

**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 *et 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.  
[13.10.12.4 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]**