

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) rule 8.308.9, *Managed Care Program, Benefit Package* and 8.324.4, *Adjunct Services, Pharmacy Services, Prescribing, and Practitioner Administered Drug Items*.

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: September 22, 2026

Hearing Date: October 23, 2026

Adoption Date: Proposed as January 1, 2027

Technical Citations: 2023 Legislative Session House Bill 53 and 2025 Legislative Session Senate Bill 39

Background

HCA is proposing to amend 8.308.9 and 8.324.4 NMAC to include required changes that resulted from the implementation of a unified Preferred Drug List (PDL), an amendment to the Prior Authorization Act, NMSA 1978, and expand coverage of over-the-counter items and diabetic equipment, supplies, and appliances.

The HCA is proposing to amend the rules as follows:

Throughout both NMACs:

1. Language has been added to include the prescription drug formulary or PDL as directed by the Agency for coverage of generic drugs first that are available from multiple manufactures as equivalent and interchangeable generic versions unless a Brand name drug is determined to be more economical to cover on the PDL over the generic.
2. Language has been amended to remove prior authorization or step therapy requirements for FDA approved drugs as outlined in the 2025 Legislative Session, Senate Bill 39, which amends the Prior Authorization Act, NMSA 1978.
3. Language has been added to expand over-the counter items in the therapeutic classes as listed in the HCA/MAD website.
4. Language has been amended to update coverage and reimbursement for diabetic supplies as outlined in the 2023 Legislative Session, House Bill 53.
5. Human Services Department (HSD) has been changed to Health Care Authority (HCA).
6. The mission statement has been amended to include the Departments current mission statement.
7. Amendments have been made to align with updated language and formatting requirements.

8.308.9 NMAC

Section 7

The definition for Serious Mental Illness has been added to align with updates to New Mexico Medicaid behavioral health services.

Section 12

This section has been updated to include services that have been added to the New Mexico Medicaid benefit package. NMAC citations have been updated to include the current NMACs.

Section 15

Children in state custody (CISC) have special healthcare needs and require timely well-child visits (WCV) upon entry into custody. This added language ensures CISC have a WCV within 30 days of entry into custody, the WCV

satisfies all required services according to the child's age and needs and that the MCO will pay for this WCV, even if the child has had a recent WCV prior to custody.

Section 17

This section has been amended to include pregnant people with substance use disorder that causes newborn withdrawal symptoms after birth shall be referred to have a plan of safe care as part of the CARA program.

Section 19

This section has been updated to remove detailed service descriptions and to instead reference 8.321.2 NMAC and 8.321.12 NMAC which include completed behavioral health service descriptions.

Section 23

The Medicaid home visiting benefit has transitioned from an 1115 waiver to a Turquoise Care benefit. Medicaid home visiting programs are jointly overseen by the NM HCA and the Early Childhood Education and Care Department. Multiple evidence based programs support families, children, and pregnant or postpartum people.

8.324.4 NMAC

Section 14

Removed language on no drug coverage when a recipient has a gap in Medicare Part D and added language that MAD does not cover copayments for any annual out-of-pocket Medicare cost cap.

Section 15

Added and corrected language on counseling MAP eligible recipients upon receipt of a new prescription. An alternative form of patient information can supplement patient counseling when appropriate. Examples include, but are not limited to: pictogram labels, written information leaflets, and QR codes that link to digital drug information.

Section 16

Language is added to clarify that pregnancy termination services are paid through state funds only.

I. RULE

These proposed rule changes will be contained in NMACs 8.308.9 and 8.324.4. 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 Health Care Authority proposes implementing these rules effective January 1, 2027.

III. PUBLIC HEARING

A public hearing to receive testimony on these proposed rules will be held on **October 23, 2026, at 9:00 a.m. Mountain Time (MT)**. The hearing will be held in the ASD – Large Conference Room at 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/243083888109509?p=6zDVEsKNmjKT06zSHI>

Meeting ID: 243 083 888 109 509

Passcode: Uc9r7Xa6

Dial in by phone

+1 505-312-4308,,464885449# United States, Albuquerque

Phone conference ID: 464 885 449#

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 October 23, 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.