with documents evidencing the CUU determination from the other state in the same timeframe as stipulated in Subsection A of 20.13.2.11 NMAC of this rule.

C. Should a proposal for a currently unavoidable use determination contain claims of confidentiality, the department may determine that there is insufficient publicly available information to evaluate the proposal. The department strongly recommends that all proposals for currently unavoidable use determinations do not contain claims of confidentiality.

D. CUU designations will expire three years after approval. Upon expiration, a currently unavoidable use determination is no longer applicable, and all sales, offers for sale, distributions or distributions

for sale are immediately prohibited. If a person believes the currently unavoidable use remains, they may submit a proposal to the department for a new currently unavoidable use determination. That proposal, in addition to the information required in Paragraphs (1) through (10) of Subsection A of 20.13.2.11 NMAC of this rule, must include a description of any changes since the time of the first currently unavoidable use determination and a summary of efforts made during that time to develop or discover alternatives or to make existing alternatives reasonably available. The department will consider all subsequent proposals no sooner than 24 months prior to and no later than 12 months prior to the expiration date of the determination in effect.

E. A list of approved CUUs will be made available to the public and posted on the NMED website.

[20.13.2.11 NMAC – N, 07/01/2026]

20.13.2.12 REPORTING REQUIREMENT: A manufacturer of a product sold, offered for sale, distributed or distributed for sale in the state must submit a report for each product or component that contains intentionally added per- or poly-fluoroalkyl substances.

A. In the case of official reporting, "manufacturers" refer to individual manufacturers, as well as groups reporting on behalf of other manufacturers. All manufacturers must assume responsibility to report unless manufacturers in the same supply chain enter into an agreement to establish their respective reporting responsibilities. A manufacturer may submit the information required for reporting on behalf of another manufacturer. A trade organization representing the manufacturer or group of manufacturers may also submit the information required for reporting if the following requirements are met:

(1) The reporting manufacturer or trade organization must notify any other manufacturer that is a party to the agreement that the reporting manufacturer has fulfilled the reporting requirements;

(2) All manufacturers must maintain documentation of a reporting responsibility;

(3) All manufacturers must execute the agreement and must provide the documentation to the department upon request;

(4) All manufacturers must verify, in a format specified by the department, that the data submitted on their behalf is accurate and complete; and

(5) For the verification required under Paragraph (4) of Subsection A of 20.13.2.12 NMAC of this rule to be considered complete, all manufacturers subject to the agreement must submit the fee required under Subsection A of 20.13.2.16 NMAC of this rule.

B. On or before January 1, 2027, a manufacturer of a product sold, offered for sale, distributed or distributed for sale in the state, directly or indirectly or through intermediaries, that contains an intentionally added per- or poly-fluoroalkyl substances must submit to the department the following information:

(1) A brief description of the product, including a universal product code, stock keeping unit or other numeric code assigned to the product;

(2) The purpose for which a per- or poly-fluoroalkyl substance is used in the product;

(3) The amount, expressed as a percentage concentration in the product, of each per- or polyfluoroalkyl substance in the product, identified by its CASRN and reported as an exact quantity determined using commercially available analytical methods or as falling within the following reporting ranges. The manufacturer shall provide documentation verifying analytical method results to the department.

(a) Less than 100 ppm (0.01 percent);

(b) Equal to or more than 100 ppm (0.01 percent), but less than 500 ppm (0.05 percent);

(c) Equal to or more than 500 ppm (0.05 percent), but less than 1,000 ppm (0.1 percent);

(d) Equal to or more than 1,000 ppm (0.1 percent), but less than 5,000 ppm (0.5 percent);

(e) Equal to or more than 5,000 ppm (0.5 percent), but less than 10,000 ppm (1.0 percent); or

(f) Equal to or more than 10,000 ppm (1.0 percent).

(4) The name and address of the manufacturer and the name, address and phone number of a contact person for the manufacturer; and

(5) Any additional information requested by the department as necessary; provided that the department shall not require disclosure of records, reports or information or particular parts of records, reports or information that would divulge confidential business records or methods or processes entitled to protection as trade secret, and provided further that the manufacturer shall, by a preponderance of evidence, demonstrate that the information requested would divulge confidential business records or methods or processes entitled to protection as trade secrets.

C. A manufacturer shall submit a revision of the information provided on a product within 30 days of a significant change to the information the manufacturer previously submitted or upon the request of the department.

D. The department may waive the obligation of a manufacturer to submit all or part of the information required by this section if the department determines

that substantially equivalent information is publicly available. The manufacturer must notify the department that the information is publicly available via methods deemed acceptable by the department. The department may grant a waiver to a manufacturer or a group of manufacturers for multiple products or a product category.

(1) The waiver request must contain the following information:

(a) Information contained in Paragraph (4) of Subsection B of 20.13.2.12 NMAC of this rule;

(b) A description of the products or components for which a waiver is requested;

(c) A list of requirements under Subsection B of 20.13.2.12 NMAC of this rule for which the manufacturer seeks a waiver;

(d) A description of the publicly available records that contain substantially equivalent information to the information required under Subsection B of 20.13.2.12 NMAC of this rule.

(e) A manufacturer or group of manufacturers must still submit a report for any requirements under Subsection B of 20.13.2.12 NMAC of this rule that are not waived.

(f) A manufacturer or group of manufacturers must submit the waiver request to the department at least 30 days before the applicable reporting due date.

(2) If the department denies a waiver request, the manufacturer or group of manufacturers must submit their report within 30 days of the notice of denial or by the established reporting due date, whichever is later.

E. The department may enter into, modify, or dissolve an agreement with one or more states or political subdivisions of a state to collect information and may accept information to a shared system as meeting the information requirements of this section.

F. The department may extend the deadline for a manufacturer to submit the information required by this section upon a determination by the department that the circumstances merit an extension of time.

(1) A manufacturer or group of manufacturers requesting an extension must submit the request in a format specified by the department. The request must contain:

(a) Information contained in Paragraph (4) of Subsection B of 20.13.2.12 NMAC of this rule;

(b) The reason for the extension request, including a detailed explanation of the circumstances that prevent timely submission;

(c) Supporting documentation, including any relevant documents that substantiate the need for an extension, such as communication records with other manufacturers, evidence of technical challenges, or third-party testing delays; and

A plan for completion, including an outline of how the manufacturer will submit the remaining work by the new deadline.

(2) A manufacturer or group of manufacturers must submit the request for an extension to the department at least 30 days before the reporting due date established in Subsection B of 20.13.2.12 NMAC of this rule. The request must include documentation demonstrating that the extension is justified, based on the materials submitted under Subsection B of 20.13.2.12 NMAC of this rule, to allow the manufacturer or group of manufacturers to comply with the reporting requirements.

(3) If the department determines that the requestor has demonstrated that an extension is justified, based on the materials submitted under Paragraph (1) of Subsection F of 20.13.2.12 NMAC of this rule, the department will grant a 90-day extension of the established reporting due date.

(4) If an extension request is denied by the department, the manufacturer or group of manufacturers must submit a report according to Subsection B of 20.13.2.12 NMAC of this rule within 30 days after the notice of denial or by the established reporting due date, whichever is later.

G. Within 60 days of receiving information from a manufacturer, the department shall notify the manufacturer that adequate information has been received or that additional information is required. A manufacturer shall submit to the department any additional information requested by the department within 30 days of the request.

H. The requirements of this section do not apply to products that are exempt as specified in 20.13.2.10 NMAC of this rule or that have been designated as a currently unavoidable use pursuant to 20.13.2.11 NMAC of this rule.

[20.13.2.12 NMAC – N, 07/01/2026]

20.13.2.13 LABELING:

A. Labeling required. Unless exempted under Subsection B of 20.13.2.13 NMAC of this rule, after January 1, 2027, a manufacturer may not manufacture for sale or distribution a product containing intentionally added per- or poly-fluoroalkyl substances unless the manufacturer does one of the following:

(1) Labels the product in accordance with the standards set forth in Subsections C and D of Section 20.13.2.13 NMAC of this rule, as applicable;

(2) Documents in accordance with Subsection E of 20.13.2.13 NMAC of this rule that the product is labeled in a manner consistent with corresponding labeling requirements enacted by another state.

B. Labeling exemptions. The labeling requirements of this rule do not apply to:

(1) Used products offered for sale or resale;

(2) Products for which labeling requirements are preempted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136v, or for which labeling requirements currently exist at 40 C.F.R. 156.10;

(3) Veterinary products, including veterinary parasiticides and veterinary biologics, and the packaging of veterinary products regulated by the United States food and drug administration, the United States department of agriculture, or the United States environmental protection agency; and

(4) Medical devices, drugs, and the packaging of medical devices and drugs regulated by the United States food and drug administration.

C. Labeling standards. Prior to sale of a product that contains intentionally added per- or poly-fluoroalkyl substances, the manufacturer of the product shall affix or cause to be affixed, a label that conforms to the requirements of this section. Complex durable goods are exempt from the requirements of this section and are addressed in Subsection D of 20.13.2.13 NMAC of this rule.

(1) The label must clearly inform the consumer that the product contains intentionally added per- and poly-fluoroalkyl substances. The label shall be an outline of an Erlenmeyer flask with the word "PFAS" inside the flask. The label must be affixed to the product such that the label is clearly visible and legible prior to sale. The label must be displayed with such conspicuousness as compared with other words, statements, design or devices on the product as to render the label likely to be seen, read, and understood by an ordinary individual under customary conditions of purchase or use. Text shall be no smaller than the largest font used for other consumer information on the product.

(2) Labels affixed to products must be printed, mounted, molded, engraved, embossed, or otherwise affixed to the product.

(3) If the product is sold in consumer packaging that obscures the label on the product, then the consumer packaging must also be labeled in a manner compliant with Paragraph (1) of Subsection C of 20.13.2.13 NMAC of this rule. If, prior to sale, a retailer re-packages the labeled product, then the retailer shall label the new consumer packaging in accordance with this section.

(4) Where the consumer is unable to view the labels on the product or consumer packaging at the time of purchase or receipt, such as in catalog or online sales transactions that occur over the internet or telephone, the manufacturer or retailer shall, prior to sale or distribution, clearly include information to the prospective consumer prior to purchase that the product contains intentionally added per- and poly-fluoroalkyl substances by providing a label or disclosure as described in Paragraph (1) of Subsection C of 20.13.2.13 NMAC of this rule.

(5) The manufacturer shall apply any product and package labels required under this section unless the wholesaler or retailer agrees in writing with the manufacturer to accept responsibility for such application.

(6) Nothing in this section shall be construed to require or replace such disclosure, notice or labeling that is otherwise prohibited or prescribed by federal law.

D. Labeling of complex durable goods with intentionally added per- or poly-fluoroalkyl substances. Prior to sale of a complex durable good that contains intentionally added per- or poly-fluoroalkyl substances, the manufacturer shall conform to the information requirements of this section.

(1) A label indicating the presence of intentionally added per- or poly-fluoroalkyl substances shall be included in the consumer facing product specification sheet available to potential consumers prior to purchase. The label shall be an outline of an Erlenmeyer flask with the word "PFAS" inside the flask.

(2) The label must be easily identified and legible on the consumer facing product specification sheet. A 10-point font or larger is presumed to be legible.

(3) The consumer facing operation and maintenance manual associated with the complex durable good shall include a label as described in Paragraph (1) of Subsection D of 20.13.2.13 NMAC of this rule indicating the presence of intentionally added per- or poly-fluoroalkyl substances.

(4) Nothing in this section shall be construed to require or replace such disclosure, notice or labeling that is otherwise prohibited or prescribed by federal law.

E. Consistency with other states. The manufacturer of a product with intentionally added per- or poly-fluoroalkyl substances may comply with the labeling requirements of this rule by labeling all units, or, as applicable, consumer facing specification sheets and consumer facing operation and maintenance manuals of the product sold in New Mexico in compliance with corresponding requirements adopted by another state. A manufacturer may comply in this manner by providing the department with the following:

(1) A copy of the label as it will appear on products and consumer packaging sold in New Mexico and a narrative explaining how it fulfills the intent of the requirements established in this rule; and

(2) If the approved labeling plan includes state-specific elements such as telephone

numbers, statutory references, websites or public outreach measures, a description of the adjustments that will be made to implement the plan in New Mexico.

Submittal of these documents to the department constitutes compliance with this rule unless, within 90 days of receipt, the department notifies the manufacturer that the label or labeling alternative violates New Mexico law and explains in writing the nature of the violation.

F. The department may waive the obligation of a manufacturer to label a product or product class as required by this section if the product is exempt pursuant to Section 20.13.2.10 NMAC of this rule, and none of the product's material containing intentionally added per- or poly-fluoroalkyl substances will ever come into direct contact with a consumer while the product is being used as intended during the useful life of the product. The waiver request must contain the following information:

(1) Information contained in Paragraphs (1), (3), and (4), of Subsection B of 20.13.2.12 NMAC of this rule;

(2) Identification of the specific per- or poly-fluoroalkyl substance(s) intentionally added to the product or its components by the chemical name and the Chemical Abstracts Service Registry number (CASRN), or if no CASRN exists, another chemical identifying number;

(3) An explanation of why the product should not require a label pursuant to this section; and

(4) Any other information the department deems necessary for the evaluation of the waiver request.

(5) If seeking a label waiver for a product class, in addition to the information in Paragraphs (1) to (4) of Subsection F of 20.13.2.13 NMAC, the waiver request must provide sufficient evidence to demonstrate that the products share similar essential physical characteristics, function, and may be substitutable. Complete label waiver requests for an individual product or product class received by October 31, 2026, will be considered approved pending review and a final determination of whether to approve or deny the request will be issued by the department by June 1, 2027. If a label request is denied, a manufacturer must label a product for sale or distribution pursuant to 20.13.2.13 NMAC within 90 days of the label waiver denial; products which have already been manufactured up to the date of denial, may be sold without a label. Approved label waiver requests will expire three years after approval. [20.13.2.13 NMAC – N, 07/01/2026]

20.13.2.14 TESTING: If there is reasonable suspicion that a product contains intentionally added per- or poly-fluoroalkyl substances but either has not fulfilled the reporting requirements specified in 20.13.2.12 NMAC of this rule or has not labeled the product in accordance with 20.13.2.13 NMAC of this rule, the department may test or may require a manufacturer to test their product to determine the presence and concentration of per- and poly-fluoroalkyl substances in the product. For the purposes of this section, the presence of fluorine in a product or product component above 100 ppm, as measured by a commercially available analytical method, creates a rebuttable presumption that per- or poly-fluoroalkyl substances were intentionally added to the product. A manufacturer must rebut the presumption by demonstrating that the per- or poly-fluoroalkyl substances were not intentionally added.

A. The provisions of this section do not apply to a medical device or drug or the packaging of a medical device or drug that is regulated by the United States food and drug administration.

B. If directed to test for per- and poly-fluoroalkyl substances, manufacturers must use a commercially available analytical method to report the amount of intentionally added per- and poly-fluoroalkyl substances within 30 days of the testing notification. The report shall contain:

(1) Each per- or poly-fluoroalkyl substance's name, chemical abstracts services (CAS) number, and chemical formula, if known or the amount, expressed as a percentage concentration in the product, of each per- or poly-fluoroalkyl substance or the range of each per- and poly-fluoroalkyl substance, as falling within the following reporting ranges:

(a) Less than 100 ppm (0.01 percent);

(b) Equal to or more than 100 ppm (0.01 percent), but less than 500 ppm (0.05 percent);

(c) Equal to or more than 500 ppm (0.05 percent), but less than 1,000 ppm (0.1 percent);

(d) Equal to or more than 1,000 ppm (0.1 percent), but less than 5,000 ppm (0.5 percent);

(e) Equal to or more than 5,000 ppm (0.5 percent), but less than 10,000 ppm (1.0 percent); or

(f) Equal to or more than 10,000 ppm (1.0 percent); and

(2) Documentation verifying analytical method results to the department.

C. If the product is not found to contain any intentionally added per- and poly-fluoroalkyl substances, and any fluorine from impurities or contaminants is present below 100 ppm, the manufacturer will provide a certificate of compliance to the department. This certificate must contain the testing results, analytical method, and any other relevant information. A senior management official must certify the accuracy and completeness of the information reported on the form by signing and dating the form.

D. If the product is found to contain any intentionally added per- or poly-fluoroalkyl

substances above 100 ppm, within 30 days the manufacturer must:

(1) Submit a report as required in 20.13.2.12 NMAC of this rule;

(2) If the product is prohibited for sale, notify distributors and retailers that the product is prohibited for sale or distribution in the state of New Mexico; and

(3) If the product is prohibited for sale, provide the department with a list of the distributors and retailers notified.
[20.13.2.14 NMAC – N, 07/01/2026]

20.13.2.15 REPORTING FEES: Every manufacturer of a product containing an intentionally added per- or poly-fluoroalkyl substance that is sold, offered for sale, distributed or distributed for sale in the state, directly or indirectly or through intermediaries and is not exempt pursuant to 20.13.2.10 NMAC shall pay reporting fees in accordance with the provisions of this section.
[20.13.2.15 NMAC – N, 07/01/2026]

20.13.2.16 REPORTING FEE SCHEDULE: Initial and subsequent reporting fees are non-refundable and are set forth below:

A. A manufacturer must pay a $2,500 fee to submit the initial report pursuant to 20.13.2.12 NMAC of this rule.

B. The fee for each instance of subsequent reporting following a significant change pursuant to Subsection C of Section 20.13.2.12 NMAC of this part is $1,000.

C. Every year, beginning in 2028, the fees specified in this section shall be adjusted on January 1 to reflect changes in the consumer-price index for all urban consumers ("CPI-U"), which is published monthly by the United States Department of Labor. The change will be calculated by averaging the CPI-U for the last 12-month period ending on August 31 of the previous year, then multiplying the fees by the percentage of increase (or decrease) between that figure and the figure from the prior adjustment. If the United States Department of Labor fails to update the CPI-U, the Secretary may propose an alternative inflation adjustments for approval by the Environmental Improvement Board. The department shall make a fee schedule of the fees in this section available on the department's website.
[20.13.2.16 NMAC – N, 07/01/2026]

20.13.2.17 CURRENTLY UNAVOIDABLE USE DESIGNATION APPLICATION FEES: Manufacturers that apply to designate the use of a per- or poly-fluoroalkyl substance in a product as a currently unavoidable use, shall pay a fee to the department in accordance with the provisions of this part. Manufacturers that apply for a renewal of a previously approved designation of a per- or poly-fluoroalkyl substance in a product as a currently unavoidable use, shall pay a fee to the department in accordance with the provisions of this part.
[20.13.2.17 NMAC – N, 07/01/2026]

20.13.2.18 CURRENTLY UNAVOIDABLE USE DESIGNATION APPLICATION FEE SCHEDULE: Initial and renewal application fees for currently unavoidable use designations are non-refundable and are set forth below:

A. The initial fee for a manufacturer applying to designate the use of a per- or poly-fluoroalkyl substance in a product as a currently unavoidable use in a consumer product is $5,000; and

B. The fee for the new CUU determination to designate a per- or poly-fluoroalkyl substance in a product as a currently unavoidable use in a product is $2,500.

C. Every year, beginning in 2028, the fees specified in this section shall be adjusted on January 1 to reflect changes in the consumer-price index for all urban consumers ("CPI-U"), which is published monthly by the United States Department of Labor. The change will be calculated by averaging the CPI-U for the last 12-month period ending on August 31 of the previous year, then multiplying the fees by the percentage of increase (or decrease) between that figure and the figure from the prior adjustment. If the United States Department of Labor fails to update the CPI-U, the Secretary shall propose an alternative inflation adjustments for approval by the Environmental Improvement Board. The department shall make a fee schedule of the fees in this section available on the department's website.
[20.13.2.18 NMAC – N, 07/01/2026]

20.13.2.19 LABEL WAIVER APPLICATION FEE: Manufacturers that apply for a waiver for the requirement to label a product containing intentionally added per- or poly-fluoroalkyl substances shall pay a fee to the department in accordance with the provisions of this part.
[20.13.2.19 NMAC – N, 07/01/2026]

20.13.2.20 LABEL WAIVER APPLICATION FEE SCHEDULE: Application fees for label waiver applications are non-refundable and are set forth below:

A. The fee for a manufacturer applying for a waiver to label a product containing intentionally added per- or poly-fluoroalkyl substances is $2,000 and the fee for a manufacturer applying for a waiver to label a product class containing intentionally added per- or poly-fluoroalkyl substances is $5,000; and

B. Every year, beginning in 2028, the fees specified in this section shall be adjusted on January 1 to reflect changes in the consumer-price index for all urban consumers ("CPI-U"), which is published monthly by the United States Department of Labor. The change will be calculated by averaging the CPI-U for the last 12-month period ending on August 31 of the previous year, then multiplying the fees by the percentage of increase (or decrease) between that figure and the figure from the prior adjustment. If the United States Department of Labor fails to update the CPI-U, the Secretary shall propose an alternative

inflation adjustments for approval by the Environmental Improvement Board. The department shall make a fee schedule of the fees in this section available on the department's website.
[20.13.2.20 NMAC – N, 07/01/2026]

20.13.2.21 MANNER OF PAYMENT: All fees shall be paid to the department by online payment only by ACH or credit card. Cash payments are not an acceptable method of payment.
[20.13.2.21 NMAC – N, 07/01/2026]

20.13.2.22 LATE CHARGES: If any fee for which this part provides is not paid in full when due, the person owing the fee shall pay a billing charge of one thousand dollars ($1,000), plus late charges in the amount of an additional one percent of all fees owed for every month or part of a month in which the fees remain unpaid beyond the due date. Billing and late charges shall be deposited in the recycling and illegal dumping fund and are independent of any penalties assessed under the act.
[20.13.2.22 NMAC – N, 07/01/2026]

20.13.2.23 ENFORCEMENT, COMPLIANCE ORDERS, PENALTIES:

A. Whenever on the basis of any credible information the Secretary determines that any person has violated, is violating or threatens to violate any requirement of the Per- and Poly-Fluoroalkyl Substances Act or any rule adopted and promulgated pursuant to the act, the secretary may:

(1) Issue a compliance order stating with reasonable specificity the nature of the violation or threatened violation and requiring compliance immediately or within a specified time period or assessing a civil penalty for any past or current violation, or both; or

(2) Commence a civil action in district court for appropriate relief, including temporary or permanent injunction.

B. A manufacturer that violates a provision of the Per- and Poly-Fluoroalkyl Substances Act or a rule adopted pursuant to that act shall be assessed a civil penalty not to exceed fifteen thousand dollars ($15,000), and for each day during which any portion of a violation occurs, the department may assess the manufacturer administrative costs the department incurs for enforcement of the Per- and Poly-Fluoroalkyl Substances Act or a rule adopted pursuant to that act.

(1) If a violator fails to take corrective action within the time specified in a compliance order, the Secretary may assess a civil penalty of not more than twenty-five thousand dollars ($25,000) for each day of continued noncompliance with the order.

(2) In addition to assessing a civil penalty, the department shall recoup the economic benefit of noncompliance from delayed or avoided compliance.

(3) Any order issued pursuant to this part shall become final unless, no later than 30 days after the order is served, the person named in the order submits a written request to the Secretary for a public hearing. Upon such request, the Secretary shall promptly conduct a public hearing. The hearing officer shall make and preserve a record of the proceedings and forward their recommendation based on the record to the secretary, who shall make the final decision.

(4) In connection with any proceedings under this part, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents and may promulgate rules for discovery procedures.

(5) Penalties collected pursuant to an administrative order shall be deposited in the recycling and illegal dumping fund. Administrative costs collected pursuant to this part shall be deposited in the recycling and illegal dumping fund.
[20.13.2.23 NMAC – N, 07/01/2026]

HISTORY OF 20.13.2 NMAC: [RESERVED]

HEALTH CARE AUTHORITY
BEHAVIORAL HEALTH SERVICES DIVISION

The New Mexico Health Care Authority Department approved the repeal of 8.321.10 NMAC - Opioid Treatment Programs (filed 6/13/2024) and replaced it with 8.321.10 NMAC - Opioid Treatment Programs (adopted on 4/20/2026), effective 5/5/2026.

HEALTH CARE AUTHORITY
BEHAVIORAL HEALTH SERVICES DIVISION

TITLE 8 SOCIAL SERVICES
CHAPTER 321 SPECIALIZED BEHAVIORAL HEALTH SERVICES
PART 10 OPIOID TREATMENT PROGRAMS

8.321.10.1 ISSUING AGENCY: New Mexico Health Care Authority (HCA).
[8.321.10.1 NMAC - Rp, 8.321.10.1 NMAC 5/5/2026]

8.321.10.2 SCOPE: This rule is applicable to opioid treatment programs. These regulations are not intended to preempt county or municipal ordinances that supplement and do not conflict with these regulations. County and municipal ordinances are preempted when they conflict with these regulations.
[8.321.10.2 NMAC - Rp, 8.321.10.2 NMAC 5/5/2026]

8.321.10.3 STATUTORY AUTHORITY: Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (authority) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.321.10.3 NMAC - Rp, 8.321.10.3 NMAC 5/5/2026]

8.321.10.4 DURATION: Permanent.
[8.321.10.4 NMAC – Rp, 8.321.10.4 NMAC 5/5/2026]

8.321.10.5 EFFECTIVE DATE: April 21, 2026, unless a later date is cited at the end of a section.
[8.321.10.5 NMAC - Rp, 8.321.10.5 NMAC 5/5/2026]

8.321.10.6 OBJECTIVE: This rule establishes standards for opioid treatment programs, in their provision of methadone treatment services, to be consistent with the SAMHSA/CSAT regulations and the OTP accreditation requirements of nationally recognized accreditation bodies approved by SAMHSA/CSAT, such as CARF and TJC. The intent is to:

A. be consistent with, and complimentary to, the substance abuse and mental health services administration/center for substance abuse treatment (SAMHSA/CSAT) regulations, and the OTP accreditation requirements of nationally recognized accreditation bodies approved by SAMHSA/CSAT, such as commission on accreditation of rehabilitation facilities (CARF) and the joint commission (TJC);

B. reduce the stigma sometimes associated with opioid use disorder treatment and ensure access to it comparable to treatment availability for other chronic medical conditions;

C. consider the possible adverse impact on communities in which OTP providers are located in making application approval decisions, and to provide measures to promote mutually satisfactory relationships between OTP providers and their communities.
[8.321.10.6 NMAC - Rp, 8.321.10.6 NMAC 5/5/2026]

8.321.10.7 DEFINITIONS:

A. Definitions beginning with "A":

(1) **"Accrediting bodies"** means nationally recognized organizations, such as the joint commission (TJC) and the commission on accreditation of rehabilitation facilities (CARF), which promulgate standards for OTPs that are approved by the substance abuse and mental health services administration/center for substance abuse treatment (SAMHSA/CSAT), and offer accreditation to programs that meet these standards.

(2) **"Administrative discharge"** means the procedure for withdrawal of a patient's methadone coinciding with the patient's involuntary discharge from methadone treatment services as a result of, violent or disruptive behavior or incarceration or other confinement.

(3) **"Application form"** means the form created by the health care authority, which must be completed by a program sponsor who wishes to obtain approval to operate an methadone treatment program.

(4) **"Approval" and "approval to operate"** means the written permission given by the health care authority to a program sponsor to operate an opioid treatment program.

B Definitions beginning with "B": "Behavioral health services division" (BHSD) is the division of the New Mexico health care authority that is the single state authority for mental health and substance use treatment and prevention programs and methadone authority.

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

D. Definitions beginning with "D":

(1) **"Dispense"** has the same meaning as in Subsection I of Section 61-11-2 NMSA 1978 as amended or renumbered.

(2) **"Diversion"** means the unauthorized transfer of an opioid agonist treatment medication, such as a street sale.

(3) "Dosage" means the amount, frequency and number of doses of methadone for an individual.

(4) "Dose" means a single unit of methadone.

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

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

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

H. Definitions beginning with "H": "Harm reduction":

(1) Refers to practical, evidence-based strategies, including overdose education; testing and intervention for infectious diseases, including counseling and risk mitigation activities forming part of a comprehensive, integrated approach to address HIV, viral hepatitis, sexually transmitted infections, and bacterial and fungal infections; distribution of opioid overdose reversal medications; linkage to other public health services; and connecting those who have expressed interest in additional support-to-peer services (see 42 CFR § 8.2).

(2) This definition refers to SAMHSA's definition of harm reduction as "a practical and transformative approach that incorporates community driven public health strategies including prevention, risk reduction, and health promotion to empower people who use drugs (PWUD) and their families with the choice to live healthier, self-directed, and purpose-filled lives.

(3) Harm reduction centers the lived and living experience of PWUD, especially those in underserved communities, in these strategies and the practices that flow from them."

I. Definitions beginning with "I":

(1) "In-take assessment" means the collection and analysis of a patient's preliminary social, medical, psychological and treatment history which results in a patient-centered intake treatment plan of care with the most appropriate combination of services and treatment, This must be completed within 24 hours of admission.

(2) "Illicit opioid drug" means an illegally obtained opioid drug, such as heroin,

that causes dependence and reduces or destroys an individual's physical, social, occupational, or educational functioning, or misuse of legally prescribed medication.

(3) "Intake screening" means determining whether an individual meets the initial criteria for receiving methadone treatment.

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

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

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

M. Definitions beginning with "M":

(1) "Methadone Continuous Medication Treatment program" means a program designed with the intention of lasting longer than six months, for the purpose of maintaining the patient such that they will be free of opioid withdrawal and cravings; such programs are typified by:

(a) dispensing or administering methadone at stable dosage levels for a period in excess of 21 days to an individual for opioid use disorder; and

(b) providing medical, therapeutic and supportive services to the individual with opioid use disorder.

(2) "Medical practitioner" means an individual who:

(a) has been accredited through appropriate national procedures as a health professional;

(b) fulfills the national requirements on training and experience for prescribing procedures;

(c) is a registrant or a licensee, or a worker who has been designated by a registered or licensed employer for the purpose of prescribing procedures;

(d) may be a physician, physician's assistant, registered nurse, nurse practitioner, or licensed practical nurse.

(3) "**Medication for opioid use disorder (MOUD)"** means medications, including opioid agonist medications, approved by the food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of OUD.

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

O. Definitions beginning with "O":

(1) "Opioid treatment", for the terms of this rule, means:

(a) methadone treatment withdrawal procedure; and

(b) methadone continuous medication treatment.

(2) "Opioid treatment medication" means a prescription medication that is approved by the U.S. food and drug administration under 21 U.S.C. section 355 and by the code of federal regulations title 42, part 8.12 for use in the treatment of opioid use disorder.

(3) "Opioid treatment program" (OTP), for the terms of this rule, means a single location (may include approved medication units operating under the certified and licensed OTP) at which opioid use disorder treatment with methadone and rehabilitative services, are provided to patients as a substantial part of the activity conducted on the premises.

(4) "Opioid treatment withdrawal procedure" is dispensing or administering methadone treatment medication in decreasing medication levels to an individual to alleviate adverse physical or psychological effects of withdrawal from the continuous or sustained use of an opioid drug.

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

(1) "Physiologically dependent" means physically addicted to an opioid drug, as manifested by the symptoms of withdrawal in the absence of the opioid drug.

(2) "Program clinician" means a behavioral health clinician practicing at an opioid treatment program who is licensed to practice substance use disorder treatment in New Mexico.

(3) "Program medical director" means a physician licensed to practice medicine in New Mexico, who assumes responsibility for administering all medical services, either by performing them directly or by delegating specific responsibility to authorized program medical practitioners functioning under the medical director's direct supervision.

(4) "Program sponsor" means the person named in the application as responsible for the operation of the opioid treatment program and who assumes responsibility directly, by personal oversight, or through policy and procedure, or a combination of both, for the acts and omissions of staff members or employees of the opioid treatment program.

(5) "Psycho-social diagnostic assessment" means the collection and analysis of a patient's psychological, social and treatment history to include preparation of a care plan that identifies the patient's goals and mutually agreed-upon actions for the patient to meet those goals, including harm reduction interventions; the patient's needs and goals in the areas of education, vocational training, and employment; and the medical and psychiatric, psychosocial, economic, legal, housing, and other recovery support services that a patient needs and wishes to pursue. The care plan also must identify the recommended frequency with which services are to be provided. This must be completed within 14 days of admission.

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

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

S. Definitions beginning with "S":

(1) "Short-term opioid treatment withdrawal procedure" means a treatment program designed to dispense

methadone treatment medication to a patient in decreasing doses, over a continuous period of 30 days or less.

(2) "State opioid treatment authority," (SOTA) means the single state agency for substance use disorder designated by the governor or another appropriate official designated by the governor to exercise authority within the state for governing treatment of opioid use disorder with methadone. In New Mexico it is within the health care authority, behavioral health services division.

T. Definitions beginning with T": Take-home medication" means one or more doses of a methadone treatment medication dispensed to a patient for use off the premises of the OTP or medication unit.

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]

[8.321.10.7 NMAC - Rp, 8.321.10.7 NMAC 5/5/2026]

8.321.10.8 APPROVAL TO OPERATE AN OPIOID TREATMENT PROGRAM REQUIRED:

Providers who receive written approval by the health care authority, shall be permitted to provide opioid use disorder treatment services with methadone.

[8.321.10.8 NMAC - Rp, 8.321.10.8 NMAC 5/5/2026]

8.321.10.9 ELIGIBILITY FOR APPROVAL TO OPERATE AN OPIOID TREATMENT PROGRAM:

Only applicants who possess all of the following shall be eligible to receive approval to operate from the New Mexico health care authority (HCA):

A. Drug enforcement agency (DEA) approval to operate an OTP;

B. SAMHSA/CSAT approval to operate an OTP;

C. Accreditation by a SAMHSA/CSAT-approved nationally recognized accreditation body, such as TJC or CARF, to operate an OTP:

(1) if the applicant is a start-up program unable to obtain such accreditation prior to beginning operation because the accreditation body requires a period of program operation, typically six months, before it will grant accreditation:

(2) the HCA shall grant provisional approval to operate pending accreditation, provided that all other requirements of these regulations are met; and

(3) the program demonstrates in its application to the HCA that it is taking the steps necessary to become accredited as quickly as possible, and provides a timeline for the anticipated accreditation;

(4) during this interim period, the provisional approval to operate is contingent on the ongoing progress of the program, as determined by the HCA, to obtain accreditation within the timeline contained in the application; the program shall immediately inform the HCA of anything that will delay or prevent accreditation according to that timeline;

(5) the HCA shall withdraw its provisional approval if it concludes that accreditation will not be forthcoming; in any event, the program shall obtain accreditation within 12 months of beginning operation, or the provisional approval shall be withdrawn, unless the HCA elects to extend the provisional approval period after consultation with the appropriate federal and accrediting entities.

D. A license from the New Mexico state board of pharmacy to operate an OTP;

E. Other permits and licenses such as a business license from the applicant's local governmental entity, as required by local ordinances;

F. Evidence of appropriate liability insurance coverage for the program and its employees.

[8.321.10.9 NMAC - Rp, 8.321.10.9 NMAC 5/5/2026]

8.321.10.10 APPLICATION FOR APPROVAL TO OPERATE AN OPIOID TREATMENT PROGRAM:

A. Each OTP sponsor applicant shall submit to the HCA an application for approval to operate a methadone treatment program, to include a detailed policy and procedure cross walk with state regulations, using the forms provided by the HCA. The application shall be in addition to the application for approval to drug enforcement agency, SAMHSA/CSAT, the NM board of pharmacy, local government, etc.

B. The HCA shall approve or deny the application within 45 working days of submission, unless the HCA and applicant mutually agree to extend the application review period.

C. The HCA may require the applicant to provide additional written or verbal information in order to reach its decision to grant or deny approval. Such further information shall be considered an integral part of the application.

D. Approval shall be for a duration of three years, except as otherwise provided below for initial grandfathered approvals.

E. The HCA shall not grant approval to operate an OTP to any program sponsor who has been convicted of any crime related to controlled substances laws or any felony within the last five years. No person who has been convicted of any felony in the last five years shall be employed by the OTP in any capacity that gives that person access to controlled medications.

F. The HCA shall not grant approval to any entity that poses a risk to the health and safety

of the public based on a history of noncompliance with state and federal regulations as verified by the DEA, New Mexico state board of pharmacy, FDA, SAMHSA approved accreditation bodies, or the state licensure agency in any state in which the program sponsor currently operates.

G. The HCA may deny approval if there is a documented history of repeated and serious negative neighborhood impact with respect to other OTP programs currently operated by the program sponsor or by any corporation, LLC or partnership with whom the program sponsor has been associated in the past five years.

H. As a condition of approval to operate an OTP, the OTP must maintain or obtain accreditation with a SAMHSA/CSAT-approved nationally recognized accreditation body, (e.g. CARF or TJC.). In the event that such accreditation lapses, or approval of an application for accreditation becomes doubtful, or continued accreditation is subject to any formal or informal finding of need for improvement, the OTP program will notify the HCA within two business days of such event. The OTP program will furnish the HCA with all information related to its accreditation status, or the status of its application for accreditation, upon request.

I. The HCA shall perform on-site inspection of the proposed OTP facility as part of the review and approval process.

J. In the event of change of ownership of an approved opioid treatment program, the HCA approval is not transferable; the new ownership must institute an application for approval as a new program, in accordance with these regulations.

[8.321.10.10 NMAC - Rp, 8.321.10.10 NMAC 5/5/2026]

8.321.10.11 DENIAL OF HCA APPROVAL TO OPERATE; APPEAL OF DENIAL:

A. The HCA shall not deny approval to operate until the applicant has been notified in writing of the deficiency in the application resulting in the contemplated denial and given opportunity to remedy the application deficiency within a specified time period.

B. The HCA shall provide a written explanation for any denied application. Denial may be appealed to the secretary of the HCA, whose decision shall be final.

C. An applicant who is denied approval may re-apply by submitting a new application 90 days or more after notification of denial.

D. Failure to complete the application form in its entirety, including requests for additional information as specified above, shall be grounds for denial of approval.

[8.321.10.11 NMAC - Rp, 8.321.10.11 NMAC 5/5/2026]

8.321.10.12 RENEWAL OF HCA APPROVAL TO OPERATE:

A. OTP providers who wish to renew their approval shall submit an application form and requested documentation no less than 90 calendar days, and no more than 180 calendar days, before its expiration date.

B. The HCA shall consider the operating history of the OTP provider in making its determination to grant or deny an application to a previously approved provider.

[8.321.10.12 NMAC - Rp, 8.321.10.12 NMAC 5/5/2026]

8.321.10.13 APPROVAL FOR OTPS IN EXISTENCE PRIOR TO THESE REGULATIONS: Opioid treatment programs operating in New Mexico prior to the effective date of these regulations shall be granted approval on the effective date of these regulations ("grandfathered in").

A. The term of these initial grandfathered approvals shall be not less than 24 months nor more than 36 months and may have staggered expiration dates to avoid simultaneous expiration.

B. "Grandfathered" opioid treatment programs shall provide the HCA with all written policies, procedures and other documentation required of new opioid treatment programs under these regulations within 90 days of the effective date of these regulations.

[8.321.10.13 NMAC - Rp, 8.321.10.13 NMAC 5/5/2026]

8.321.10.14 RENEWAL OF GRANDFATHERED OPERATING PERMITS: Renewal of grandfathered approvals shall follow the ordinary renewal process. Such approvals shall have a term of 36 months.

[8.321.10.14 NMAC - Rp, 8.321.10.14 NMAC 5/5/2026]

8.321.10.15 INSPECTION AUTHORITY: The HCA shall have the authority to conduct inspections of the records, policies, procedures, physical plant or any other aspect of an OTP for the purpose of determining its compliance with these regulations or the presence of any factor posing a danger to the health or welfare of its patients or the public. Failure of an OTP to cooperate with such inspection shall be grounds for immediate suspension of the approval.

[8.321.10.15 NMAC - Rp, 8.321.10.15 NMAC 5/5/2026]

8.321.10.16 NONCOMPLIANCE WITH REGULATIONS:

A. If an inspection conducted by the HCA shows that an OTP is not in compliance with these regulations, the HCA shall deliver to the program a written notice of the deficiencies identified.

B. The program shall respond to the notification of deficiencies within 30 days of the notification. The program response shall include a corrective action plan together with timeline for implementation, or an explanation, satisfactory to the HCA, of the reason for any deviations from the requirements of these regulations.

C. Failure of the OTP to respond within 30 days of receipt of the notification of deficiencies shall be grounds for immediate suspension of the approval.

[8.321.10.16 NMAC - Rp, 8.321.10.16 NMAC 5/5/2026]

8.321.10.17 IMMEDIATE SUSPENSION OF OTP OPERATING APPROVAL:

A. The HCA, at its discretion, may immediately suspend the approval of any OTP found to be in a substantial violation of this regulation that results in danger to the health and welfare of any patient or of the public, until such time as the violation(s) are corrected to the satisfaction of the HCA.

B. In the event of such suspension, the OTP shall immediately:

(1) cease accepting new patients; and

(2) consult with the HCA regarding the orderly transfer of patients to other OTPs and implementation of the program closure action plan required under the "preparedness planning" section of these regulations in order to minimize adverse impact on its patients; notwithstanding the suspension of the approval, the HCA may allow the OTP to conduct limited operations of its program as the HCA finds necessary to minimize adverse impact on patients.

[8.321.10.17 NMAC - Rp, 8.321.10.17 NMAC 5/5/2026]

8.321.10.18 MEDICATION UNITS:

A. Medication units are defined to include either a 'brick and mortar location or a mobile unit, through which OTPs can provide patients with access to medication (or other services, as identified) in their home community without establishing a new clinic. Medication Units function as an extension of the home clinic so a new clinic application is not required.

B. Application for Approval of Medication Unit(s):

(1) Interested registered OTP applicants shall submit the following to the BHSD for approval to add a medication unit to their existing registration:

(a) a written letter of intent that demonstrates how this service will increase access to methadone in rural or difficult to reach communities and avoid duplication with other OTP services;

(b) standard operating policy and procedure;

(c) commitment to obtaining approval from the drug enforcement administration;

(d) commitment to obtaining approval from the NM board of pharmacy; and

(e) application to SAMHSA/CSAT following BHSD approval.

(2) BHSD shall approve or deny the application within 30 working days of submission, unless the BHSD and applicant mutually agree to extend the application review period.

(3) BHSD may require the applicant to provide additional written or verbal information in order to reach its decision. Such further information shall be considered an integral part of the application and may extend the application review period.

(4) the following services may be provided where space allows for quality patient care in mobile medication units, assuming compliance with all applicable federal, state, and local law:

(a) administering and dispensing medications for opioid use disorder treatment;

(b) collecting samples for drug testing or analysis;

(c) dispensing of take-home medications;

(d) in units that provide appropriate privacy and adequate space, intake/ initial psychosocial and appropriate medical assessments (with a full physical examination to be completed or provided within 14-days of admission);

(e) initiation of methadone or buprenorphine after an appropriate medical assessment (screening) has been performed;

(f) in units that provide appropriate privacy and have adequate space, other OTP services, such as counseling, may be provided directly or when permissible through use of telehealth services.

(5) any required services not provided in mobile and non-mobile medication units must be conducted at the OTP, including medical, counseling, vocational, educational, and other assessment, and treatment services (42 CFR 8.12(f)(1)).

(**6**) Medication Unit approved for operation must be reviewed and renewed by NM SOTA at three-year intervals (as is the case with OTPs).

[8.321.10.18 NMAC - N, 5/5/2026]

8.321.10.19 ADMINISTRATION: The program sponsor shall ensure that:

A. A physician licensed to practice in New Mexico is designated to serve as medical director and to have authority over all medical aspects of opioid treatment.

B. The medical director is responsible for ensuring that the OTP is in compliance with all applicable federal, state and local laws and regulations.

C. A healthcare practitioner with prescribing authority may provide medical services as the medical director's designee.

D. The OTP shall be open for patients every day of the week except for federal and state holidays, and Sundays, and be closed only as allowed in advance in writing by CSAT and the state opioid treatment authority (SOTA).

E. Written policies and procedures are developed, implemented, complied with and maintained at the OTP and include:

(1) procedures to prevent a patient from receiving opioid use disorder treatment from more than one agency or physician concurrently;

(2) procedures to meet the unique needs of diverse populations, such as pregnant women, children, individuals with communicable diseases, (e.g. hepatitis C, tuberculosis, HIV or AIDS), or individuals involved in the criminal justice system;

(3) procedures for conducting a physical examination, assessment and laboratory tests;

(4) procedures for establishing substance use disorder counselor caseloads, based on the intensity and duration of counseling mutually agreed upon between the patient and their respective clinician;

(5) criteria for when the patient's blood serum levels should be tested and procedures for having the test performed;

(6) procedures for performing laboratory tests, such as urine drug screens or toxicological tests, including procedures for collecting specimens for testing;

(7) procedures for addressing and managing a patient's concurrent use of alcohol or other drugs;

(8) procedures for providing take-home medication to patients;

(9) procedures for conducting methadone treatment withdrawal;

(10) procedures for conducting an administrative discharge:

(11) procedures for referrals for clients with symptoms of mental illness or a medical condition and those requesting assistance to manage symptoms;

(12) procedures for voluntary discharge, including that a patient discharged voluntarily be provided or offered follow-up services, such as counseling or a referral for medical treatment.

(13) procedures for making temporary or permanent transfer of a patient from the OTP to another OTP;

(14) procedures for receiving the temporary or permanent transfer of a patient from another OTP to the OTP;

(15) procedures to minimize the following adverse events:

(a) a patient's loss of ability to function;

(b) a medication error;

(c) harm to a patient's family member or another individual resulting from ingesting a patient's medication;

(d) sales of illegal drugs on the premises;

(e) diversion of a patient's medication;

(f) harassment or abuse of a patient by a staff member or another patient; and

(g) violence on the premises.

(16) procedures to respond to an adverse event, including:
a requirement that the program sponsor immediately investigate the adverse event and the surrounding circumstances;

(a) a requirement that the program sponsor develop and implement a plan of action to prevent a similar adverse event from occurring in the future; monitor the action taken; and take additional action, as necessary, to prevent a similar adverse event;

(b) a requirement that action taken under the plan of action be documented; and

(c) a requirement that the documentation be maintained at the agency for at least two years after the date of the adverse event; and

(d) a requirement that the program sponsor file a Critical Incident Report (CIR), following CIR reporting protocol, as well as behavioral health services division and managed care organization protocol.

(17) procedures for infection control;

(18) criteria for determining the amount and frequency of counseling that is offered to a patient;

(19) procedures to ensure that the facility's physical appearance is clean and orderly;

(20) a process for resolution of patient complaints, including a provision that complaints which cannot be resolved through the clinic's process may be referred to by either party to the HCA:

(a) the complaint process shall be explained to the patient at admission;

(b) the patient complaint process shall be posted prominently in its waiting area or other location where it will be easily seen by patients and include the HCA contact information for use in the event that the complaint cannot be resolved through the clinic's process.

F. A written quality assurance plan is developed and implemented.

G. All information and instructions for the patient are provided in the patient's primary language, and, when provided in writing, are clear and easily understandable by the patient.
[8.321.10.19 NMAC - Rp, 8.321.10.18 NMAC 5/5/2026]

8.321.10.20 ADMISSION:

A. The program sponsor shall ensure through policy and procedure that an individual is only admitted for opioid use disorder treatment with methadone after the program medical director or other qualified healthcare practitioner conducts the following:

(1) a screening examination to ensure that the patient meets the definition of opioid use disorder using generally accepted medical criteria such as those contained in the diagnostic and statistical manual for mental disorders (DSM-IV or subsequent editions);

(2) the screening examination may be conducted by a non-OTP practitioner. If the licensed practitioner is not an OTP practitioner;

(3) the screening examination must be completed no more than seven days prior to OTP admission.

(a) assuming no contraindications, a patient may commence methadone

medication treatment after the screening examination has been completed:

(b) a full history and physical examination (as described by Subsection C of NMAC 8.321.10.20) to determine the patient's broader health status, with lab testing as determined to be required by an appropriately licensed practitioner within the first 14 days following admission;

(c) a patient's refusal to undergo lab testing for co-occurring physical health conditions should not preclude them from access to methadone treatment, provided such refusal does not have potential to negatively impact treatment with medications.

(4) the screening examination and full physical examination may be completed via telehealth for those patients being admitted for methadone treatment if the medical director or health care practitioner designee determines that an adequate evaluation of the patient can be accomplished via telehealth;

(5) when using telehealth, the following caveats apply:

(a) in evaluating patients for treatment with methadone, audio-visual telehealth platforms must be used, except when not available to the patient. When not available, it is acceptable to use audio-only devices, but only when the patient is in the presence of a licensed practitioner who is registered to prescribe (including dispense) controlled medications. The OTP practitioner shall review the examination results and order treatment medications as indicated.

(b) in evaluating patients for treatment with schedule III medications (such as Buprenorphine) or medications not classified as a controlled medication (such as Naltrexone), audio-visual or audio only platforms may be used. The OTP practitioner shall review the examination results and order treatment medications as indicated.

B. The full physical exam can be completed by a non-OTP practitioner, if the exam is verified by a licensed OTP practitioner as being true and accurate and transmitted in accordance with applicable privacy laws.

C. The OTP shall ensure that each patient at the time of admission:

(1) provides written, voluntary, program-specific informed consent to treatment;

(2) informed consent for persons under the age of 18: NM state law does not grant persons under 18 years of age the ability to consent to OTP treatment without the consent of another, including parent or legal guardian.

(3) as such, no person under 18 years of age may be admitted to OTP treatment unless a parent, legal guardian, or responsible adult designated by the relevant state authority consents in writing (electronically or hard copy) to such treatment.

(4) is informed of all services that are available to the patient through the program and of all policies and procedures that impact the patient's treatment; and is informed of the following:

(a) the progression of opioid use disorder and the patient's apparent stage of opioid use disorder;

(b) the goals and benefits of opioid use disorder treatment;

(c) the signs and symptoms of overdose and when to seek emergency assistance;

(d) the characteristics of opioid use disorder treatment medication, such as its effects and common side effects, the dangers of exceeding the prescribed dose, and potential interaction effects with other drugs, such as other non-opioid agonist treatment medications, prescription medications, and illicit drugs;

(e) the requirement for a staff member to report suspected or alleged abuse or neglect of a child or an incapacitated or vulnerable adult according to state law;

(f) the requirement for a staff member to comply with the confidentiality requirements of title 42 CFR part 2 of the code of federal regulations, incorporated by reference;

(g) drug screening and toxicological testing procedures;

(h) requirements to receive take-home medication;

(i) testing and treatment available for HIV and other communicable diseases, the availability of immunization for hepatitis A and B, and the availability of harm reduction services;

(j) availability of counseling on preventing exposure to and transmission of human immunodeficiency virus (HIV), sexually transmitted diseases, and blood-born pathogens;

(k) the patient's right to file a complaint with the program for any reason, including involuntary discharge, and to have the patient's complaint handled in a fair and timely manner;

(l) the patient's access to methadone medication will not be contingent upon the patient's engagement in counseling services.

D. A program sponsor shall ensure that the program medical director or medical practitioner designee (or other non-OTP physician or healthcare practitioner) conducts a complete, fully documented physical examination of an individual who requests admission to the program, within 14 days of admission to the program. The physical examination includes:

(1) reviewing the individual's bodily systems;

(2) obtaining a medical and family history and documentation of current information to determine chronic or acute medical conditions such as diabetes, renal

diseases, hepatitis, HIV infection, tuberculosis, sexually transmitted disease, pregnancy or cardiovascular disease;

(3) obtaining a history of behavioral health issues and treatment, including any diagnoses and medications;

(4) initiating the following laboratory tests:
a tuberculosis test in accordance with the most current CDC guidelines;

(a)
a syphilis test in accordance with the most current CDC guidelines;

(b)
hepatitis screening in accordance with the most current CDC guidelines; and

(c)
a laboratory drug detection test for at least opioids, methadone, amphetamines, cocaine, barbiturates, benzodiazepines and other substances as may be appropriate, based upon patient history and prevailing patterns of availability and use in the local area;

(5)
recommending additional tests based upon the individual's history and physical condition, such as:

(a)
complete blood count;

(b)
EKG, chest X-ray, pap smear or screening for sickle cell disease;

(c)
HIV testing.

(6) the full medical examination including test results must be completed within 14 days of admission to the program;

(7) a patient re-admitted within three months after discharge does not require a repeat physical examination unless requested by the program medical director.

E. A program sponsor shall ensure that the results of a patient's physical examination are documented in the patient record.

F. A patient may not be enrolled in more than one OTP program except under exceptional circumstances, such as residence in one city and employment that requires extended absences from that city, which must be documented in the patient chart by the medical directors of both programs:

(1) an OTP shall make and document good faith efforts to determine that a patient seeking admission is not receiving opioid use disorder treatment medication from any other source, within the bounds of all applicable patient confidentiality laws and regulations;

(2) the OTP shall confirm that the patient is not receiving treatment from any other OTP in the state, as provided in Subsection F of 8.321.10.19 NMAC,

G. The HCA has established an internet-based central OTP registry (NM STAR) of all persons in New Mexico who are current patients of a New Mexico OTP program, for the purpose of preventing patients from receiving medication from more than one OTP. Each OTP, as a condition of approval to operate, shall participate in the central registry as directed by the HCA, ensuring that all patient records are uploaded to NM STAR within 24 hours of dose provision.

H. Guest dosing is an essential service of OTPs and a critical tool in ensuring medication continuity for patients during periods of disruptions or temporary changes in residence. Program Sponsor shall ensure that policies and procedures regarding courtesy dosing are developed and implemented. The policies shall address situations in which the OTP is requesting courtesy dosing for a client and when it is providing courtesy dosing. Policies shall be based on best practice standards and reflect minimum administrative burden for the patient. Policies shall address verification of client identify, verification of dose and medication, documentation of medication administration.

(1) OTPs should not automatically turn away patients requesting guest dosing without advanced notice; and

(2) OTPs should make every reasonable effort to maintain the patient's current dose. If a change is required, the OTP should consult with the home OTP and the patient regarding this change. [8.321.10.20 NMAC - Rp, 8.321.10.19 NMAC 5/5/2026]

8.321.10.21 ASSESSMENT AND TREATMENT PLANS: The program sponsor shall ensure that:

A. Each patient receives an intake assessment within 24 hours of admission, conducted by a qualified professional, to determine a patient-centered intake treatment plan of care with the most appropriate combination of services and treatment.

B. The full psychosocial diagnostic assessment must be completed by a qualified professional within 14 calendar days of admission and include preparation of a care plan that includes the patient's goals and mutually agreed-upon actions for the patient to meet those goals, including harm reduction interventions; the patient's needs and goals in the areas of education, vocational training, and employment; and the medical and psychiatric, psychosocial, economic, legal, housing, and other recovery support services that a patient needs and wishes to pursue. The care plan also must identify the recommended frequency with which services are to be provided.

C. An individualized treatment plan shall replace the intake treatment plan within 30 days of admission and be documented in the patient record;

D. The individualized treatment plan must be reviewed and updated to reflect responses to treatment and recovery support services, and adjustments made that reflect changes in the context of the person's life, their current needs for and interests in medical, psychiatric, social, and psychological services, and current needs for and interests in education, vocational training, and employment services.

E. All updates or revisions to any treatment plan or assessment shall be documented in the patient record within seven working days;

F. All assessments and treatment plans shall reflect shared decision-making between the patient and health care practitioner or counselor and patient-centered care, to include but not necessarily be limited to:
a description of the patient's presenting issue, identification of the patient's behavioral health symptoms and the behavioral health issue or issues that require treatment;
(1) a list of the medical services, including medication, needed by the patient, as identified in the physical examination;
(2) recommendations for further assessment or examination of the patient's needs if indicated;
(3) recommendations for treatment needed by the patient, such as psychosocial counseling (though the patient's access to methadone medication will not be contingent upon their engagement in psychosocial counseling) or mental health treatment, if indicated;
(4) recommendations for ancillary services or other services needed by the patient, if indicated;
(5) the signature, professional credential, printed name, and date signed of the staff member conducting and developing the assessment, treatment plan, update or revision;
(6) in the case of updated or revised treatment plans, a summary of the patient's progress or lack of progress toward each goal on the previous plan and the program's response; and any new goals;
(7) the signature and date signed, or documentation of the refusal to sign, of the patient or the patient's guardian or agent or, if the patient is a child, the patient's parent, guardian, or custodian;

G. Treatment plans shall be reviewed at least every 90 days for the first two years of continuous methadone medication treatment, and at least every six months thereafter, in accordance with the program's established policy and procedure, and the treatment plan modified accordingly, except initial treatment plans must be replaced with individualized plans as provided for in Subsection C of 8.321.10.21 NMAC above;

H. Adequate medical, psychosocial counseling, mental health, vocational, educational and other assessment and treatment services are fully and reasonably available to patients, either by the program directly, or through formal, documented referral agreements with other providers.
[8.321.10.21 NMAC - Rp, 8.321.10.20 NMAC 5/5/2026]

8.321.10.22 DOSAGE: The program sponsor shall ensure that:

A. A dose of methadone is administered only after an order from the OTP prescribing provider;

B. A patient's dosage of methadone is individually determined;

C. A dose of methadone is sufficient to produce the desired response in a patient for the desired duration of time and with consideration for patient safety.

D. A dose of methadone is prescribed to meet a patient's treatment needs by:
(1) preventing the onset of subjective or objective signs of withdrawal for 24 hours or more;
(2) reducing or eliminating the drug craving that is experienced by individuals living with opioid use disorder who are not in opioid use disorder treatment;
(3) a patient receiving continuous medication treatment with methadone receives an initial dose of methadone based upon the program prescriber's physical examination and with consideration for local issues, such as the relative purity of available illicit opioid drugs;
(4) the total dose of methadone for the first day should not exceed 50 mg unless the OTP prescriber finds and documents sufficient medical rationale for a higher dose; and
(5) OTP prescribing practitioners may prescribe split doses of methadone where such dosing regimens are indicated.
(6) a patient receives subsequent doses of methadone medication:
(a) based on the patient's individual needs and the results of the physical examination and assessment;
(b) sufficient to achieve the desired response for at least 24 hours, with consideration for day-to-day fluctuations and elimination patterns;
(c) that are not used to reinforce positive behavior or punish negative behavior;
(d) as long as the patient benefits from and desires continuous treatment with methadone; and
(e) that are adjusted if a provider changes from one type of opioid use disorder treatment medication to another.
[8.321.10.22 NMAC - RP, 8.321.10.21 NMAC 5/5/2026]

8.321.10.23 DRUG SCREENING: The program sponsor shall ensure that:

A. Staff members have knowledge of the benefits and limitations of laboratory drug detection tests and other toxicological testing procedures.

B. A patient in methadone continuous treatment receives at least eight random laboratory drug detection tests per year; short-term opioid treatment withdrawal procedure patients receive at least one initial drug detection test; and other toxicological tests are performed according to written orders from the program medical director or medical practitioner designee.

C. Laboratory drug detection tests and other toxicological testing specimens are collected in a manner that minimizes falsification.

D. Laboratory drug detection tests for:
(1) opioids;
(2) methadone;

(3) amphetamines;

(4) cocaine;

(5) barbiturates;

(6) benzodiazepines; and

(7) other substances as may be appropriate, based upon patient history and prevailing patterns of drug availability and use in the local area.

E. The results of a patient's laboratory drug detection tests or other toxicological tests and any action taken relating to the results are documented in the patient record.
[8.321.10.23 NMAC - Rp, 8.321.10.22 NMAC 5/5/2026]

8.321.10.24 TAKE-HOME MEDICATIONS:

A. The program sponsor shall ensure that policies and procedures are developed, implemented, and complied with for the use of take-home medication and include:

(1) criteria for determining when a patient is ready to receive take-home medication;

(2) criteria for when a patient's take-home medication is increased or decreased;

(3) a requirement that take-home medication be dispensed according to federal and state law;

(4) a requirement that the program medical director review a patient's take-home medication regimen at intervals of no less than 90 days and adjust the patient's dosage, as needed;

(5) procedures for safe handling and secure storage of take-home medication in a patient's home; and

(6) criteria and duration of allowing a physician or prescribing medical practitioner to prescribe a split medication regimen.

B. Active OTP recipients, regardless of the length of time in treatment, may receive take-home doses for days during which the clinic is closed including one weekend day as well as state and federal holidays. Beyond the standing approval to allow take-home doses when the clinic is closed, OTP decisions on dispensing methadone to recipients for unsupervised use shall be determined by an appropriately licensed OTP medical practitioner or the medical director.

C. The OTP medical practitioner or medical director shall consider, among other pertinent factors that indicate that the therapeutic benefits of unsupervised doses outweigh the risks, the following criteria:

(1) absence of active substance use disorders, other physical or behavioral health conditions that increase the risk of patient harm as it relates to the potential for overdose, or the ability to function safely;

(2) regularity of attendance for supervised medication administration;

(3) absence of serious behavioral problems that endanger the patient, the public or others;

(4) absence of known recent diversion activity;

(5) whether take-home medication can be safely transported and stored; and

(6) any other criteria that the medical director or medical practitioner considers relevant to the patient's safety and the public's health.

D. During the first 14 days of treatment, the take-home supply is limited to seven days. It remains within the OTP practitioner's discretion to determine the number of take-home doses up to seven days, but decisions must be based on the criteria listed in Subsection C of 8.321.10.24 NMAC.

E. From 15 days of treatment, the take-home supply is limited to 14 days. It remains within the OTP practitioner's discretion to determine the number of take-home doses up to 14 days, but this determination must be based on the criteria listed in Subsection C of 8.321.10.24 NMAC.

F. From 31 days of treatment, the take-home supply to a patient is not to exceed 28 days. It remains within the OTP practitioner's discretion to determine the number of take-home doses up to 28 days, but this determination must be based on the criteria listed in Subsection C of 8.321.10.24 NMAC.

G. A program sponsor shall ensure that a patient receiving take-home medication receives:

(1) take-home medication in a child-proof container; and

(2) written and verbal information on the patient's responsibilities in protecting the security of take-home medication.

H. The program sponsor shall ensure that the program medical director's (or prescribing medical practitioner's) determination made under Subsection C of 8.321.10.24 NMAC and the reasons for the determination are documented in the patient record.

I. In accordance with DEA regulations, the program shall not use U.S. mail or express services such as fedex or united parcel service to transport, furnish or transfer opioid treatment medication to any patient, agency, facility or person.

J. The program shall establish policy and procedure to provide for the safe and secure transportation of opioid treatment medication from its facility to another agency where the program's patient temporarily resides,
[8.321.10.24 NMAC - Rp, 8.321.10.23 NMAC 5/5/2026]

8.321.10.25 INTERIM TREATMENT:

A. The program sponsor of an OTP may admit an individual, who is eligible for admission to comprehensive treatment, into interim treatment if comprehensive services are not readily available within a reasonable geographic area and within 14 days of the individual's seeking treatment.

B. At least two drug tests shall be obtained from patients during the maximum of 180 days permitted for interim treatment.

C. A program shall establish and follow reasonable criteria for establishing priorities for moving patients from interim to comprehensive treatment. These transition criteria shall be in writing and shall include, at a minimum, prioritization of pregnant patients in admitting patients to interim treatment and from interim to comprehensive treatment.

D. Interim treatment shall be provided in a manner consistent with all applicable Federal and State laws, including sections 1923, 1927(a), and 1976 of the Public Health Service Act (21 U.S.C. 300x–23, 300x– 27(a), and 300y–11).

E. The program shall notify the SOTA when a patient begins interim treatment, when a patient leaves interim treatment, and before the date of transfer to comprehensive services, and shall document such notifications.

F. The secretary of health and human services may revoke the interim authorization for programs that fail to comply with the provisions of this paragraph.

G. All requirements for comprehensive treatment apply to interim treatment with the following exceptions:

A primary counselor is not required to be assigned to the patient, but crisis services, including shelter support, should be available;

(1) interim treatment cannot be provided for longer than 180 days in any 12-month period;

(2) by day 120, a plan for continuing treatment beyond 180 days must be created, and documented in the patient's clinical record; and

(3) formal counseling, vocational training, employment, economic, legal, educational, and other recovery support services are not required to be offered to the patient. However, information pertaining to locally available, community-based resources for ancillary services should be made available to individual patients in interim treatment.

[8.321.10.25 NMAC - N, 5/5/2026]

8.321.10.26 WITHDRAWAL TREATMENT AND MEDICALLY SUPERVISED DOSE REDUCTION: The program sponsor shall ensure that:

A. policies and procedures are developed, implemented, and complied with for withdrawal treatment and:

(1) are designed to promote successful withdrawal treatment;

(2) require that dose reduction occur at a rate deemed medically appropriate by the program medical director or prescribing practitioner;

(3) require that a variety of ancillary services, such as self-help groups, be available to the patient through the program or through referral;

(4) require that the amount of counseling available to the patient be increased before discharge; and

(5) require that a patient be re-admitted to the program or referred to another program if relapse occurs;

B. a patient's withdrawal treatment:

(1) for a patient involved in methadone continuous medication treatment, is only initiated as administrative discharge or when voluntarily requested by the patient and approved by a program medical director or prescribing practitioner; and

(2) is planned and supervised by the program medical director or prescribing practitioner;

C. before a patient begins withdrawal treatment, whether with or against the advice of the program medical director or prescribing practitioner, the patient:

(1) is informed by the program medical director or a prescribing practitioner:

(a) that the patient has the right to leave opioid treatment at any time; and

(b) of the risks of withdrawal treatment; and

(2) upon request, receives a schedule for withdrawal treatment that is developed by the program medical director or prescribing practitioner with input from the patient;

(3) receives a copy of the program policy regarding withdrawal of opioid treatment medication (methadone) against medical advice and a verbal explanation of that policy;

D. agency providers are prohibited from utilizing administrative discharge (involuntary termination of services) for a patient pursuant to non-prescribed substance use, or for any instance of displaying symptoms of mental or physical illness;

E. if a patient who is receiving withdrawal treatment, other than a patient experiencing administrative discharge, appears to a staff member to relapse, the patient is permitted to begin methadone continuous medication treatment, if otherwise eligible;

F. if a patient who has completed withdrawal treatment within the past 30 days appears to a staff member to relapse, the patient may be re-admitted without a physical examination or assessment with the consent of the program medical director or prescribing practitioner;

G. a patient experiencing administrative discharge is referred or transferred to any program that is capable of or more suitable for meeting the patient's needs, and the referral or transfer is documented in the patient record;

H. The following information is documented in the patient record:

(1) the reason that the patient sought withdrawal treatment or was placed on administrative discharge; and

(2) the information and assistance provided to the patient in medical withdrawal or administrative discharge.

[8.321.10.26 NMAC - Rp, 8.321.10.24 NMAC 5/5/2026]

8.321.10.27 COUNSELING AND MEDICAL SERVICES: The program sponsor shall ensure that:

A. Substance use disorder counseling and behavioral health treatment planning is provided by a practitioner licensed in the state of New Mexico to provide behavioral health treatment services to each patient based upon the patient's individual needs, treatment plan and stage of readiness to change behavior.

B. behavioral health counseling services must be made available to a patient but the patient's access to medication cannot be contingent upon their engagement in counseling services.

C. The program has substance use disorder counselors in a number sufficient:

(1) to ensure that patients have access to counselors;

(2) to provide the treatment in patients' treatment plans; and

(3) to provide unscheduled treatment or counseling to patient.

D. each patient seeking opioid use disorder treatment with methadone is screened for the presence of a co-occurring mental health disorder by means approved by the HCA, and if indicated, referred for assessment and possible treatment if the program is not able to provide mental health services; an OTP referring a patient to another provider for mental health assessment shall make and document its good faith efforts to follow up with that provider on the results of the referral, and to coordinate its treatment with any subsequent treatment by other providers, within the limits of all applicable laws and regulations pertaining to release of patient information and confidentiality.

E. a program sponsor shall ensure that a patient is offered medical, psychiatric and psychological services, if needed, either at its program or through referral:

(1) if a patient receives medical, psychiatric or psychological services, from provider(s) not affiliated with the program, program staff members shall make a good faith effort to communicate and coordinate its treatment services with such provider, including monitoring and evaluating interactions between the patient's opioid treatment medication and medications used to treat the patient's mental disorder, if any;

(2) the OTP shall have a procedure to ensure that such good faith coordination efforts are made in accordance with all state and federal laws and regulations for the release of patient records or information;

F. Good faith efforts are made to establish effective working relationships with the relevant behavioral health treatment providers in its patient catchment area in order to facilitate patient access to the services available through those providers.

G. A patient has access to a self-help group or support group, such as narcotics anonymous, either at the agency or through referral to a community group.

H. Treatment services are provided by appropriately licensed staff.

[8.321.10.27 NMAC - Rp, 8.321.10.25 NMAC 5/5/2026]

8.321.10.28 DIVERSE POPULATIONS:

A. The program sponsor shall ensure that:

(1) opioid use disorder treatment with methadone is provided regardless of race, ethnicity, gender, age, or sexual orientation;

(2) the program facility is compliant with the Americans with Disabilities Act (ADA);

(3) opioid use disorder treatment with methadone is provided with consideration for a patient's individual needs, cultural background, and values;

(4) provider staff members are culturally competent;

(5) unbiased language is used in the provider's print materials, electronic media, and other training or educational materials;

(6) HIV testing and education are available to patients either at the provider or through referral;

(7) a patient who is HIV-positive and who requests treatment for HIV or AIDS:

(a) is offered treatment for HIV or AIDS either at the OTP or through referral; and

(b) has access to an HIV- or AIDS-related peer group or support group and to social services either at the OTP or through referral to a community group; and

(8) a patient who is HCV-positive and who requests treatment for HCV is offered treatment for HCV either at the OTP or through referral, and

(9) for patients with a communicable disease such as HIV, AIDS, or hepatitis C, the provider has a procedure for transferring a patient's opioid treatment to a non-program medical practitioner treating the patient for the communicable disease when it becomes the patient's primary health concern;

(10) an individual who requires administration of opioid use disorder treatment with methadone only for relief of chronic pain is:

(a) identified during the physical examination or assessment;

(b) not admitted for opioid use disorder treatment with methadone; and

(c) referred for medical services; and

(d) for a patient with a chronic pain disorder who is also physically dependent the OTP makes a good faith effort to coordinate treatment and services with the medical practitioner treating the patient for pain management.

B. A program sponsor shall ensure that a policy and procedure is developed, implemented, and complied with for the treatment of female patients, to include requirements that:

(1) pregnancy tests shall be administered and reviewed for all women of childbearing age prior to initiating a opioid treatment withdrawal procedure or medically supervised withdrawal;

(2) a refusal of pregnancy testing should not preclude access to treatment.

(3) appropriate staff members be educated in the unique needs of female patients; and

(4) each female patient be informed about or referred to an appropriate support group, at the provider or in the community.

C. The program sponsor shall ensure that a policy and procedure is developed, implemented, and complied with that reflect the special needs and priority for the treatment admission for patients with OUD who are confirmed to be pregnant, to include:

(1) priority be given to pregnant individuals seeking opioid-use disorder treatment with-methadone;

(2) the reasons for a pregnant individual's denial of admission to an opioid treatment provider must be documented;

(3) evidence-based treatment protocols for the pregnant patient, such as split dosing regimens, may be instituted after assessment by an OTP practitioner and documentation that confirms the clinical appropriateness of such an evidence-based treatment protocol;

(4) prenatal care and other sex specific services, including reproductive health services, for pregnant and postpartum patients must be provided and documented either by the OTP or by referral to appropriate healthcare practitioners.

(5) the program must ensure effort to communicate with any non-program medical practitioners who are providing prenatal and post-partum care to a pregnant patient, to coordinate opioid use disorder treatment with methadone and prenatal and post-partum care, in accordance with all state and federal laws and regulations for the release of patient records or information; and document all such communications in the patient records;

(6) a pregnant patient discharged from the program must be referred to a nonprogram medical practitioner and a staff member must document the name, address, and telephone number of the medical practitioner in the patient record.

D. A program sponsor who is officially notified by a correctional facility that a patient is in their custody shall ensure that the program:

(1) makes efforts to obtain approval from the criminal justice system for the continued substance use disorder treatment with methadone for the patient by the program while the patient is incarcerated; and

(2) if approval is obtained, the program continues to treat the patient while the patient is incarcerated, within the limits of the program's ability to provide such treatment to the incarcerated patient; and

(3) if approval is not obtained, the program's attempts to obtain approval are documented in the patient's record.

[8.321.10.28 NMAC - Rp, 8.321.10.26 NMAC 5/5/2026]

8.321.10.29 PREPAREDNESS PLANNING:

A. The program sponsor shall ensure that the program has:

(1) a written plan to ensure uninterrupted dispensing of methadone in the event of dispensing staff turnover; and

(2) a written agreement with at least one other provider for the provision of opioid use disorder treatment with methadone to program patients in the event that the program is unable to provide services;

(3) 24-hour telephone answering service or other method to reach the program at all times; and

(4) a list of all patients and the patients' dosage requirements available and accessible to program on-call staff members.

B. A program sponsor shall ensure that a written plan is developed and implemented for continuity of patient services if the program is voluntarily or involuntarily closed. Such planning shall include a disaster plan that addresses unforeseeable circumstances such as natural disaster or involuntary closure from any cause, and:

(1) includes steps for the orderly transfer of patients to other programs, individuals, or entities that provide opioid use disorder treatment with methadone;

(2) includes procedures for securing, maintaining, and transferring patient records according to federal and state law; and

(3) the plan is reviewed and updated, as appropriate, at least once every 12 months.

[8.321.10.29 NMAC - Rp, 8.321.10.27 NMAC 5/5/2026]

8.321.10.30 PATIENT RECORDS:

A. The OTP program shall establish and maintain a recordkeeping system that is adequate to document and monitor patient care. The system shall comply with all federal and state requirements relevant to OTPs and to confidentiality of patient records.

B. Each patient record shall include:

(1) the results of the physical examination;

(2) the results of all assessments;

(3) the treatment plan and all updates or revisions;

(4) the results of laboratory tests and a description of any action taken based upon the results;

(5) documentation of the patient's current dose and dosage history;

(6) documentation of counseling provided to the patient;

(7) dates and results of meetings or conferences regarding the patient's treatment services;

(8) documentation of the process used and factors considered in making decisions that impact a patient's treatment services, such as whether to allow take-home medication and the frequency of laboratory drug detection tests; and

(9) documentation of the agency's efforts to learn of multiple methadone treatment program enrollment;

(10) documentation that the patient has received and understood information regarding the harmful effects of diversion of methadone.

[8.321.10.30 NMAC - Rp, 8.321.10.28 NMAC 5/5/2026]

8.321.10.31 COMMUNITY RELATIONS:

A. A program sponsor shall ensure that policies and procedures are developed, implemented, and complied with to educate and promote understanding in the community about opioid use disorder treatment with methadone and include:

(1) a mechanism for eliciting input from the community about the provider's impact on the community;

(2) a requirement that the program sponsor or designee interface with community leaders to foster positive relations;

(3) a requirement that the program sponsor or designee establish a liaison with community representatives to share information about the program;

(4) a requirement that the agency have information on opioid use disorder treatment and related health and social issues available to the public;

(5) a mechanism for addressing and resolving community concerns about opioid use disorder treatment with methadone or the program's presence in the community;

(6) a mechanism that addresses getting approval for continued treatment in treatment or care facilities and correctional facilities; and

(7) willingness to partner with any local certified community behavioral health center (CCBHC).

B. A program sponsor shall ensure that community relations efforts are documented and are evaluated at least once every six months.

C. A program sponsor shall comply with all valid county and municipal ordinances regarding community relations, and the HCA may consult with local governmental entities when enforcing this section.

[8.321.10.31 NMAC - Rp, 8.321.10.29 NMAC 5/5/2026]

8.321.10.32 DIVERSION CONTROL:

The program sponsor shall ensure that a written plan is developed, implemented, and complied with to prevent diversion of methadone from its intended purpose to illicit purposes. This plan shall assign specific responsibility to licensed and administrative staff for carrying out the diversion control measures and functions described in the plan. The program shall develop and implement a policy and procedure providing for the reporting of theft or diversion of methadone to the relevant regulatory agencies, and law enforcement authorities.

[8.321.10.32 NMAC - Rp, 8.321.10.30 NMAC 5/5/2026]

HISTORY OF 8.321.10 NMAC: [RESERVED]

History of Repealed Material: 8.321.10 NMAC - Opioid Treatment Programs filed 6/13/2024, Repealed effective 5/5/2026.

OTHER: 8.321.10 NMAC - Opioid Treatment Programs filed 6/13/2024, Replaced by 8.321.10 NMAC - Opioid Treatment Programs effective 5/5/2026.

HEALTH CARE AUTHORITY

HEALTH CARE AFFORDABILITY BUREAU

TITLE 8 SOCIAL SERVICES
CHAPTER 401 HEALTH CARE AUTHORITY - HEALTH CARE AFFORDABILITY FUND
PART 2 HEALTH CARE AFFORDABILITY PLAN

8.401.2.1 ISSUING AGENCY: Health care authority ("HCA").

[8.401.2.1 NMAC - N, 05/05/2026]

8.401.2.2 SCOPE: These rules govern the establishment and provision of a health care affordability plan and administration of the health care affordability fund (the "fund"), including new programs for individuals losing other coverage. These rules do not change any program guidance issued prior to these rules.

[8.401.2.2 NMAC - N, 05/05/2026]

8.401.2.3 STATUTORY AUTHORITY: Section 59A-23F-12 NMSA 1978 (the "health care affordability plan").

[8.401.2.3 NMAC - N, 05/05/2026]

8.401.2.4 DURATION: Permanent.

[8.401.2.4 NMAC - N, 05/05/2026]

8.401.2.5 EFFECTIVE DATE: May 5, 2026 unless a later date is cited at the end of a section.

[8.401.2.5 NMAC - N, 05/05/2026]

8.401.2.6 OBJECTIVE: These rules establish policies, procedures, and controls for the establishment and maintenance of a *"health care affordability plan"* as funded by the *"health care affordability fund"* to achieve the public policy purposes in the manner prescribed under Sections 59A-23F-11 and 59A-23F-12 NMSA 1978.
[8.401.2.6 NMAC - N, 05/05/2026]

8.401.2.7 DEFINITIONS:

A. "Actuarial Value" means the percentage of total average costs for covered benefits that a health insurance plan will cover.

B. "Advance state payments" means marketplace affordability program payments by the fund to a participating health insurance issuer on a monthly basis to lower premium and state out-of-pocket assistance for consumers.

C. "Affordability criteria" means the factors used to determine the amount of premium assistance or state out-of-pocket assistance that will be provided from the fund on behalf of an eligible individual.

D. "DACA" means deferred action for childhood arrivals.

E. "DACA coverage program" means an affordability protection program established to provide financial assistance for eligible DACA recipients.

F. "Eligible plan" means a health plan sold on the New Mexico health insurance exchange (the "exchange" or "marketplace") that meets the requirements for the marketplace affordability program or a plan that the HCA designates as an eligible plan under the DACA coverage program.

G. "Federal poverty level or FPL" means the federal poverty level issued annually by the U.S. department of health and human services for the applicable coverage year for the health insurance exchange.

H. "Income criteria" means parameters to establish eligibility for marketplace affordability programs or programs to maintain coverage for individuals losing coverage due to federal changes.

I. "Lawfully present individual" means a non-citizen who has an immigration status that allows them to purchase a qualifying health plan (QHP) on the exchange.

J. "Modified adjusted gross income or MAGI" means modified adjusted gross income as defined in 42 CFR § 435.60.

K. "Marketplace affordability program" means a program of the fund that reduces premiums and out-of-pocket costs for individuals and families who purchase individual or family coverage on the exchange.

L. "Participating health insurance issuer" means a health insurance issuer who is authorized to sell a QHP on the exchange, in the fully-insured individual market, or in the fully-insured small group market who has confirmed in writing its intention to participate in a program of the fund prior to the commencement of the plan year.

M. "Plan year" means the year for which a participating health insurance issuer offers a health plan that meets QHP standards.

N. "Premium assistance" means a program of the fund that pays a participating health insurance issuer to cover a portion of the premium obligation of a person who meets premium assistance affordability criteria.

O. "Program of the fund" means a financial offering allocated by the health care affordability fund including initiatives such as the marketplace affordability program and small business health insurance premium relief.

P. "QHP" means a qualified health plan that meets established requirements for certification by the exchange.

Q. "Small business health insurance premium relief initiative" means a program of the fund to reduce premiums for small businesses that purchase plans that meet QHP standards in the small group health insurance market.

R. "Small group plan purchaser" means an employer who purchases one or more plans that meet QHP standards for any of its employees or owners through the small business health options program or directly from a health insurance issuer selling plans that meet QHP standards in the small group health insurance market.

S. "State benchmark plan" means a qualified health plan that has been approved for sale on the exchange and that is identified by the secretary as the plan to be used in developing affordability criteria. "State benchmark plan" does not refer to the essential health benefits benchmark plan established by the superintendent of insurance.

T. "State out-of-pocket assistance program" means a program of the fund that reduces out-of-pocket costs for households that meet eligibility and income criteria established by the secretary.
[8.401.2.7 NMAC - N, 05/05/2026]

8.401.2.8 MARKETPLACE AFFORDABILITY PROGRAM PREMIUM AND OUT-OF-POCKET ASSISTANCE: This rule governs the annual state premium assistance and out-of-pocket assistance programs offered on the state exchange.

A. Affordability criteria: Annually, the secretary will publish guidance specifying affordability criteria for the ensuing plan year. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the guidance, the secretary may adjust the affordability criteria.

(1) These are the affordability criteria that the secretary may consider in determining premium assistance eligibility for a plan year. The secretary will use these criteria to establish a premium sliding scale based on household income:

(a) the percentage of an enrollee's MAGI

as computed according to federal standards;

(b) the percentage of enrollee's MAGI that would be needed to purchase the state benchmark plan as established by the secretary;

(c) the percentage of New Mexico residents with income at or below a given FPL percentage; and

(d) The federal premium sliding scale for marketplace coverage.

(2) These are the affordability criteria that the secretary will consider to determine state out-of-pocket assistance eligibility. The secretary will use these criteria to establish state out-of-pocket assistance variants that adjust the actuarial value of certain QHPs offered on the exchange:

(a) an enrollee's MAGI as computed according to federal standards;

(b) plan type and metal level tiers that qualify for state out-of-pocket assistance;

(c) actuarial values for plans that qualify for state out-of-pocket assistance; and

(d) the availability of sufficient appropriations to support the program.

B. Income eligibility parameters: Annually, the secretary will publish guidance specifying income eligibility parameters for the ensuing plan year. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the guidance, the secretary may adjust the income eligibility parameters. The income eligibility parameters may differ for the premium assistance program, state out-of-pocket assistance program or premium assistance for state residents who are members of a federally-recognized tribe. In developing the criteria, the secretary may consider the following factors:

(1) the income distribution of current marketplace enrollees;

(2) the income distribution of uninsured individuals who qualify for coverage on the New Mexico health insurance exchange; or

(3) health insurance market stability issues and year-over-year trends in premium rate affordability.

C. General eligibility requirements:

(1) To qualify for state out-of-pocket and premium assistance, consumers must:

(a) be eligible to purchase a QHP on the exchange;

(b) be eligible for the federal premium tax credit or meet all eligibility criteria for the federal Premium Tax Credit except for household income requirements; and

(c) meet income criteria established annually by the secretary.

(2) The secretary will issue criteria for premium assistance that is available to members of federally-recognized tribes. To qualify, individuals must:

(a) meet all other criteria for state premium assistance; and

(b) be a member of a federally-recognized tribe.

D. Premium and state out-of-pocket assistance payment disbursements: This rule governs disbursements to participating health insurance issuers for premium assistance or state out-of-pocket assistance provided to eligible enrollees who purchase eligible plans. Monthly, by the 15th of each month, the exchange shall report to the secretary the total amount due to each participating health insurance issuer for premium assistance and state out-of-pocket assistance for coverage of its eligible enrollee(s) for the applicable calendar month.

(1) The monthly payment amount due to a participating health insurance issuer for premium assistance will be the monthly aggregate amount of premium assistance for all eligible enrollees of the health insurance issuer for the month.

(a) Monthly state premium assistance amounts will be calculated using the following formula: gross monthly premium for state benchmark plan minus monthly federal premium tax credit minus applicable percentage of income established by the secretary multiplied by expected annual household income as outlined in 45 C.F.R. § 155.305(f)(i) divided by 12.

(b) To the greatest extent possible, within 10 days of receiving the monthly accounting from the exchange, the secretary will, by voucher, request that the secretary of finance and administration issue warrants as necessary to ensure payment to each participating health insurance issuer for the monthly amount determined to be due by the secretary.

(2) The monthly payment amount to a participating health insurance issuer for state out-of-pocket assistance will be determined as a percentage of gross monthly premiums for enrollees of an eligible plan in a specified income tier, aggregated across all qualifying income tiers.

(3) To facilitate reconciliation, a health insurance issuer must track or accurately estimate claim costs in accordance with guidance published by the secretary to allow for the determination of actual out-of-pocket assistance amounts for the applicable plan year.

E. Eligibility appeals: Appeals for this program shall follow the same process that the exchange uses for federal subsidies.

[8.401.2.8 NMAC - N, 05/05/2026]

8.401.2.9 MINIMIZING COVERAGE DISRUPTIONS: This rule governs the agency's efforts to ensure a smooth transition into a QHP offered on the New Mexico health insurance exchange for individuals who no longer qualify for medicaid and the availability of sufficient appropriations to support the program.

A. Medicaid transition premium relief program: The secretary will issue a notice of program guidance establishing a program that fully covers the cost of the first month's premium for any QHP sold on the individual health insurance exchange for eligible individuals and their families. This premium payment will also cover any premium cost for non-essential health benefits no later than plan year 2027. The premium relief will be available to all members of a household that meet the eligibility requirements in Subsection B of this section. The payment may be used to effectuate coverage.

B. Eligibility for medicaid transition premium relief program: To qualify, a person in the household must:

(1) be a resident of the state of New Mexico who is eligible to purchase a QHP on the exchange;

(2) enroll in a QHP on the exchange within 120 calendar days of losing medicaid coverage.

(3) no longer be enrolled in medicaid at the time their QHP coverage begins;

(4) be determined eligible for federal premium tax credits; and

(5) have an expected household income at or below four hundred percent of the FPL.

C. Eligibility appeals: Appeals for this program shall follow the same process that the exchange uses for federal subsidies.

[8.401.2.9 NMAC - N, 05/05/2026]

8.401.2.10 SMALL BUSINESS HEALTH INSURANCE PREMIUM RELIEF INITIATIVE: This rule governs the agency's small business health insurance premium relief initiative, which applies to plans that meet QHP standards sold through the small business health options program or purchased directly from a health insurance issuer selling plans that meet QHP standards in the small group health insurance market.

A. Premium reduction percentage guidance: Annually, based on available funding, the secretary will issue guidance establishing a premium reduction percentage that will apply to all plans that meet QHP standards sold in the small group health insurance market. Health insurance issuers participating in the market shall discount charges to small group plan purchasers by the percentage established by the secretary and show the amount of the discount in all invoices to the purchaser. The secretary will allow issuers to apply the discount directly or through a credit on the following month's premium. The guidance will establish the percentage reduction, reporting requirements, timetable and process for issuer reimbursement, and other requirements. The secretary may issue additional guidance, if needed.

B. Reporting requirements and annual verification of accurate payments: Health insurance issuers selling plans that meet QHP standards in the small group health insurance market must report data related to enrollment, premiums, and reimbursement from the health care affordability fund to the health care authority on a regular basis, based on the requirements of the guidance. Following each calendar year, on a date established by the secretary, issuers must report data requested by the agency to verify the accuracy of payments made from the fund. The secretary will require issuers to replenish the fund if it is determined that any overpayment has been issued.

C. Payments to participating issuers: On a regular basis, as established in the guidance, HCA will make payments from the health care affordability fund to issuers for the remainder of the gross premium that would otherwise be owed by small group plan purchasers if the small business health insurance premium relief initiative were not in effect. The data received by HCA pursuant to Subsection B of 8.401.1.11 NMAC of this rule serves as the basis for HCA's regular payments to issuers from the health care affordability fund. Issuers must invoice the agency in accordance with the HCA's instructions in order to receive payment.

D. Notification of small group plan purchasers: The secretary will specify a date before the initiative goes into effect by which health insurance issuers must notify their small group plan purchasers about the premium reductions provided by the initiative. Issuers subject to the rule should reflect the premium reduction amount in all invoices.

E. Treatment as third-party payment: For the purposes of the federal risk adjustment program and federal medical loss ratio requirements, the state payment under this section should be considered a third-party payment that is part of the gross premium.

[8.401.2.10 NMAC - N, 05/05/2026]

8.401.2.11 MAINTAINING COVERAGE FOR THOSE LOSING ELIGIBILITY FOR FEDERAL FINANCIAL ASSISTANCE DUE TO SECTION 71301 AND 71302 OF PUBLIC LAW 119-21: This rule governs the agency's coverage affordability program for certain lawfully present individuals.

A. Affordability criteria: Annually, the secretary will publish guidance specifying affordability criteria for the ensuing plan year. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the guidance, the secretary may adjust the affordability criteria.

(1) These are the affordability criteria that the secretary may consider in determining premium assistance eligibility for a plan year. The secretary will use these criteria to establish a household income based on:

(a) the percentage of an enrollee's MAGI as computed according to federal standards;

(b) the percentage of an enrollee's MAGI that would be needed to purchase the state benchmark plan as established by the secretary;

(c) the number of individuals projected to enroll in the benefit; and

(d) the availability of appropriations to support the program.

(2) These are the affordability criteria that the secretary will consider to determine state out-of-pocket assistance eligibility. The secretary will use these criteria to establish state out-of-pocket assistance variants that adjust the actuarial value of certain QHPs offered on the exchange:

(a) an enrollee's MAGI as computed according to federal standards;

(b) plan type and metal level tiers that qualify for state out-of-pocket assistance;

(c) actuarial values for plans that qualify for state out-of-pocket assistance; and

(d) the availability of sufficient appropriations to support the program.

B. Income eligibility parameters: Annually, the secretary will publish guidance specifying income eligibility parameters for the ensuing plan year. The secretary shall prioritize households under two hundred percent of the federal poverty level if appropriations are not sufficient to cover populations above that level. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the guidance, the secretary may adjust the income eligibility parameters.

C. General eligibility requirements: To qualify for state premium and out-of-pocket assistance under this program, consumers must:

(1) be eligible to purchase a QHP on the exchange;

(2) be a lawfully present individual who has become ineligible for the federal Premium Tax Credit due to the enactment of Section 71301 and 71302 of Public Law 119-21; and

(3) meet income criteria established annually by the secretary.

D. Premium and state out-of-pocket assistance payment disbursements: This rule governs disbursements to participating health insurance issuers for premium assistance or state out-of-pocket assistance provided to eligible enrollees who purchase eligible plans. Monthly, by the 15th of each month, the exchange shall report to the secretary the total amount due to each participating health insurance issuer for premium assistance and state out-of-pocket assistance for coverage of its eligible enrollee(s) for the applicable calendar month.

(1) The monthly payment amount due to a participating health insurance issuer for premium assistance will be the monthly aggregate amount of premium assistance for all eligible enrollees of the health insurance issuer for the month.

(a) Monthly state premium assistance amounts will be calculated using the following formula: gross monthly premium for state benchmark plan minus applicable percentage of income established by the secretary multiplied by expected annual household income as outlined in 45 C.F.R. § 155.305(f)(i) divided by 12.

(b) To the greatest extent possible, within 10 days of receiving the monthly accounting from the exchange, the secretary will, by voucher, request that the secretary of finance and administration issue warrants as necessary to ensure payment to each participating health insurance issuer for the monthly amount determined to be due by the secretary.

(2) The monthly payment amount to a participating health insurance issuer for state out-of-pocket assistance will be determined as a percentage of gross monthly premiums for enrollees of an eligible plan in a specified income tier.

(3) To facilitate reconciliation, a health insurance issuer must track or accurately estimate claim costs in accordance with guidance published by the secretary to allow for the determination of actual out-of-pocket assistance amounts for the applicable plan year.

E. Eligibility appeals: Appeals for this program shall follow the same process that the exchange uses for federal subsidies.

[8.401.2.11 NMAC - N, 05/05/2026]

8.401.2.12 PROGRAM FOR UNINSURED DACA RECIPIENTS LOSING ELIGIBILITY FOR EXCHANGE COVERAGE AND FEDERAL FINANCIAL ASSISTANCE: This rule governs the DACA coverage program for certain individuals with DACA status. Coverage options for the DACA coverage program are to be provided through off-exchange plans offered by issuers selling plans that meet QHP standards on the exchange and are funded through appropriations authorized by the legislature for the purpose of providing "resources for planning, design and implementation of health care coverage initiatives for uninsured New Mexico residents." The secretary may establish enrollment caps if necessary to ensure program sustainability. To enroll in the DACA coverage program, individuals must be determined eligible through HCA's approved vendor.

A. Affordability criteria: Annually, the secretary will publish guidance specifying affordability criteria for the ensuing plan year. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the guidance, the secretary may adjust the affordability criteria.

(1) These are the affordability criteria that the secretary may consider in determining premium assistance eligibility for a plan year. The secretary will use

these criteria to establish a premium sliding scale based on household income:

(a) the percentage of an enrollee's MAGI as computed according to federal standards;

(b) the percentage of an enrollee's MAGI that would be needed to purchase the state benchmark plan as established by the secretary;

(c) the number of individuals projected to enroll in the benefit;

(d) the off-exchange plans eligible for state assistance; and

(e) the availability of appropriations to support the program.

(2) The secretary may establish affordability criteria for an out-of-pocket assistance program and consider the following criteria in establishing such a program:

(a) an enrollee's MAGI as computed according to federal standards;

(b) plan type and metal level tiers that qualify for state out-of-pocket assistance;

(c) actuarial values for plans that qualify for state out-of-pocket assistance; and

(d) the availability of sufficient appropriations to support the program.

B. Income eligibility parameters: Annually, the secretary will publish guidance specifying income eligibility parameters for the ensuing plan year. The secretary shall prioritize households under two hundred percent of the federal poverty level if appropriations are not sufficient to cover populations above that level. If the federal government changes policies that will affect the cost of the program to the state or the cost to enrollees after the issuance of the guidance, the secretary may adjust the income eligibility parameters.

C. General eligibility requirements:

(1) To qualify for state premium and out-of-pocket assistance under the DACA coverage program, consumers must:

(a) Be a DACA recipient as established by federal guidelines;

(b) not have access to other health coverage that meets federal minimum essential coverage standards or other third-party payor programs;

(c) be a resident of New Mexico;

(d) not be incarcerated;

(e) meet income criteria established annually by the secretary.

D. Premium and state out-of-pocket assistance payment disbursements: This rule governs disbursements to participating health insurance issuers for premium assistance or state out-of-pocket assistance provided to eligible enrollees who purchase eligible plans. Monthly, by a date established by the secretary in guidance, issuers shall report to the secretary the total amount due for premium assistance or state out-of-pocket assistance for coverage of its eligible enrollees for the applicable calendar month.

(1) The monthly payment amount due to a participating health insurance issuer for premium assistance will be the monthly aggregate amount of premium assistance for all eligible enrollees of the health insurance issuer for the month.

(a) The methodology for calculating monthly state premium assistance amounts shall ensure similar affordability criteria as premium assistance under the marketplace affordability program.

(b) To the greatest extent possible, within 10 days of receiving the monthly accounting from the issuer, the secretary will, by voucher, request that the secretary of finance and administration issue warrants as necessary to ensure payment to each participating health insurance issuer for the monthly amount determined to be due by the secretary.

(2) The monthly payment amount to a participating health insurance issuer for state out-of-pocket assistance will be determined as a percentage of gross monthly premiums for enrollees of an eligible plan in a specified income tier, aggregated across all qualifying income tiers.

(3) To facilitate reconciliation, a health insurance issuer must track or accurately estimate claim costs in accordance with guidance published by the secretary to allow for the determination of actual out-of-pocket assistance amounts for the applicable plan year.

E. Appeal rights and process:

(1) Applicants or their authorized representatives may appeal any adverse program eligibility or assistance decision, including eligibility status, income/residency findings, assistance tier, or effective date.

(2) The authorized eligibility determination vendor shall issue a written notice that states the decision and effective date, the reasons, how to appeal, the filing deadline, and the availability of free language services and disability accommodations.

(3) Appeals must be filed within 30 calendar days of the notice date. Late appeals may be accepted for good cause. Appeals may be filed by methods specified in guidance. An authorized representative may be designated at any time.

(4) An impartial member of the agency's eligibility vendor shall decide first-level appeals. A written decision is due within 20 calendar days of receipt, or within three business days if expedited due to risk of care disruption. If no timely decision is issued, the appellant may proceed to a final appeal.

(5) A final appeal may be filed with the health

care affordability bureau within 30 calendar days of the vendor decision or a vendor delay. The bureau will conduct a review and issue a written decision within 45 calendar days, or within five business days if expedited. The bureau's decision is the final administrative action.
[8.401.2.11 NMAC - N, 05/05/2026]

History of 8.401.2 NMAC: [RESERVED]

HISTORY OF REPEALED MATERIAL: [RESERVED]

OTHER: 8.401.2 NMAC, Health Care Authority Plan filed 11/11/2025 as an emergency rule, now filed as permanent rule**,** effective 5/5/2026.

HEALTH CARE AUTHORITY
HEALTH IMPROVEMENT DIVISION

This is an amendment to 8.370.17 NMAC, Sections 7, 12 & 25 effective 5/5/2026.

8.370.17.7 DEFINITIONS:.
[~~**A. "AABC"** means American association of birth centers.~~
~~**B. "Administrator"** means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the birth center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the facility and all of the services provided at the facility, including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.~~
~~**C. "Applicant"** means the individual or legal entity that applies for a license. If the applicant is a legal entity, then the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the facility.~~
~~**D. "Apprentice midwife"** means an individual as defined in and licensed under 16.11.3 NMAC, as amended, and currently in good standing.~~
~~**E. "ACNM"** means the American college of nurse midwives.~~
~~**F. "Basic life support" (BLS)** means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.~~
~~**G. "Birth assistant"** means a staff person over the age of 18 who is capable of recognizing complications and who can care for the mother and infant by performing normal postpartum and newborn care. At a minimum, a birth assistant must be trained and have current certifications in BLS and neonatal resuscitation program (NRP) and can only function under the direct supervision of a licensed provider immediately available on site.~~
~~**H. "Birth center" (BC)** means a freestanding birth center licensed by the state for the primary purpose of performing low-risk deliveries that is not a hospital, attached to a hospital or in a hospital, and where births are planned to occur away from the mother's residence following a low-risk pregnancy.~~
~~**I. "Birth room" or "birthing room"** means a private room of sufficient size to accommodate a client in active labor with the equipment and personnel necessary to assist the mother in a safe birth and in full compliance with the minimum standards in these regulations. Any facility with four or more birthing rooms must also comply with the birthing room and center requirements in the current edition of the facility guidelines institute, guidelines for design and construction, specific requirements for freestanding birth centers.~~
~~**J. "CABC**" means the commission for the accreditation of birth centers.~~
~~**K. "Certified nurse midwife"** means a licensed individual educated in the two disciplines of nursing and midwifery as defined and licensed under 16.11.2 NMAC, as amended, and currently in good standing.~~
~~**L. "Certified nurse practitioner"** means a registered nurse as defined and licensed under the Nursing Practice Act, Section 61-3-23.2 NMSA 1978, as amended, and related regulations and is currently in good standing.~~
~~**M. "CLIA"** means Clinical laboratory improvement amendments of 1988 as amended.~~
~~**N. "Client"** means any person who receives care, including a mother, infant or newborn, at a freestanding birth center.~~
~~**O. "Compliance"** means the facility's adherence to these regulations, as well as any and all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the facility license.~~
~~**P. "Deficiency"** means a violation of or failure to comply with any provision(s) of these regulations.~~
~~**Q. "Employee"** means any person who works at the facility and is a direct hire of the owner or management company, if applicable.~~
~~**R. "External quality committee"** means the members of the internal quality committee and an external peer reviewer or a clinical consultant and any other facility healthcare partners, as available.~~
~~**S. "Facility"** means the physical premises, building(s) and equipment where the freestanding birth center services are provided, whether owned or leased and which is licensed pursuant to these regulations.~~
~~**T. "Incident"** means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.~~
~~**U. "Incident**~~

management system" means the written policies and procedures adopted or developed by the licensed health facility for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

V. "Incident report form" means the reporting format issued by the authority for the reporting of incidents or complaints.

W. "Internal quality committee" means and includes the administrator and clinical director at a minimum. If the administrator and clinical director are the same person, another staff person with clinical experience must serve on the internal quality committee. Other staff at the facility may also serve on this committee as deemed appropriate.

X. "License" means the document issued by the licensing authority pursuant to these regulations granting the legal right to operate a birth center for a specified period of time, at the physical premises, not to exceed one year.

Y. "Licensee" means the person(s) or legal entity that operates the physical premises and facility and in whose name the facility license has been issued and who is legally responsible for compliance with these regulations.

Z. "Licensed midwife" means a licensed individual as defined and licensed under 16.11.3 NMAC, as amended, currently in good standing.

AA. "Licensed practical nurse" means a licensed individual as defined and licensed under the Nursing Practice Act, Section 61-3-19 NMSA 1978, as amended, currently in good standing.

BB. "Licensing authority" means the New Mexico health care authority.

CC. "Low risk pregnancy" means a pregnancy that is determined by documented medical history, risk assessment, and prenatal care that reasonably predicts an outcome of a normal and uncomplicated labor and birth.

DD. "Management company" means the legal entity that manages the facility, if different from the legal owner of the facility.

EE. "Midwife" means a licensed individual authorized to practice midwifery in New Mexico as defined and licensed under 16.11.2 NMAC, as amended, or 16.11.3 NMAC, as amended, currently in good standing.

FF. "NFPA" means the national fire protection association which sets codes and standards for building fire safety.

GG. "NMSA" means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

HH. "Neonatal resuscitation program" (NRP) means training and current certification in both the NRP module on medications and the module on intubation using an endotracheal tube (ET) or laryngeal mask airway (LMA) or both, endorsed by American academy of pediatrics or the American heart association.

II. "Quality assurance" means the licensed health care facility's on-going comprehensive self-assessment of compliance with these regulations and any and all other applicable statutes and regulations including, but not limited to,, the facility's own policies and procedures and incident investigations, documentation, reporting and reviewing of all alleged incidents of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents for study and improvement of the facility's organizational, administrative and preventative practices in employee training and reporting.

JJ. "Quality improvement system" means a systematic approach to the continuous study and improvement of the efficacy of organizational, administrative and clinical practices to meet the needs of persons served, address any changing regulatory requirements and achieve the facility's mission, values and goals.

KK. "Physician" means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Sections 61-6-1 to 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Sections 61-10-1 to 61-10-22 NMSA 1978, as amended, and related regulations.

LL. "Physician's assistant" means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Sections 61-6-7 to 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Sections 61-10A-1 to 61-10-7 NMSA 1978 as amended, and related regulations.

MM. "Plan of correction" (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a facility license, including to prove licensee compliance violations or failures.

NN. "Policy" means a written statement that guides and determines present and future facility decisions and actions.

OO. "Premises" means all of the facility including buildings, grounds and equipment.

PP. "Procedure" means the action(s) that must be taken in order to implement a written policy.

QQ. "Registered nurse" means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Sections 61-3-1 to 61-3-30 NMSA 1978, as amended, and related regulations.

RR. "Scope of

~~**practice"** means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.~~

~~**SS. "Staff"** means any person who works at the facility, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the facility.~~

~~**TT. "U/L approved"** means approved for safety by the national underwriters laboratory.~~

~~**UU. "Variance"** means a written decision, made at the licensing authority's sole discretion, allowing a licensee and facility to deviate from a portion(s) or provision of these regulations for a specified time period not exceeding a year, providing the variance does not jeopardize the health, safety or welfare of the facility's clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.~~

~~**VV. "Violation"** means any and all actions or procedures by the facility or licensee that are not in compliance with these regulations and any and all other applicable state and federal statutes and regulations.~~

~~**WW. "Waive" or "waiver"** means a written decision, made at the licensing authority's sole discretion, to allow a birth center to refrain from complying with a portion(s) or provision of these regulations for a limited and specified time period not exceeding a year, providing the waiver does not jeopardize the health, safety or welfare of the facility's clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.~~]

A. Definitions beginning with "A":

(1) "AABC" means American association of birth centers.

(2) "Administrator" means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the birth center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the facility and all of the services provided at the facility, including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

(3) "Applicant" means the individual or legal entity that applies for a license. If the applicant is a legal entity, then the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the facility.

(4) "Apprentice midwife" means an individual as defined in and licensed under 16.11.3 NMAC, as amended, and currently in good standing.

(5) "ACNM" means the American college of nurse midwives.

B. Definitions beginning with "B":

(1) "Basic life support" (BLS) means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

(2) "Birth assistant" means a staff person over the age of 18 who is capable of recognizing complications and who can care for the mother and infant by performing normal postpartum and newborn care. At a minimum, a birth assistant must be trained and have current certifications in BLS and neonatal resuscitation program (NRP) and can only function under the direct supervision of a licensed provider immediately available on site.

(3) "Birth center" (BC) means a freestanding birth center licensed by the state for the primary purpose of performing low-risk deliveries that is not a hospital, attached to a hospital or in a hospital, and where births are planned to occur away from the mother's residence following a low-risk pregnancy.

(4) "Birth room" or "birthing room" means a private room of sufficient size to accommodate a client in active labor with the equipment and personnel necessary to assist the mother in a safe birth and in full compliance with the minimum standards in these regulations. Any facility with four or more birthing rooms must also comply with the birthing room and center requirements in the current edition of the facility guidelines institute, guidelines for design and construction, specific requirements for freestanding birth centers.

C. Definitions beginning with "C":

(1) "CABC" means the commission for the accreditation of birth centers.

(2) "Certified nurse midwife" means a licensed individual educated in the two disciplines of nursing and midwifery as defined and licensed under 16.11.2 NMAC, as amended, and currently in good standing.

(3) "Certified nurse practitioner" means a registered nurse as defined and licensed under the Nursing Practice Act, Section 61-3-23.2 NMSA 1978, as amended, and related regulations and is currently in good standing.

(4) "CLIA" means clinical laboratory improvement amendments of 1988 as amended.

(5) "Client" means any person who receives care, including a mother, infant or newborn, at a freestanding birth center.

(6) "Compliance" means the facility's adherence to these regulations, as well as any and all other applicable state and federal statutes and regulations.

Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the facility license.

D. Definitions beginning with "D":

(1) "Deficiency" means a violation of or failure to comply with any provision(s) of these regulations.

(2) "Doula" means a trained, nonmedical professional who provides services, including health education, advocacy or physical, emotional or social support, to a person during the pre-conception period, pregnancy, childbirth or the postpartum period to promote positive health outcomes.

E. Definitions beginning with "E":

(1) "Employee" means any person who works at the facility and is a direct hire of the owner or management company, if applicable.

(2) "External quality committee" means the members of the internal quality committee and an external peer reviewer or a clinical consultant and any other facility healthcare partners, as available.

F. Definitions beginning with "F": "Facility" means the physical premises, building(s) and equipment where the freestanding birth center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

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

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

I. Definitions beginning with "I":

(1) "Incident" means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(2) "Incident management system" means the written policies and procedures adopted or developed by the licensed health facility for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(3) "Incident report form" means the reporting format issued by the authority for the reporting of incidents or complaints.

(4) "Internal quality committee" means and includes the administrator and clinical director at a minimum. If the administrator and clinical director are the same person, another staff person with clinical experience must serve on the internal quality committee. Other staff at the facility may also serve on this committee as deemed appropriate.

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

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

L. Definitions beginning with "L":

(1) "License" means the document issued by the licensing authority pursuant to these regulations granting the legal right to operate a birth center for a specified period of time, at the physical premises, not to exceed one year.

(2) "Licensee" means the person(s) or legal entity that operates the physical premises and facility and in whose name the facility license has been issued and who is legally responsible for compliance with these regulations.

(3) "Licensed midwife" means a licensed individual as defined and licensed under 16.11.3 NMAC, as amended, currently in good standing.

(4) "Licensed practical nurse" means a licensed individual as defined and licensed under the Nursing Practice Act, Section 61-3-19 NMSA 1978, as amended, currently in good standing.

(5) "Licensing authority" means the New Mexico health care authority.

(6) "Low risk pregnancy" means a pregnancy that is determined by documented medical history, risk assessment, and prenatal care that reasonably predicts an outcome of a normal and uncomplicated labor and birth.

M. Definitions beginning with "M":

(1) "Management company" means the legal entity that manages the facility, if different from the legal owner of the facility.

(2) "Midwife" means a licensed individual authorized to practice midwifery in New Mexico as defined and licensed under 16.11.2 NMAC, as amended, or 16.11.3 NMAC, as amended, currently in good standing.

N. Definitions beginning with "N":

(1) "NFPA" means the national fire protection association which sets codes and standards for building fire safety.

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

(3) "Neonatal resuscitation program" (NRP) means training and current certification in both the NRP module on medications and the module on intubation using an endotracheal tube (ET) or laryngeal mask airway (LMA) or both, endorsed by American academy of pediatrics or the American heart association.

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

P. Definitions beginning with "P":

(1) "Physician" means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Sections 61-6-1 to 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Sections 61-10-1 to 61-10-22 NMSA 1978, as amended, and related regulations.

(2) "Physician's assistant" means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Sections 61-6-7 to 61-6-10 NMSA 1978, as amended and related regulations, or is authorized

and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Sections 61-10A-1 to 61-10-7 NMSA 1978 as amended, and related regulations.

(3) "Plan of correction" (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a facility license, including to prove licensee compliance violations or failures.

(4) "Policy" means a written statement that guides and determines present and future facility decisions and actions.

(5) "Premises" means all of the facility including buildings, grounds and equipment.

(6) "Procedure" means the action(s) that must be taken in order to implement a written policy.

Q. Definitions beginning with "Q":

(1) "Quality assurance" means the licensed health care facility's on-going comprehensive self-assessment of compliance with these regulations and any and all other applicable statutes and regulations including, but not limited to,, the facility's own policies and procedures and incident investigations, documentation, reporting and reviewing of all alleged incidents of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents for study and improvement of the facility's organizational, administrative and preventative practices in employee training and reporting.

(2) "Quality improvement system" means a systematic approach to the continuous study and improvement of the efficacy of organizational, administrative and clinical practices to meet the needs of persons served, address any changing regulatory requirements and achieve the facility's mission, values and goals.

R. Definitions beginning with "R": "Registered nurse" means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Sections 61-3-1 to 61-3-30 NMSA 1978, as amended, and related regulations.

S. Definitions beginning with "S":

(1) "Scope of practice" means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

(2) "Staff" means any person who works at the facility, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the facility.

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

U. Definitions beginning with "U": "U/L approved" means approved for safety by the national underwriters laboratory.

V. Definitions beginning with "V":

(1) "Variance" means a written decision, made at the licensing authority's sole discretion, allowing a licensee and facility to deviate from a portion(s) or provision of these regulations for a specified time period not exceeding a year, providing the variance does not jeopardize the health, safety or welfare of the facility's clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.

(2) "Violation" means any and all actions or procedures by the facility or licensee that are not in compliance with these regulations and any and all other applicable state and federal statutes and regulations.

W. Definitions beginning with "W": "Waive" or "waiver" means a written decision, made at the licensing authority's sole discretion, to allow a birth center to refrain from complying with a portion(s) or provision of these regulations for a limited and specified time period not exceeding a year, providing the waiver does not jeopardize the health, safety or welfare of the facility's clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.

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

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

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

[8.370.17.7 NMAC - N, 7/1/2024; A, 5/5/2026]

8.370.17.12 ADDITIONAL DOCUMENTS REQUIRED WITH LICENSE APPLICATION: The authority reserves the right to require an applicant to provide any and all additional documents, as part of its license application, in order for the authority to determine whether the applicant and the facility are in full compliance with these regulations, as well as any and all other applicable statutes and regulations. At a minimum, additional documents required to be attached to the initial license application, include, but are not limited to:

A. Building approvals: The applicant must submit all building approvals required for the facility to operate in the jurisdiction in which it is located, including, but not limited to:

(1) written building approvals and certificates of occupancy from the appropriate authority (state, city, county, or municipality) for business occupancy; and

(2) written fire safety approvals from the fire safety authority having jurisdiction.

B. Environment approvals: If applicable or required, the applicant must provide written approval from the New Mexico environment department for the following:

(1) private water supply;

(2) private waste or sewage disposal; and

(3) ultrasound equipment.

C. Board of pharmacy approvals: A copy of facility's drug permit issued by the state board of pharmacy must be provided.

D. Program outline: The applicant must submit with its license application a program outline consistent with these regulations which includes at a minimum, the following information:

(1) a list of all services and the scope of those services to be provided by the proposed facility;

(2) projected number of clients to be served monthly;

(3) a list of staffing and personnel requirements and duties to be performed;

(4) a list of all services that will be contracted or arranged with any other health providers including ambulance services, admitting hospitals, consultation with medical practitioners, laboratory work and equipment providers;

(5) the number of examination rooms, birth rooms, family rooms and other rooms for diagnostic or other use including, but not limited to,, ultrasound, laboratory, clean linen storage and waste disposal;

(6) an organizational structure diagram or chart including the administrator, advisory body or board of directors, if any, staff, clinical director, internal quality committee and external quality committee; and

(7) quality improvement systems and quality assurance processes.

E. Policies and procedures: The applicant must submit with its license application a copy of the facility's policies and procedures which must comply with these regulations.

F. Policies and procedures for doula access:

(1) adopt and maintain written policies and procedures authorizing a patient to select a doula of the patient's choice to accompany the patient within the facility's premises for the purposes of providing services during pregnancy, childbirth and the 12-month postpartum period;

(2) provide a written copy of the policies and procedures adopted pursuant to Paragraph (1) of this subsection to:

(a) health care providers providing services related to pregnancy, childbirth or the 12-month postpartum period at the facility;

(b) patients receiving services related to pregnancy, childbirth or the 12-month postpartum period at the facility; and

(c) any other person, at the request of the patient; and

(3) post a notice of the facility's policies and procedures adopted pursuant to Paragraph (1) of this subsection:

(a) in the room of a patient admitted to the facility for services related to pregnancy, childbirth or the 12-month postpartum period; and

(b) on the facility's website.

[8.370.17.12 NMAC - N, 7/1/2024; A, 5/5/2026]

8.370.17.25 CLIENT RIGHTS: All facilities licensed pursuant to these regulations shall support, protect, and respect clients' rights. Facility staff shall receive training on client rights and demonstrate understanding and competence in the policies and procedures regarding client rights. Client rights will be posted or made available to facility clients in English or their preferred language. The method by which a client may register a complaint against the facility will be posted or otherwise made available to clients. The facility shall have and enforce policies and procedures which guarantee:

A. the right to equal service, regardless of race, gender, gender identity, religion, ethnic background, sexual orientation, education, social class, physical or mental handicap, or economic status;

B. the right to considerate, courteous and respectful care from all staff;

C. the right to complete information using terms the average client can reasonably be expected to understand;

D. the right to informed consent, full discussion of risks and benefits prior to any invasive procedure, except in an emergency, and advice regarding alternatives to the proposed procedure(s);

E. the right to receive a written list of all services available, service costs and advanced notice of any changes;

F. the right to receive care that is consistent with current scientific evidence about benefits and risks;

G. the right for non-English speaking clients to obtain assistance in interpretation;

H. the right to know the names, titles, professions and specific types and licenses held by the facility staff to whom the client speaks to and from whom services or information are received;

I. the right to refuse examinations and procedures to the extent permitted by law and to be informed of the health and legal consequences of any refusal;

J. the right of access to the client's personal health records;

K. the right of respect for the client's privacy;

L. the right of confidentiality of the client's personal health records as provided by law;

M. the right to expect reasonable continuity of care within the scope of services and staffing;

N. the right to have the client's civil rights, cultural background and religious opinions respected;

O. the right to present complaints to the management of the facility without fear of reprisal; and

P. the right to examine and receive a full explanation of any charges made by the facility regardless of source of payment.

Q. the right to select a doula of the patient's choice to accompany the patient within the facility's premises for the purposes of providing services during pregnancy, childbirth and the 12-month postpartum period.

[8.370.17.25 NMAC - N, 7/1/2024; A, 5/5/2026]

HEALTH CARE AUTHORITY

MEDICAL ASSISTANCE DIVISION

This is an emergency amendment to 8.200.510 NMAC, Sections 11, 12, 13, and 15, effective 5/1/2026.

8.200.510.11 COMMUNITY SPOUSE RESOURCE ALLOWANCE (CSRA): The CSRA standard varies based on when the applicant or recipient become institutionalized for a continuous period. The CSRA remains constant even if it was calculated prior to submission of a formal MAP application. If institutionalization began:

A. Between September 30, 1989 and December 31, 1989, the state maximum CSRA is $30,000 and the federal maximum CRSA is $60,000.

B. On or after January 1, 1990, the state minimum is $31,290 and the federal maximum CSRA is $62,580.

C. On or after January 1, 1991, the state minimum is $31,290 and the federal maximum CSRA is $66,480.

D. On or before January 1, 1992, the state minimum is $31,290 and the federal maximum CSRA is $68,700.

E. On or after January 1, 1993, the state minimum is $31,290 and the federal maximum CSRA is $70,740.

F. On or after January 1, 1994, the state minimum is $31,290 and the federal maximum CSRA is $72,660.

G. On or after January 1, 1995, the state minimum is $31,290 and the federal maximum CSRA is $74,820.

H. On or after January 1, 1996, the state minimum is $31,290 and the federal maximum CSRA is $76,740.

I. On or after January 1, 1997, the state minimum is $31,290 and the federal maximum CSRA is $79,020.

J. On or after January 1, 1998, the state minimum is $31,290 and the federal maximum CSRA is $80,760.

K. On or after January 1, 1999, the state minimum is $31,290 and the federal maximum CSRA is $81,960.

L. On or after January 1, 2000, the state minimum is $31,290 and the federal maximum CSRA is $84,120.

M. On or after January 1, 2001, the state minimum is $31,290 and the federal maximum CSRA is $87,000.

N. On or after January 1, 2002, the state minimum is $31,290 and the federal maximum CSRA is $89,280.

O. On or after January 1, 2003, the state minimum is $31,290 and the federal maximum CSRA is $90,660.

P. On or after January 1, 2004, the state minimum is $31,290 and the federal maximum CSRA is $92,760.

Q. On or after January 1, 2005, the state minimum is $31,290 and the federal maximum CSRA is $95,100.

R. On or after January 1, 2006, the state minimum is $31,290 and the federal maximum CSRA is $99,540.

S. On or after January 1, 2007, the state minimum is $31,290 and the federal maximum CSRA is $101,640.

T. On or after January 1, 2008, the state minimum is $31,290 and the federal maximum CSRA is $104,400.

U. On or after January 1, 2009, the state minimum is $31,290 and the federal maximum CSRA is $109,560.

V. On or after January 1, 2010, the state minimum is $31,290 and the federal maximum CSRA remains $109,560.

W. On or after January 1, 2011, the state minimum is $31,290 and the federal maximum CSRA remains $109,560.

X. On or after January 1, 2012, the state minimum is $31,290 and the federal maximum CSRA is $113,640.

Y. On or after January 1, 2013, the state minimum is $31,290 and the federal maximum CSRA is $115,920.

Z. On or after January 1, 2014, the state minimum is $31,290 and the federal maximum CSRA is $117,240.

AA. On or after January 1, 2015, the state minimum is $31,290 and the federal maximum CSRA is $119,220.

BB. On or after January 1, 2016, the state minimum is $31,290 and the federal maximum CSRA is $119,220.

CC. On or after January 1, 2017, the state minimum is $31,290 and the federal maximum CSRA is $120,900.

DD. On or after January 1, 2018, the state minimum is $31,290 and the federal maximum CSRA is $123,600.

EE. On or after January 1, 2019, the state minimum is $31,290 and the federal maximum CSRA is $126,420.

FF. On or after January 1, 2020, the state minimum is $31,290 and the federal maximum CSRA is $128,640.

GG. On or after January 1, 2021, the state minimum is $31,290 and the federal maximum CSRA is $130,380.

HH. On or after January 1, 2022, the state minimum is $31,290 and the federal maximum CSRA is $137,400.

II. On or after January 1, 2023, the state minimum is $31,290 and the federal maximum CSRA is $148,620.

JJ. On or after January 1, 2024, the state minimum is $31,290 and the federal maximum CSRA is $154,140.

KK. On or after January 1, 2025, the state minimum is $31,584 and the federal maximum CSRA is $157,920.

LL. On or after January 1, 2026, the state minimum is $32,532 and the federal maximum CSRA is $162,660.

[8.200.510.11 NMAC - Rp, 8.200.510.11 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT): Apply applicable deductions in the order listed below when determining the medical care credit for an institutionalized spouse.

DEDUCTION AMOUNT

A. Personal needs allowance for institutionalized spouse:
July 1, [~~2024~~] 2025 [~~$94~~] $97

B. Minimum monthly maintenance needs allowance (MMMNA):
July 1, [~~2024~~] 2025 [~~$2,555~~] $2,643.75

C. The community spouse monthly income allowance (CSMIA) is calculated by subtracting the community spouse's gross income from the MMMNA:

(1) If allowable shelter expenses of the community spouse exceeds the minimum allowance then deduct an excess shelter allowance from community spouse's income that includes: expenses for rent; mortgage (including interest and principal); taxes and insurance; any maintenance charge for a condominium or cooperative; and an amount for utilities (if not part of maintenance charge above); use the standard utility allowance (SUA) deduction used in the food stamp program for the utility allowance.

July 1,[~~2024~~] 2025 [~~$766.50~~] $793.13

(2) Excess shelter allowance may not exceed the maximum:

	(a)
Jan. 1, 2026	$1,422.75
	[~~(a)~~] **(b)**
Jan. 1, 2025	$1,393
	[~~(b)~~] **(c)**
Jan. 1, 2024	$1,388.50
	[~~(c)~~] **(d)**
July 1, 2023	$1,251
	[~~(d)~~] **(e)**
Jan. 1, 2023	$1,427
	[~~(e)~~] **(f)**
July 1, 2022	$1,146
	[~~(f)~~] **(g)**
Jan. 1, 2022	$1,257
	[~~(g)~~] **(h)**
July 1, 2021	$1,082
	[~~(h)~~] **(i)**
Jan. 1, 2021	$1,105

D. Any extra maintenance allowance ordered by a court of jurisdiction or a state administrative hearing officer.

E. Dependent family member income allowance (if applicable) calculated as follows: 1/3 X MMMNA - dependent member's income).

F. Non-covered medical expenses.

G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed [~~$3,853.50~~] $4,066.50.

[8.200.510.12 NMAC - Rp, 8.200.510.12 NMAC, 7/1/2015; A/E, 3/1/2017; A/E. 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 1/16/2020; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.510.13 AVERAGE MONTHLY COST OF NURSING FACILITIES FOR PRIVATE PATIENTS USED IN TRANSFER OF ASSET PROVISIONS: Costs of care are based on the date of application registration.

DATE AVERAGE COST PER MONTH

A. July 1, 1988 - Dec. 31, 1989 $1,726 per month

B. Jan. 1, 1990 - Dec. 31, 1991 $2,004 per month

C. Jan. 1, 1992 - Dec. 31, 1992 $2,217 per month

D. Effective July 1, 1993, for application $2,377 per month register on or after Jan. 1, 1993

E. Jan. 1, 1994 - Dec. 31, 1994 $2,513 per month

F. Jan. 1, 1995 - Dec. 31, 1995 $2,592 per month

G. Jan. 1, 1996 - Dec. 31, 1996 $2,738 per month

H. Jan. 1, 1997 - Dec. 31, 1997 $2,889 per month

I. Jan. 1, 1998 - Dec 31, 1998 $3,119 per month

J. Jan. 1, 1999 - Dec. 31, 1999 $3,429 per month

K. Jan. 1, 2000 - Dec. 31, 2000 $3,494 per month

L. Jan. 1, 2001 - Dec. 31, 2001 $3,550 per month

M. Jan. 1, 2002 - Dec. 31, 2002 $3,643 per month

N. Jan. 1, 2003 - Dec. 31, 2003 $4,188 per month

O. Jan. 1, 2004 - Dec. 31, 2004 $3,899 per month

P. Jan. 1, 2005 - Dec. 31, 2005 $4,277 per month

Q. Jan. 1, 2006 - Dec. 31, 2006 $4,541 per month

R. Jan. 1, 2007 - Dec. 31, 2007 $4,551 per month

S. Jan. 1, 2008 - Dec. 31, 2008 $4,821 per month

T. Jan. 1, 2009 - Dec. 31, 2009 $5,037 per month

U. Jan. 1, 2010 - Dec. 31, 2010 $5,269 per month

V. Jan. 1, 2011 - Dec. 31, 2011 $5,774 per month

W. Jan. 1, 2012 - Dec. 31, 2012 $6,015 per month
X. Jan. 1, 2013 - Dec. 31, 2013 $6,291 per month
Y. Jan. 1, 2014 - Dec. 31, 2014 $6,229 per month
Z. Jan. 1, 2015 - Dec. 31, 2015 $6,659 per month
AA. Jan. 1, 2016 - Dec. 31, 2016 $7,786 per month
BB. Jan. 1, 2017 - Dec. 31, 2017 $7,485 per month
CC. Jan. 1, 2018 - Dec. 31, 2018 $7,025 per month
DD. Jan. 1, 2019 - Dec. 31, 2019 $7,285 per month
EE. Jan. 1, 2020 - Dec. 31, 2020 $7,480 per month
FF. Jan. 1, 2021 - Dec. 31, 2021 $7,590 per month
GG. Jan. 1, 2022 - Dec. 31, 2021 $7,811 per month
HH. Jan. 1, 2023 - Dec. 31, 2023 $8,275 per month
II. Jan. 1, 2024 - Dec. 31, 2024 $8,919 per month
JJ. Jan. 1, 2025 - Dec. 31, 2025 $8,947 per month
KK. Jan. 1, 2026 - $9,209 per month

[8.200.510.13 NMAC - Rp, 8.200.510.13 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.510.15 EXCESS HOME EQUITY AMOUNT FOR LONG-TERM CARE SERVICES:

A. Jan. 2026 $752,000
[**A.**] **B.** Jan. 2025 $730,000
[**B.**] **C.** Jan. 2024 $713,000
[**C.**] **D.** Jan. 2023 $688,000
[**D.**] **E.** Jan. 2022 $636,000
[**E.**] **F.** Jan. 2021 $603,000
[**F.**] **G.** Jan. 2020 $595,000
[**G.**] **H.** Jan. 2019 $585,000
[**H.**] **I.** Jan. 2018 $572,000
[**I.**] **J.** Oct. 2017 $560,000
[**J.**] **K.** Jan. 2017 $840,000
[**K.**] **L.** Jan. 2016 $828,000
[**L.**] **M.** Jan. 2015 $828,000
[**M.**] **N.** Jan. 2014 $814,000
[**N.**] **O.** Jan. 2013 $802,000
[**O.**] **P.** Jan. 2012 $786,000
[**P.**] **Q.** Jan. 2011 $758,000
[**Q.**] **R.** Jan. 2010 $750,000

[8.200.510.15 NMAC - Rp, 8.200.510.15 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A, 3/1/18; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

HEALTH CARE AUTHORITY
MEDICAL ASSISTANCE DIVISION

This is an emergency amendment to 8.200.520 NMAC, Sections 11, 12, 13, 15, 16, and 20, effective 5/1/2026.

8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:

A. One hundred percent federal poverty limits (FPL):

Size of budget group	FPL per month
[~~1~~	~~$1,305*~~
~~2~~	~~$1,763*~~
~~3~~	~~$2,221~~
~~4~~	~~$2,680~~
~~5~~	~~$3,138~~
~~6~~	~~$3,596~~
~~7~~	~~$4,055~~
~~8~~	~~$4,513~~]
1	$1,330*
2	$1,804*
3	$2,277
4	$2,750
5	$3,224
6	$3,697
7	$4,170
8	$4,644

Add [~~$458~~] $474 for each additional person in the budget group.

*FPL must be below one hundred percent for an individual or couple for qualified medicare beneficiary (QMB) program.

B. One hundred twenty percent FPL: This income level is used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants or eligible recipients.

Applicant or eligible recipient		Amount
1	Individual	At least [~~$1,305~~] $1,330 per month but no more than [~~$1,565~~] $1,596 per month.
2	Couple	At least [~~$1,763~~] $1,804 per month but no more than [~~$2,115~~] $2,164 per month.

For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed.

C. One hundred thirty-three percent FPL:

Size of budget group	FPL per month
[~~1~~	~~$1,735~~
~~2~~	~~$2,345~~
~~3~~	~~$2,954~~
~~4~~	~~$3,564~~
~~5~~	~~$4,173~~
~~6~~	~~$4,783~~
~~7~~	~~$5,393~~
~~8~~	~~$6,002~~]
1	$1,769
2	$2,399
3	$3,028
4	$3,658
5	$4,288
6	$4,917
7	$5,547
8	$6,176

Add [~~$609~~] $629 for each additional person in the budget group.

D. One hundred thirty-five percent FPL: This income level

is used only in the determination of the maximum income limit for a qualified individual 1 (QI1) applicant or eligible recipient. For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed. The following income levels apply:

Applicant or eligible recipient		Amount
1	Individual	At least [~~$1,565~~] $1,596 per month but no more than [~~$1,761~~] $1,796 per month.
2	Couple	At least [~~$2,115~~] $2,164 per month but no more than [~~$2,380~~] $2,435 per month.

E. One hundred eighty-five percent FPL:

Size of budget group	FPL per month
[~~1~~	~~$2,413~~
~~2~~	~~$3,261~~
~~3~~	~~$4,109~~
~~4~~	~~$4,957~~
~~5~~	~~$5,805~~
~~6~~	~~$6,653~~
~~7~~	~~$7,501~~
~~8~~	~~$8,349~~]
1	$2,461
2	$3,337
3	$4,212
4	$5,088
5	$5,964
6	$6,839
7	$7,715
8	$8,591

Add [~~$848~~] $876 for each additional person in the budget group.

F. Two hundred percent FPL:

Size of budget group	FPL per month
[~~1~~	~~$2,609~~
~~2~~	~~$3,525~~
~~3~~	~~$4,442~~
~~4~~	~~$5,359~~
~~5~~	~~$6,275~~
~~6~~	~~$7,192~~
~~7~~	~~$8,109~~
~~8~~	~~$9,025~~]
1	$2,660
2	$3,607
3	$4,554
4	$5,500
5	$6,447
6	$7,394
7	$8,340
8	$9,287

Add [~~$916~~] $947 for each additional person in the budget group.

G. Two hundred thirty-five percent FPL:

Size of budget group	FPL per month
[~~1~~	~~$3,065~~
~~2~~	~~$4,142~~
~~3~~	~~$5,219~~
~~4~~	~~$6,297~~
~~5~~	~~$7,374~~
~~6~~	~~$8,451~~
~~7~~	~~$9,528~~
~~8~~	~~$10,605~~]
1	$3,126
2	$4,238
3	$5,351
4	$6,463
5	$7,575
6	$8,688
7	$9,800
8	$10,912

Add [~~$1,077~~] $1,112 for each additional person in the budget group.

H. Two hundred fifty percent FPL:

Size of budget group	FPL per month
[~~1~~	~~$3,261~~
~~2~~	~~$4,407~~
~~3~~	~~$5,553~~
~~4~~	~~$6,698~~
~~5~~	~~$7,844~~
~~6~~	~~$8,990~~
~~7~~	~~$10,136~~
~~8~~	~~$11,282~~]
1	$3,325
2	$4,509
3	$5,692
4	$6,875
5	$8,059
6	$9,242
7	$10,425
8	$11,609

Add [~~$1,146~~] $1,184 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp, 8.200.520.11 NMAC, 8/28/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019, A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.520.12 COST OF LIVING ADJUSTMENT (COLA) DISREGARD COMPUTATION: The countable social security benefit without the COLA is calculated using the COLA increase table as follows:

A. divide the current gross social security benefit by the COLA increase in the most current year; the result is the social security benefit before the COLA increase;

B. divide the result from Subsection A above by the COLA increase from the previous period or year; the result is the social security benefit before the increase for that period or year; and

C. repeat Subsection B above for each year, through the year that the applicant or eligible recipient received both social security benefits and supplemental security income (SSI); the final result is the countable social security benefit.

Continued Next Page

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
1	2026 Jan - Dec	2.8	Jan 26
[~~1~~] **2**	2025 Jan - Dec	2.5	Jan 25
[~~2~~] **3**	2024 Jan - Dec	3.2	Jan 24
[~~3~~] **4**	2023 Jan - Dec	8.7	Jan 23
[~~4~~] **5**	2022 Jan - Dec	5.9	Jan 22
[~~5~~] **6**	2021 Jan - Dec	1.3	Jan 21
[~~6~~] **7**	2020 Jan - Dec	1.6	Jan 20
[~~7~~] **8**	2019 Jan - Dec	2.8	Jan 19
[~~8~~] **9**	2018 Jan - Dec	2.0	Jan 18
[~~9~~] **10**	2017 Jan - Dec	0.3	Jan 17
[~~10~~] **11**	2016 Jan - Dec	0	Jan 16
[~~11~~] **12**	2015 Jan - Dec	1.017	Jan 15
[~~12~~] **13**	2014 Jan - Dec	1.015	Jan 14
[~~13~~] **14**	2013 Jan - Dec	1.017	Jan 13
[~~14~~] **15**	2012 Jan - Dec	1.037	Jan 12
[~~15~~] **16**	2011 Jan - Dec	0	Jan 11
[~~16~~] **17**	2010 Jan - Dec	1	Jan 10
[~~17~~] **18**	2009 Jan - Dec	1	Jan 09
[~~18~~] **19**	2008 Jan - Dec	1.058	Jan 08
[~~19~~] **20**	2007 Jan - Dec	1.023	Jan 07
[~~20~~] **21**	2006 Jan - Dec	1.033	Jan 06
[~~21~~] **22**	2005 Jan - Dec	1.041	Jan 05
[~~22~~] **23**	2004 Jan - Dec	1.027	Jan 04
[~~23~~] **24**	2003 Jan - Dec	1.021	Jan 03
[~~24~~] **25**	2002 Jan - Dec	1.014	Jan 02
[~~25~~] **26**	2001 Jan - Dec	1.026	Jan 01
[~~26~~] **27**	2000 Jan - Dec	1.035	Jan 00
[~~27~~] **28**	1999 Jan - Dec	1.025	Jan 99
[~~28~~] **29**	1998 Jan - Dec	1.013	Jan 98
[~~29~~] **30**	1997 Jan - Dec	1.021	Jan 97
[~~30~~] **31**	1996 Jan - Dec	1.029	Jan 96
[~~31~~] **32**	1995 Jan - Dec	1.026	Jan 95
[~~32~~] **33**	1994 Jan - Dec	1.028	Jan 94
[~~33~~] **34**	1993 Jan - Dec	1.026	Jan 93
[~~34~~] **35**	1992 Jan - Dec	1.03	Jan 92
[~~35~~] **36**	1991 Jan - Dec	1.037	Jan 91
[~~36~~] **37**	1990 Jan - Dec	1.054	Jan 90
[~~37~~] **38**	1989 Jan - Dec	1.047	Jan 89
[~~38~~] **39**	1988 Jan - Dec	1.04	Jan 88
[~~39~~] **40**	1987 Jan - Dec	1.042	Jan 87
[~~40~~] **41**	1986 Jan - Dec	1.013	Jan 86

[~~41~~] 42	1985 Jan - Dec	1.031	Jan 85
[~~42~~] 43	1984 Jan - Dec	1.035	Jan 84
[~~43~~] 44	1982 Jul - 1983 Dec	1.035	Jul 82
[~~44~~] 45	1981 Jul - 1982 Jun	1.074	Jul 81
[~~45~~] 46	1980 Jul - 1981 Jun	1.112	Jul 80
[~~46~~] 47	1979 Jul - 1980 Jun	1.143	Jul 79
[~~47~~] 48	1978 Jul - 1979 Jun	1.099	Jul 78
[~~48~~] 49	1977 Jul - 1978 Jun	1.065	Jul 77
[~~49~~] 50	1977 Apr - 1977 Jun	1.059	Apr 77

[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.520.13 FEDERAL BENEFIT RATES (FBR) AND VALUE OF ONE-THIRD REDUCTION (VTR):

Year	Individual	Institution	Individual	Couple	Institution	Couple
	FBR	FBR	VTR	FBR	FBR	VTR
1/89 to 1/90	$368	$30	$122.66	$553	$60	$184.33
1/90 to 1/91	$386	$30	$128.66	$579	$60	$193.00
1/91 to 1/92	$407	$30	$135.66	$610	$60	$203.33
1/92 to 1/93	$422	$30	$140.66	$633	$60	$211.00
1/93 to 1/94	$434	$30	$144.66	$652	$60	$217.33
1/94 to 1/95	$446	$30	$148.66	$669	$60	$223.00
1/95 to 1/96	$458	$30	$152.66	$687	$60	$229.00
1/96 to 1/97	$470	$30	$156.66	$705	$60	$235.00
1/97 to 1/98	$484	$30	$161.33	$726	$60	$242.00
1/98 to 1/99	$494	$30	$164.66	$741	$60	$247.00
1/99 to 1/00	$500	$30	$166.66	$751	$60	$250.33
1/00 to 1/01	$512	$30	$170.66	$769	$60	$256.33
1/01 to 1/02	$530	$30	$176.66	$796	$60	$265.33
1/02 to 1/03	$545	$30	$181.66	$817	$60	$272.33
1/03 to 1/04	$552	$30	$184.00	$829	$60	$276.33
1/04 to 1/05	$564	$30	$188	$846	$60	$282.00
1/05 to 1/06	$579	$30	$193	$869	$60	$289.66
1/06 to 1/07	$603	$30	$201	$904	$60	$301.33
1/07 to 1/08	$623	$30	$207.66	$934	$60	$311.33
1/08 to 1/09	$637	$30	$212.33	$956	$60	$318.66
1/09 to 1/10	$674	$30	$224.66	$1,011	$60	$337
1/10 to 1/11	$674	$30	$224.66	$1,011	$60	$337
1/11 to 1/12	$674	$30	$224.66	$1,011	$60	$337

1/12 to 1/13	$698	$30	$232.66	$1,048	$60	$349.33
1/13 to 1/14	$710	$30	$237	$1,066	$60	$355
1/14 to 1/15	$721	$30	$240	$1,082	$60	$361
1/15 to 12/15	$733	$30	$244	$1,100	$60	$367
1/16 to 12/16	$733	$30	$244	$1,100	$60	$367
1/17 to 12/17	$735	$30	$245	$1,103	$60	$368
1/18 to 12/18	$750	$30	$250	$1,125	$60	$375
1/19 to 12/19	$771	$30	$257	$1,157	$60	$386
1/20 to 12/20	$783	$30	$261	$1,175	$60	$392
1/21 to 12/21	$794	$30	$264.66	$1,191	$60	$397
1/22 to 12/22	$841	$30	$280.33	$1,261	$60	$420.50
1/23 to 12/23	$914	$30	$304.66	$1,371	$60	$456.99
1/24 to 12/24	$943	$30	$314.33	$1,415	$60	$471.66
1/25 to 12/25	$967	$30	$322.33	$1,450	$60	$483.33
1/26 to 12/26	$994	$30	$331.33	$1,491	$60	$496.99

A. Ineligible child deeming allocation is [~~$483~~] $497.

B. Part B premium is [~~$185~~] $202.90 per month.

C. VTR (value of one third reduction) is used when an individual or a couple lives in the household of another and receives food and shelter from the household or when the individual or the couple is living on their own household but receiving support and maintenance from others.

D. The SSI resource standard is $2000 for an individual and $3000 for a couple.

[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

A. Individual living in their own household who own or rent:

Payment amount: [~~$967~~] $994 Individual
[~~$1,450~~] $1,491 Couple

B. Individual receiving support and maintenance payments: For an individual or couple living in their own household, but receiving support and maintenance from others (such as food, shelter or clothing), subtract the value of one third reduction (VTR).

Payment amount:
[~~$967 - $322.33 = $644.67~~] $994 - $331.33 = $662.67 Individual
[~~$1,450 – $483.33 = $966.67~~] $1,491 - $469.99 = $1,021.01 Couple

C. Individual or couple living household of another: For an individual or couple living in another person's household and not contributing their pro-rata share of household expenses, subtract the VTR.

Payment amount:
[~~$967 - $322.33 = $644.67~~] $994 - $331.33 = $662.67 Individual
[~~$1,450 – $483.33 = $966.67~~] $1,491 - $469.99 = $1,021.01 Couple

D. Child living in home with their parent:

Payment amount: [~~$967~~] $994

E. Individual in institution:

Payment amount: $30.00

[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES: Effective January 1, [~~2024~~] 2026, the maximum countable monthly income standard for institutional care medicaid and the home and community

based waiver categories is [~~$2,901~~] $2,982.
[8.200.520.16 NMAC - Rp, 8.200.520.16 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E. 5/1/2026]

8.200.520.20 COVERED QUARTER INCOME STANDARD:

Date	Calendar Quarter Amount
Jan. 2026 - Dec. 2026	$1,890 per calendar quarter
Jan. 2025 - Dec. 2025	$1,810 per calendar quarter
Jan. 2024 - Dec. 2024	$1,730 per calendar quarter
Jan. 2023 - Dec. 2023	$1,640 per calendar quarter
Jan. 2022 - Dec. 2022	$1,510 per calendar quarter
Jan. 2021 - Dec. 2021	$1,470 per calendar quarter
Jan. 2020 - Dec. 2020	$1,410 per calendar quarter
Jan. 2019 - Dec. 2019	$1,360 per calendar quarter
Jan. 2018 - Dec. 2018	$1,320 per calendar quarter
Jan. 2017 - Dec. 2017	$1,300 per calendar quarter
Jan. 2016 - Dec. 2016	$1,260 per calendar quarter
Jan. 2015 - Dec. 2015	$1,220 per calendar quarter
Jan. 2014 - Dec. 2014	$1,200 per calendar quarter
Jan. 2013 - Dec. 2013	$1,160 per calendar quarter
Jan. 2012 - Dec. 2012	$1,130 per calendar quarter
Jan. 2011 - Dec. 2011	$1,120 per calendar quarter
Jan. 2010 - Dec. 2010	$1,120 per calendar quarter
Jan. 2009 - Dec. 2009	$1,090 per calendar quarter
Jan. 2008 - Dec. 2008	$1,050 per calendar quarter
Jan. 2007 - Dec. 2007	$1,000 per calendar quarter
Jan. 2006 - Dec. 2006	$970 per calendar quarter
Jan. 2005 - Dec. 2005	$920 per calendar quarter
Jan. 2004 - Dec. 2004	$900 per calendar quarter
Jan. 2003 - Dec. 2003	$890 per calendar quarter
Jan. 2002 - Dec. 2002	$870 per calendar quarter

[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 03/01/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

HEALTH CARE AUTHORITY
MEDICAL ASSISTANCE DIVISION

This is an emergency amendment to 8.291.430 NMAC, Section 10, effective 5/1/2026.

8.291.430.10 FEDERAL POVERTY LEVEL (FPL): This part contains the monthly federal poverty level table for use in determining monthly income standards for MAP categories of eligibility outlined in 8.291.400.10 NMAC:

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	[~~$1,305~~] $1,330	[~~$1,735~~] $1,769	[~~$1,800~~] $1,836	[~~$2,478~~] $2,527	[~~$3,130~~] $3,192	[~~$3,261~~] $3,325	[~~$3,913~~] $3,990
2	[~~$1,763~~] $1,804	[~~$2,345~~] $2,399	[~~$2,433~~] $2,489	[~~$3,349~~] $3,427	[~~$4,230~~] $4,328	[~~$4,407~~] $4,509	[~~$5,288~~] $5,410
3	[~~$2,221~~] $2,277	[~~$2,954~~] $3,028	[~~$3,065~~] $3,142	[~~$4,220~~] $4,326	[~~$5,330~~] $5,464	[~~$5,553~~] $5,692	[~~$6,663~~] $6,830

4	[~~$2,680~~] $2,750	[~~$3,564~~] $3,658	[~~$3,698~~] $3,795	[~~$5,091~~] $5,225	[~~$6,430~~] $6,600	[~~$6,698~~] $6,875	[~~$8,038~~] $8,250
5	[~~$3,138~~] $3,224	[~~$4,173~~] $4,288	[~~$4,330~~] $4,449	[~~$5,962~~] $6,125	[~~$7,530~~] $7,736	[~~$7,844~~] $8,059	[~~$9,413~~] $9,670
6	[~~$3,596~~] $3,697	[~~$4,783~~] $4,917	[~~$4,963~~] $5,102	[~~$6,833~~] $7,024	[~~$8,630~~] $8,872	[~~$8,990~~] $9,242	[~~$10,788~~] $11,090
7	[~~$4,055~~] $4,170	[~~$5,393~~] $5,547	[~~$5,595~~] $5,755	[~~$7,703~~] $7,923	[~~$9,730~~] $10,008	[~~$10,136~~] $10,425	[~~$12,163~~] $12,510
8	[~~$4,513~~] $4,644	[~~$6,002~~] $6,176	[~~$6,228~~] $6,408	[~~$8,574~~] $8,823	[~~$10,830~~] $11,144	[~~$11,282~~] $11,609	[~~$13,538~~] $13,930
+1	[~~$458~~] $474	[~~$609~~] $629	[~~$633~~] $653	[~~$871~~] $900	[~~$1,100~~] $1,136	[~~$1,146~~] $1,184	[~~$1,375~~] $1,420

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11/16/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A, 12/1/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024; A, 8/1/2024; A/E, 4/1/2025; A, 8/1/2025; A/E, 5/1/2026]

PUBLIC DEFENDER COMMISSION

This is an amendment to 10.12.6 NMAC, repealing Section 12, and amending Section 13, effective 5/5/2026.

10.12.6.12 [~~RESCISSION OF RESIGNATION:~~ ~~An employee may rescind a letter of resignation within three workdays of its submission and the agency must honor the rescission if it is submitted within the prescribed time limit.~~] [RESERVED]

[10.12.6.12 NMAC - N, 7/1/2015; Repealed, 5/5/2026]

10.12.6.13 EMPLOYEE COMPLAINTS:

A. Employees are provided with an in-house method for resolving complaints. All employees are encouraged to resolve complaints at the lowest level and informally if possible. Employees are encouraged to contact the human resource human resource director before filing a formal written complaint. A complaint may be withdrawn at any time by the initiating party. Employees who utilize the formal complaint procedure or participate in the investigation of any complaint will not be subject to retaliation for participation. The employee filing the complaint is responsible for ensuring all the time limits are followed. Time limits may be waived by the complainant at any time.

B. Complaints pursuant to these sections must be submitted in writing and must include the following information:

(1) Employee name, job title, work location, date the complaint is filed and work phone number.

(2) A description and the date of the alleged incident for which the complaint is filed.

(3) The relief requested.

(4) The employee signature.

C. The complaint procedure has three levels:

(1) Level One.

(a) The employee shall present the complaint in writing to the immediate supervisor or to the district defender if the complaint is against the immediate supervisor, within 10 calendar days after the complainant became aware or reasonably could have been aware, of the incident giving rise to the complaint.

(b) The supervisor or district defender notifies the human resource director to coordinate investigation of the complaint and the response to the employee. The response is due 10 calendar days from the date that the supervisor is made aware of the complaint. This response will be made in writing after review by the human resource director.

(c) If the complainant determines that the supervisor or district defender's decision is unsatisfactory, the employee may appeal directly to the deputy chief. The appeal is due within 10 calendar days of the level one response.

(d) If the level one complaint does not receive a response within 10 calendar days, the complaint shall be deemed denied and the employee may submit the complaint to the next level.

(2) Level Two.

(a) If the complaint is against the district defender or seeks to appeal the response in level one the employee may submit the complaint to the deputy chief within 10 calendar days after the complainant became aware or reasonably could have been aware, of the incident giving rise to the complaint or after the response, if any, is provided in level one.

(b) The complaint should include the response received in level one, if any, and the reasons that the response was unsatisfactory.

(c) The employee or the deputy chief sends a copy of the complaint to the human resources human resource director.

(d)
Where appropriate the deputy chief reviews the level one complaint and response.

(e)
The deputy chief determines if additional information is necessary or if an informal meeting is appropriate and attempts to resolve the matter.

(f)
The deputy chief's decision will be returned within 14 calendar days.

(g)
A copy of the response will be send to the human resources human resource director.

(h)
If the complainant determines that the deputy chief's decision is unsatisfactory, the employee may appeal directly to the chief. The appeal is due within [~~14~~] 10 calendar days of the level two response.

(i)
If the level two complaint does not receive a response within 14 calendar days, the complaint shall be deemed denied and the employee may submit the complaint to the next level.

(3) Level Three.

(a)
If the complaint is against the deputy chief or seeks to appeal the response in level two the employee may submit the complaint to the chief within 10 calendar days after the complainant became aware or reasonably could have been aware, of the incident giving rise to the complaint or after the response, if any, is provided in level two.

(b)
The complaint should include the previous response(s), if any, and the reason that the previous responses were unsatisfactory.

(c)
A copy of the appeal is sent to the human resources human resource director.

(d)
The chief determines if additional information or informal meetings are needed prior to making a final decision and responds to the complaint in writing within 21 days.

(e)
A copy of the response is sent to the human resource director.

D. After exhausting internal procedures, a complainant may appeal to outside agencies.

(1)
Complaints alleging discrimination may be appealed to the department of workforce solutions, human rights division within 180 calendar days of the alleged act; or

(2) to the equal employment opportunity commission within 300 calendar days of the alleged act.

[10.12.6.13 NMAC - N, 7/1/2015; A, 5/5/2026]

PUBLIC DEFENDER COMMISSION

This is an amendment to 10.12.7 NMAC, Section 10 effective 5/5/2026.

10.12.7.10 SICK LEAVE:

A. Employees, except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA leave, or suspension without pay, shall accrue sick leave at the rate of [~~3.69~~] 4.00 hours per pay period.

B. Employees employed on a part-time basis and employees on furlough who work at least eight hours in a pay period shall accrue sick leave on a prorated basis.

C. Sick leave may not be used before it is accrued and must be authorized or denied according to department policy.

D. An employee may use sick leave for personal medical treatment or illness or for medical treatment or illness of a relation by blood or marriage within the third degree, or of a person residing in the employee's household. Employees affected by pregnancy, childbirth, and related medical conditions must be treated the same as persons affected by other medical conditions.

E. There is no limit to the amount of sick leave that may be accrued.

F. No payment shall be made for accrued sick leave at the time of separation from the department except as provided by law.

G. Former employees who were laid off and are returned to work in accordance with the provisions of 10.12.10 NMAC shall have restored the sick leave they had accrued as of the date of layoff.

H. The department may authorize an employee to use accrued sick leave to attend the funeral of a relation by blood or marriage within the third degree, or of a person residing in the employee's household.

I. Payment for accumulated sick leave:

(1) In accordance with the provisions of Section 10-7-10 NMSA 1978, employees who have accumulated 600 hours of unused sick leave are entitled to be paid for unused sick leave in excess of 600 hours at a rate equal to fifty percent of their hourly rate of pay for up to 120 hours of sick leave. Payment for unused sick leave may be made only once per fiscal year on either the payday immediately following the first full pay period in January or the first full pay period in July.

(2)
Immediately prior to retirement from the department, employees who have accumulated 600 hours of unused sick leave are entitled to be paid for unused sick leave in excess of 600 hours at a rate equal to fifty percent of their hourly rate for up to 400 hours of sick leave.

[10.12.7.10 NMAC - N, 7/1/2015; A, 5/5/2026]

REGULATION AND LICENSING DEPARTMENT
ACUPUNCTURE AND ORIENTAL MEDICINE

The New Mexico Board Acupuncture and Oriental Medicine reviewed at its 1/16/2026 hearing, to repeal its rule 16.2.9 NMAC, Acupuncture and Oriental Medicine Practitioners

- Continuing Education filed 11/1/2001) and replace it with 16.2.9 NMAC, Acupuncture and Oriental Medicine Practitioners - Continuing Education, adopted 2/26/2026 and effective 5/5/2026.

REGULATION AND LICENSING DEPARTMENT
ACUPUNCTURE AND ORIENTAL MEDICINE

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 2 ACUPUNCTURE AND ORIENTAL MEDICINE PRACTITIONERS
PART 9 CONTINUING EDUCATION

16.2.9.1 ISSUING AGENCY: New Mexico Board of Acupuncture and Oriental Medicine.
[16.2.9.1 NMAC - Rp, 16.2.9.1 NMAC 5/5/2026]

16.2.9.2 SCOPE: All licensed doctors of oriental medicine and all licensed doctors of oriental medicine certified for expanded practice as defined in 16.2.19 NMAC.
[16.2.9.2 NMAC - Rp, 16.2.9.2 NMAC 5/5/2026]

16.2.9.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-8, 8.1, 9, and 15, NMSA 1978.
[16.2.9.3 NMAC - Rp, 16.2.9.3 NMAC 5/5/2026]

16.2.9.4 DURATION: Permanent.
[16.2.9.4 NMAC - Rp, 16.2.9.4 NMAC 5/5/2026]

16.2.9.5 EFFECTIVE DATE: May 5, 2026, unless a later date is cited at the end of a section.
[16.2.9.5 NMAC - Rp, 16.2.9.5 NMAC 5/5/2026]

16.2.9.6 OBJECTIVE: This part defines continuing education requirements for doctors of oriental medicine and all licensed doctors of oriental medicine certified for expanded practice as defined in 16.2.19 NMAC.
[16.2.9.6 NMAC - Rp, 16.2.9.6 NMAC 5/5/2026]

16.2.9.7 DEFINITIONS: Refer to definitions in 16.2.1.7 NMAC.
[16.2.9.7 NMAC - Rp, 16.2.9.7 NMAC 5/5/2026]

16.2.9.8 CONTINUING EDUCATION:

A. A doctor of oriental medicine shall complete continuing education in oriental medicine equivalent to that required by the national certification commission for acupuncture and oriental medicine (NCCAOM). A doctor of oriental medicine shall submit to the board at the time of license renewal either of the following:

(1) proof of continuing NCCAOM recertification in oriental medicine, or in both acupuncture and Chinese herbology, or in acupuncture only if licensed prior to 1997; or

(2) proof of completion of 15 hours annually, or 60 hours every four years, of NCCAOM approved continuing education courses or of courses approved by other acupuncture or oriental medicine licensing authorities;

(3) a course taken for initial certification in expanded practice may not also be used for continuing education required for annual license renewal.

B. proof of current basic life support, BLS, and CPR with proof of having completed an American heart association or American red cross approved course, or American safety and health institute; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of each annual license renewal.

C. A doctor of oriental medicine who is a board approved examiner, examiner supervisor, or examiner trainer, for the clinical skills examination, shall be granted continuing education credit for time spent functioning as an examiner or training to be an examiner. This also applies to an observing board member who has completed the training. The continuing education credit is limited to 12 hours per year.

D. The board shall annually audit a random ten percent of continuing education documentation to determine the validity of the documentation. An individual who submits records or a sworn affidavit on their renewal application to demonstrate compliance with continuing education requirements but is found to be noncompliant during a random audit will be subject to fines and other penalties determined appropriate by the board.

E. A doctor of oriental medicine who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978, et seq.

F. A doctor of oriental medicine shall maintain an understanding of the current act and rules.
[16.2.9.8 NMAC - Rp, 16.2.9.8 NMAC 5/5/2026]

16.2.9.9 CONTINUING EDUCATION FOR LICENSEES CERTIFIED FOR EXPANDED PRACTICE: In addition to the continuing education requirements listed in 16.2.9.8 NMAC, doctors of oriental medicine previously certified in expanded practice are subject to the following requirements beginning August 1, 2013:

A. a doctor of oriental medicine certified for expanded practice in one or more areas as defined in 16.2.19 NMAC shall complete continuing education hours as follows:

(1) three hours every three years for recertification in basic injection therapy;

(2) seven hours every three years for recertification in injection therapy;

(3) seven hours every three years for recertification in intravenous therapies; and

(4) seven hours every three years for recertification in bioidentical hormone therapy;

(5) except that a doctor of oriental medicine recertifying in injection therapy or intravenous therapy need not complete an additional three hours in basic injection therapy;

(6) a doctor of oriental medicine certified in basic injection therapy, injection therapy or intravenous therapy must complete an America society of health-systems pharmacists (ASHP) accredited course relative to USP 797 prior to July 31, 2016; and every (six years thereafter; and)

(7) doctors of oriental medicine previously certified as Rx1 shall need seven hours, every three years, for recertification in prolotherapy as specified in 16.2.19.16 NMAC.

B. license holders who are newly certified for expanded practice shall complete continuing education hours on a prorated basis during the first years(s) of certification, and then shall comply with recertification requirements every three years thereafter;

C. courses approved for recertification taken within 120 days prior to a renewal cycle may be carried over and applied to the next renewal cycle but may not be used for both renewal cycles.

D. the continuing education shall be about substances in the board approved appropriate expanded practice formulary or formularies defined in 16.2.20 NMAC or updated information in improving current techniques or other techniques that are part of the expanded practice certification as defined in 16.2.19 NMAC;

E. continuing education courses, including teachers, shall be approved by the board:

(1) course providers requesting approval for Rx continuing education certification shall be required to submit the following materials to the board for approval no less than 45 days prior to the date of the course offering and the materials shall include:

(a) an application fee as defined in Subsection C of 16.2.10.9 NMAC;

(b) course description, including objectives, subject matter, number of hours, date time and location; and

(c) curriculum vitae of the instructor(s) including previous experience of at least five years in subjects they are engaged to teach;

(2) courses approved by national providers of continuing medical education (CME) are recognized by the board as approved providers for expanded practice continuing education units (CEU) including but not limited to A4M, ACAM, AMA, IFM;

(3) individual practitioners requesting approval for a specific course that has not already been approved as defined in Paragraph (2) of Subsection D of 16.2.9.9 NMAC, for their own personal continuing education shall submit a copy of the course brochure including a course description, subject matter, contact hours, and curriculum vitae of the instructor 45 days prior to the course offering;

(4) the continuing education committee shall meet each month on or before the 15th to review course materials if applications have been submitted; electronic review is acceptable;

(5) a doctor of oriental medicine certified for expanded practice in basic injection, injection or intravenous therapies must remain current in basic life support, BLS, and CPR with proof of having completed an American heart association, American red cross, or American safety and health institute approved course; hands-on supervised practice of clinical skills is required; the didactic portion may be completed on-line; a current copy of this card shall be submitted to the board at the time of each triennial expanded practice certification renewal.

F. continuing education that is appropriate for regularly licensed doctors of oriental medicine shall not be considered as fulfilling the above requirements for expanded practice continuing education;

(1) teaching an approved continuing education course shall be equivalent to taking the approved course; the first time that the course is offered;

(2) the board may determine specific mandatory courses that must be completed; specific mandatory courses shall be noticed at least six months prior to the date of the course; exceptions to being required to complete a specific mandatory course may be made for good cause.

[16.2.9.9 NMAC - Rp, 16.2.9.9 NMAC 5/5/2026]

History of 16.2.9 NMAC:
Pre-NMAC History: None.

History of Repealed Material:
16 NMAC 2.9, Continuing Education filed 6/14/1996 repealed effective 12/1/2001.
16.2.9 NMAC - Continuing Education filed 11/1/2001) Repealed effective 5/5/2026.

Other History:
16 NMAC 2.9, Continuing Education (filed 6/14/1996) was replaced by 16.2.9 NMAC, Continuing Education, effective 12/1/2001.
16.2.9 NMAC - Continuing Education filed 11/1/2001) Replaced by 16.2.9 NMAC - Continuing Education effective 5/5/2026.

REGULATION AND LICENSING DEPARTMENT
ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.10 NMAC, Section 9 effective 5/5/2026.

16.2.10.9 FEES CHARGED:

A. All fees shall be paid by check [certified check or money order] certified check, credit card, money order, or electronic payment. in US funds unless otherwise specified by rule.

B. No fees paid to the board shall be refunded.

C. The board shall charge the following fees:

(1) application for licensure: $525.00;

(2) application for expedited licensure: $750.00;

(3) application for licensure by endorsement: $525.00;

(4) application for temporary licensure: $330.00;

(5) application for limited temporary license: $100.00;

(6) clinical skills examination, not including the cost of any nationally recognized examinations: $500.00;

(7) annual license renewal: $225.00;

(8) late license renewal: an additional $200.00;

(9) expired license renewal: an additional $350.00 plus the renewal and late fees;

(10) temporary license renewal: $100.00;

(11) application for a new annual approval or renewal of approval of an educational program, including the same program offered at multiple campuses: $450.00;

(12) late renewal of approval of an educational program: an additional $200.00;

(13) application for single instance approval of an educational program: $225.00;

(14) application for initial expanded practice certification: $100.00 per module;

(15) application for triennial expanded practice license renewal: an additional $200;

(16) late expanded practice license renewal: an additional $125.00 plus the renewal fee;

(17) expired expanded practice license renewal: an additional $100.00 plus the renewal and late fees;

(18) application for externship supervisor registration: $225.00;

(19) application for extern certification: $225.00;

(20) continuing education provider course approval application: $50.00;

(21) auricular detoxification specialist certification application: $50.00;

(22) auricular detoxification specialist certification renewal: $30.00;

(23) auricular detoxification specialist certification late renewal: $20.00;

(24) auricular detoxification specialist supervisor registration application: $50.00;

(25) auricular detoxification specialist training program approval application: $100.00;

(26) auricular detoxification specialist training program approval renewal: $50.00;

(27) treatment program approval application: $100.00;

(28) administrative fee for application for approval of an expanded practice educational course: $600.00;

(29) administrative fee for faculty changes in an expanded practice course: $50.00;

(30) administrative fee for curriculum changes in an expanded practice course: $150.00;

(31) renewal of expanded prescriptive authority course: $200.00;

(32) administrative fee for inactive license application: $125.00;

(33) administrative fee for inactive license renewal: $100.00;

(34) administrative fee for inactive license reinstatement application: $125.00;

(35) administrative fee for each duplicate license: $30.00;

(36) administrative fee for a single transcript or diploma from the former international institute of Chinese medicine, per copy: $50.00;

(37) administrative fees to cover the cost of photocopying, electronic data, lists and labels produced at the board office.

(38) administrative fee for returned check, returned electronic check, or returned payment: $35.00.

(39) administrative fee for electronic processing: $10.00 per year.

[16.2.10.9 NMAC - Rp, 16.2.10.9 NMAC 10/22/2024; A, 5/5/2026.

REGULATION AND LICENSING DEPARTMENT
ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.14 NMAC, Sections 9, 10, 12, 13, 16 & 17 effective 5/5/2026.

16.2.14.9 EDUCATIONAL AND EXAMINATION REQUIREMENTS FOR EXTERNS:

A. An extern applicant shall provide satisfactory proof that they have completed a board approved educational program.

B. An extern applicant shall provide satisfactory proof from the national certification commission for acupuncture and oriental medicine that they have successfully passed the following:

(1) the national certification commission for acupuncture and oriental medicine foundations of oriental medicine module; and

(2) the national certification commission for

acupuncture and oriental medicine approved clean needle technique course; and

(3) the national certification commission for acupuncture and oriental medicine point location module.

C. An extern applicant must have graduated from a board approved educational program within [~~12~~] 24 months of filing the application for extern certification. [16.2.14.9 NMAC - Rp, 16.2.14.9 NMAC, 2/11/2022; A, 5/5/2026]

16.2.14.10 EXTERN CERTIFICATION APPLICATION: Upon submission of complete application for extern certification that fulfills the requirements listed below, the board shall issue an extern certification. In no event shall the applicant begin the practice of acupuncture and oriental medicine until the extern certification is issued by the board:

A. the fee for application for extern certification specified in 16.2.10 NMAC;

B. a complete application for extern certification in English that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number, if available;

C. an affidavit as provided on the "extern certification application" as to whether the applicant:

(1) has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings; or

(2) has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) is in arrears on a court-ordered child support payment; or

(4) has violated any provision of the act or the rules; and

D. an affidavit as provided on the "extern certification application" stating that the applicant is an applicant for licensure; and

E. an affidavit as provided on the "extern certification application" stating that the applicant understands that:

(1) an applicant who has been subject to any action or proceeding comprehended by Subsection D of 16.2.3.10 NMAC may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978; and subject to the Uniform Licensing Act, Section 61-1-1 NMSA 1978, and subject to the Criminal Offender Employment Act, Section 28-2-1 NMSA 1978; and

(2) an applicant who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, Section 61-1-1 NMSA 1978; and

(3) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine; and

(4) the scope of practice of an extern shall be limited to the practice of acupuncture and oriental medicine as defined in the act and 16.2.2 NMAC, except that the extern shall not prescribe or administer any herbal, nutritional, homeopathic or any other medicines or substances; when diagnosing and treating a patient, the extern shall practice only within the limits of his or her education and training; the extern shall possess and apply the knowledge, and use the skill and care ordinarily used by reasonably well-qualified doctors of oriental medicine practicing under similar circumstances, giving due consideration to their limited clinical experience; and

(5) the extern certification shall expire automatically [~~12~~] 24 months after the date of issuance unless the certificate expires sooner for any of the following reasons:

(a) upon licensure;

(b) if the extern fails the board's clinical skills examination more than [~~once~~] twice; or

(c) if the extern is no longer under the supervision of the externship supervisor; and

(6) if the externship relationship terminates before the expiration of the extern certification, the extern may reapply to be supervised by another externship supervisor by filing the appropriate forms required by the board; the extern certification time limit of [~~12~~] 24 months shall remain the same and shall not be extended; and

(7) in no event shall an extern practice under extern certification(s) for more than a total of [~~12~~] 24 months or after failing the board's clinical skills examination more than [~~once~~] twice; the extern certification is not renewable; exceptions for good cause shall not apply to the extern certification; and

(8) the applicant must notify the board within ten days if the applicant's address changes; and

(9) the board may refuse to issue, or may suspend, or revoke any license, extern certification or externship supervisor registration in accordance with the

Uniform Licensing Act, Sections 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the act and clarified in 16.2.12 NMAC.

F. an accurate translation in English of all documents submitted in a foreign language; each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and faithful translation of the foreign language original; each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and faithful translation of the original; each affidavit shall be signed before a notary public; the translation of any document relevant to an application shall be at the expense of the applicant.

[16.2.14.10 NMAC - N, 1/1/2001; A, 7/26/200; A, 10/22/2024; A, 5/5/2026]

16.2.14.12 ISSUANCE OF EXTERNSHIP SUPERVISOR REGISTRATION: Upon submission of a complete application for externship supervisor registration that fulfills the requirements listed below, the board shall issue an externship supervisor registration. In no event shall the externship supervisor begin supervising an extern until the externship supervisor registration is issued by the board. The application requirements for an externship supervisor registration shall be receipt of the following by the board:

A. the fee for application for externship supervisor registration specified in 16.2.10 NMAC;

B. a complete application for externship supervisor registration in English that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number, if available;

C. proof of five years of clinical experience; and

D. proof of maintaining a clinical facility; and

E. proof of appropriate professional and facility insurance; and

F. an affidavit as provided on the "extern supervisor registration application" stating that the applicant understands that:

(1) the scope of practice of an extern shall be limited to the practice of acupuncture and oriental medicine as defined in the act and 16.2.2 NMAC, except that the extern shall not prescribe or administer any herbal, nutritional, homeopathic or any other medicines or substances; when diagnosing and treating a patient, the extern shall practice only within the limits of his or her education and training; the extern shall possess and apply the knowledge, and use the skill and care ordinarily used by reasonably well-qualified doctors of oriental medicine practicing under similar circumstances, giving due consideration to their limited clinical experience; and

(2) the extern certification shall expire automatically [~~12~~] 24 months after the date of issuance unless the certificate expires sooner for any of the following reasons:

(a) upon licensure;

(b) if the extern fails the board's clinical skills examination more than [~~once~~] twice; or

(c) if the extern is no longer under the supervision of the externship supervisor; and

(3) in no event shall an extern practice under extern certification(s) for more than a total of [~~12~~] 24 months or after failing the board's clinical skills examination more than [~~once~~] twice; the extern certification is not renewable; exceptions for good cause shall not apply to the extern certification; and

(4) the extern supervisor shall not be a member of the extern's family or a member of the extern's household or have a conflict of interest with the extern as defined in 16.2.14.19 NMAC; and

G. an affidavit as provided on the "extern supervisor registration application" stating that the applicant understands that the externship supervisor shall:

(1) provide a clinical environment where the extern is able to further his or her knowledge and apply acupuncture and oriental medicine theory and techniques; and

(2) directly supervise the extern on the premises of the treating facility at all times and be available for consultation, intervention, and decisions about patient care; and

(3) supervise no more than two externs at any given time and have no more than two externs in his or her externship program at a time; and

(4) inform patients with a written signed consent form outlining the responsibility of the extern and the scope and limits of practice; and

(5) prescribe all herbal, nutritional, homeopathic and any natural substances; any recommendations of these substances by the extern must be signed by the externship supervisor; and

(6) approve the diagnosis and treatment plan and oversee the techniques of oriental medicine and delivery of patient care; and

(7) notify the board in writing, within five days working days, when the extern enters into an extern supervisory contract with the externship supervisor or terminates the externship participation; and

(8) be responsible for the delivery of competent professional services, obtaining patient consents, and maintaining patient records; and

(9) document approval and oversight of diagnosis, treatment, and patient care in the patient's permanent file; and

(10) terminate the externship relationship if the externship supervisor has the

reasonable belief that the extern has violated the act or the rules or if a conflict of interest arises during the supervision; the externship supervisor shall notify the board, in writing, within five working days that the externship relationship is terminated and give the reasons for the termination; and

(11) the extern supervisor must notify the board within ten days if the extern supervisor's address changes; and

(12) the board may refuse to issue, or may suspend, or revoke any license, externship supervisor registration or externship supervisor registration in accordance with the Uniform Licensing Act, Sections 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the act and clarified in 16.2.12 NMAC.

[16.2.14.12 NMAC - Rp, 16.2.14.12 NMAC, 2/11/2022; A, 10/22/2024; A, 5/5/2026]

16.2.14.13 CHANGE OF EXTERNSHIP SUPERVISOR: If the externship relationship terminates before the expiration of the extern certification, the extern may reapply to be supervised by another externship supervisor by filing the appropriate forms required by the board. The extern certification time limit of [~~12~~] 24 months shall remain the same and shall not be extended.

[16.2.14.13 NMAC - Rp, 16.2.14.13 NMAC, 2/11/2022; A, 5/5/2026]

16.2.14.16 EXTERN LIMITATIONS: In no event shall an extern practice under extern certification(s) for more than a total of [~~12~~] 24 months or after failing the board's clinical skills examination more than [~~once~~] twice. The extern certification is not renewable. Exceptions for good cause shall not apply to the extern certification.

[16.2.14.16 NMAC - Rp, 16.2.14.16 NMAC, 2/11/2022; A, 5/5/2026]

16.2.14.17 EXPIRATION OF AN EXTERN CERTIFICATION: An Extern certification shall expire automatically [~~12~~] 24 months after the date of issuance unless the certificate expires sooner for any of the following reasons:

A. Upon licensure;

B. If the extern fails the board's clinical skills examination more than once; or

C. If the extern is no longer under the supervision of the externship supervisor.

[16.2.14.17 NMAC - Rp, 16.2.14.17 NMAC, 2/11/2022; A, 5/5/2026]

REGULATION AND LICENSING DEPARTMENT
ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.16 NMAC, Section 17 and 18 effective 5/5/2026.

16.2.16.17 AURICULAR DETOXIFICATION SPECIALIST SUPERVISOR REQUIREMENTS AND RESPONSIBILITIES:

A. The auricular detoxification specialist supervisor shall:

(1) be a licensed doctor of oriental medicine;

(2) be registered with the board as an auricular detoxification specialist supervisor;

(3) supervise no more than [~~30~~]-40 certified auricular detoxification specialists;

(4) be accessible for consultation directly or by telephone to a certified auricular detoxification specialist under his or her supervision;

(5) directly visit each certified auricular detoxification specialist under their supervision at the treatment program site at intervals of at least once every 12 weeks with the first visit occurring not more than four weeks after supervision has begun for the first year, then at least once per year thereafter at the supervisor's discretion with regular meetings by electronic methods (telephone, email, teleconferencing as examples) at intervals to be determined by the supervisor;

(6) be responsible for having each certified auricular detoxification specialist under their supervision require each patient to complete a written, signed consent form outlining the responsibilities of the certified auricular detoxification specialist, the nature of the treatment, expected outcomes, and the scope and limits of practice;

(7) ensure that the certified auricular detoxification specialist is following a board approved treatment protocol; and

(8) notify the board in writing, within five working days, when a certified auricular detoxification specialist enters into a supervisory relationship with the auricular detoxification specialist supervisor, or the supervisory relationship is terminated; and

B. an auricular detoxification specialist supervisor shall be responsible for the delivery of competent, professional services and ensuring that patient consents are obtained; and

C. the auricular detoxification specialist supervisor shall terminate the supervisory relationship if the auricular detoxification specialist supervisor has the reasonable belief that the certified auricular detoxification specialist has violated the act or the rules; in such case the auricular detoxification specialist supervisor shall notify the board and the certified auricular detoxification specialist's employer, in writing, within five working days that the supervisory relationship is terminated and give in writing the reasons for the termination.

[16.2.16.17 NMAC - Rp, 16.2.16.17 NMAC, 2/11/2022; A, 10/22/2024; A, 5/5/2026]

16.2.16.18 AURICULAR DETOXIFICATION SPECIALIST SUPERVISOR REGISTRATION APPLICATION: Upon submission

of a complete application for auricular detoxification specialist supervisor registration that fulfills the requirements listed below, the board shall issue an auricular detoxification specialist supervisor registration. In no event shall the auricular detoxification specialist supervisor begin supervising a certified auricular detoxification specialist until the auricular detoxification specialist supervisor registration is issued by the board.

A. the auricular detoxification specialist supervisor registration application fee specified in 16.2.10 NMAC;

B. proof of successful completion of an official national acupuncture detoxification association (NADA) course, or another board-approved training program, or a CV demonstrating experience, or education in the field of harm reduction and alcoholism, substance abuse and chemical dependency at least equivalent to that provided in a NADA training, and three letters of reference attesting to the applicant's competence and experience in the field of auricular treatment for harm reduction, auricular treatment of alcoholism, substance abuse or chemical dependency;

C. a complete application for auricular detoxification specialist supervisor registration in English that shall include the applicant's name, address, date of birth and social security number, or individual tax identification number;

D. the names of all certified auricular detoxification specialists certified with the board who are under the supervision of the applicant;

E. an affidavit as provided on the auricular detoxification specialist supervisor registration application form stating that the applicant understands that:

(1) a certified auricular detoxification specialist is authorized to perform only the following, for the purpose of harm reduction or treating and preventing alcoholism, substance abuse or chemical dependency and only within a board approved substance abuse treatment program that demonstrates experience in disease prevention, harm reduction, or the treatment or prevention of alcoholism, substance abuse or chemical dependency:

(a) auricular acupuncture detoxification using the five auricular point national acupuncture detoxification association (NADA) procedure or other board approved procedure; and

(b) the application to the ear of simple board approved devices that do not penetrate the skin using the five auricular point national acupuncture detoxification association (NADA) procedure and that the board approved devices that do not penetrate the skin are: seeds, grains, stones, metal balls, magnets and any small sterilized, spherical object that in non-reactive with the skin; and

(2) the auricular detoxification specialist supervisor shall not be a member of the certified auricular detoxification specialist's family or a member of the certified auricular detoxification specialist's household or have a conflict of interest with the certified auricular detoxification specialist as defined in 16.2.16.21 NMAC; exceptions may be made by the board on an individual basis due to limited availability of certified auricular detoxification specialists or supervisors; and

(3) the applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of auricular detoxification and supervision; and

(4) the board may refuse to issue, or may suspend, or revoke any license or auricular detoxification specialist supervisor registration in accordance with the Uniform Licensing Act, Sections 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in Section 61-14A-17 NMSA 1978 of the Act and clarified in 16.2.12 NMAC; and

F. an affidavit as provided on the auricular detoxification specialist supervisor registration application form stating that the applicant understands that the auricular detoxification specialist supervisor shall:

(1) be registered with the board as an auricular detoxification specialist supervisor;

(2) supervise no more than ~~[30]~~ 40 certified auricular detoxification specialists;

(3) be accessible for consultation directly or by telephone to a certified auricular detoxification specialist under their supervision;

(4) visit each certified auricular detoxification specialist under his supervision at the treatment program site at intervals of not more than six weeks for the first year, then at least once per year thereafter at the supervisor's discretion with regular meetings by electronic methods (telephone, email, teleconferencing as examples) at intervals to be determined by the supervisor;

(5) verify that each certified auricular detoxification specialist under their supervision has had each patient sign a consent form outlining the responsibilities of the certified auricular detoxification specialist, the nature of the treatment, expected outcomes, and the scope and limits of practice;

(6) ensure that the certified auricular detoxification specialist is using a board approved treatment protocol;

(7) notify the board in writing, within 30 days working days, when a certified auricular detoxification specialist enters into a supervisory relationship with the auricular detoxification specialist supervisor, or the supervisory relationship is terminated;

(8) be responsible for the delivery of competent professional services and ensuring that patient consents have been obtained;

(9) terminate the supervisory relationship if the auricular detoxification specialist

supervisor has the reasonable belief that the certified auricular detoxification specialist has violated the act or the rules or if a conflict of interest arises during the supervision; the auricular detoxification specialist supervisor shall notify the board and the CADS's employer, in writing, within 30 working days that the supervisory relationship is terminated and give in writing the reasons for the termination; and

(10) notify the board within 10 days if the auricular detoxification supervisor's address changes or phone number changes.

[16.2.16.18 NMAC - Rp, 16.2.16.18 NMAC, 2/11/2022; A, 10/22/2024; A, 5/5/2026]

SUPERINTENDENT OF INSURANCE, OFFICE OF

TITLE 13 INSURANCE
CHAPTER 10 HEALTH INSURANCE
PART 41 COVERAGE FOR SPECIFIED SEX TRAIT MODIFICATION PROCEDURE

13.10.41.1 ISSUING AGENCY: Office of Superintendent of Insurance.
[13.10.41.1 NMAC – N/E, 05/05/2026]

13.10.41.2 SCOPE: This rule only applies to health insurers who issue an individual or group health insurance policy, health care plan or certificate of health insurance for a resident of this state. This rule does not apply to any short-term health plan or excepted benefits plan under Section 59A-23G-2 NMSA 1978.
[13.10.41.2 NMAC - N/E, 05/05/2026]

13.10.41.3 STATUTORY AUTHORITY: Sections 14-4-1 e*t seq*., NMSA 1978, State Rules Act, and Sections 59A-23E-11 and 59A-16-13 NMSA 1978.
[13.10.41.3 NMAC - N/E, 05/05/2026]

13.10.41.4 DURATION: This emergency rule expires 180 days from the effective date pursuant to Subsection E of Section 14-4-5.6 NMSA 1978.
[13.10.41.4 NMAC - N/E, 05/05/2026]

13.10.41.5 EFFECTIVE DATE: May 5, 2026, unless a later date is cited at the end of a section. This rule applies beginning with plan year 2027 and each plan year thereafter.
[13.10.41.5 NMAC – N/E, 05/05/2026]

13.10.41.6 OBJECTIVE: To clarify coverage requirements for specified sex trait modification procedure healthcare and pharmacy benefits.
[13.10.41.6 NMAC - N/E, 05/05/2026]

13.10.41.7 DEFINITIONS: Unless inconsistent with a term defined in this rule, or the usage of a term in this rule, the definitions in 13.10.29 NMAC apply:

A. "BeWell" New Mexico's health insurance marketplace for Affordable Care Act plans;

B. "diagnosis code" means a standardized alphanumeric code that identifies and documents a patient's disease, condition, symptom, or clinical finding during a healthcare encounter, derived from the current international classification of diseases, clinical modification (ICD-CM) system;

C. "gender identity" means emotional, physical, and social expression of an individual's preferred sex traits;

D. "health insurer" means an entity subject to the insurance laws and regulations of this state, including a health insurance company, a health maintenance organization, a hospital and health services corporation, a provider service network, a non-profit health care plan or any other entity that contracts or offers to contract, or enters into agreements to provide, deliver, arrange for, pay for or reimburse any costs of health care services, or that provides, offers health benefits plans or managed health care plans in this state;

E. "medically necessary" means health care services determined by a provider, in consultation with the health insurance carrier, to be appropriate or necessary, according to:

(1) Any applicable generally accepted principles and practices of good medical care;

(2) Practice guidelines developed by the federal government, national or professional medical societies, boards and associations, or

(3) Any applicable clinical protocols or practice guidelines developed by the health insurance carrier consistent with such federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease;

F. "procedure code" means current procedure terminology or healthcare common procedure coding system codes, and other similar codes, that standardize medical procedures, services, supplies, and equipment;

G. "provider" means, in addition to the definition in Paragraph (13) of Subsection P of 13.10.29.7 NMAC, pharmacists authorized to prescribe drugs for any specified sex trait modification procedure directly to patients pursuant to 16.19.26.14 NMAC;

H. "specified sex trait modification procedure" has the same meaning as defined in 45 C.F.R. Section 156.400; and

I. "superintendent" has the same meaning as defined in Section 59A-1-12 NMSA 1978.
[13.10.41.7 NMAC - N/E, 05/05/2026]

13.10.41.8 NONDISCRIMINATION: A health insurer who is required to provide coverage for any specified sex trait modification procedure under this rule shall do so without discriminating against the covered person on the basis of race, color, national origin, sex, sexual orientation, gender identity, marital status, age, citizenship, immigration status, or disability.
[13.10.41.8 NMAC - N/E, 05/05/2026]

13.10.41.9 COVERAGE REQUIREMENTS: A health insurer has an obligation to cover any specified sex trait modification procedure that an insured's provider determines to be medically necessary in consultation with the health insurer.
[13.10.41.9 NMAC - N/E, 05/05/2026]

13.10.41.10 REQUEST TO SUPERINTENDENT FOR DEFRAYAL:

A. Only health insurance plans sold on BeWell are eligible for defrayal under this rule.

B. Only in-network claims, or out-of-network claims eligible for coverage pursuant to provider network adequacy rules under 13.10.22 NMAC, are eligible for defrayal under this rule.

C. By October 1, 2028, and each year on this date thereafter, a health insurer seeking defrayal of costs for the previous plan year under this rule shall provide information related to claims incurred during the prior full calendar year for specified sex trait modification procedures, including, but not limited to, the content specified in (1)-(6) below on a standard form that the superintendent provides:

(1) all procedure and diagnosis codes;

(2) the number of claims per procedure code;

(3) all costs per procedure code;

(4) all national drug codes;

(5) the number of prescription drug claims per national drug code;

(6) all costs per national drug code.

D. After consultation with the health insurers, the superintendent shall determine diagnosis, procedure, and drug codes for plans eligible for defrayal and apply this determination equitably to all health insurers.

E. The superintendent shall publish the diagnosis, procedure, and drug codes for plans eligible for defrayal on the OSI website.

F. The superintendent shall not use federal funds for defrayal of costs associated with specified sex trait modification procedures.

G. Health insurers shall create an allocation account with adequate funds through which they exclusively administer claims for all specified sex trait modification procedures and drugs.
[13.10.41.10 NMAC - N/E, 05/05/2026]

13.10.41.11 CONFIDENTIALITY:

A. A health insurer shall maintain confidentiality of claims and services pursuant to state and federal law, including the Domestic Abuse Insurance Protection Act, Sections 59A-16B-1 *et seq*. NMSA 1978.

B. The superintendent shall treat all information received to support requests for defrayal as confidential.
[13.10.41.11 NMAC - N/E, 05/05/2026]

13.10.41.12 DESCRIPTION OF COVERAGE: A health insurer shall annually describe coverage for specified sex trait modification procedures in evidence of coverage summary.
[13.10.41.12 NMAC - N/E, 05/05/2026]

13.10.41.13 PENALTIES: In addition to any applicable suspension, revocation or refusal to continue any certificate of authority or license under the Insurance Code, a penalty for any violation of this rule may be imposed against an insurer in accordance with Sections 59A-1-18 and 59A-46-25 NMSA 1978.
[13.10.41.13 NMAC - N/E, 05/05/2026]

13.10.41.14 SEVERABILITY: If any section of this rule, or the applicability of any section to any person or circumstance, is for any reason held invalid by a court of competent jurisdiction, the remainder of the rule, or the applicability of such provisions to other persons or circumstances, shall not be affected.
[13.10.41.14 NMAC - N/E, 05/05/2026]

History of 13.10.41 NMAC: [RESERVED]

End of Adopted Rules

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Issue 4	February 12	February 24
Issue 5	February 26	March 10
Issue 6	March 12	March 24
Issue 7	March 26	April 7
Issue 8	April 9	April 21
Issue 9	April 23	May 5
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