TITLE 8 SOCIAL SERVICES
CHAPTER 308 MANAGED CARE PROGRAM
PART 8 MEMBER RIGHTS, RESPONSIBILITIES AND EDUCATION

8.308.8.1 ISSUING AGENCY: New Mexico health care authority (HCA).
[8.308.8.1 NMAC - Rp, 8.308.8.1 NMAC, 5/1/2018; A, 7/1/2024; A, 8/1/2026]

8.308.8.2 SCOPE: This rule applies to the general public.
[8.308.8.2 NMAC - Rp, 8.308.8.2 NMAC, 5/1/2018]

8.308.8.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See Section 27-1-12 et seq., NMSA 1978. Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (HCA) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.308.8.3 NMAC - Rp, 8.308.8.3 NMAC, 5/1/2018; A, 7/1/2024]

8.308.8.4 DURATION: Permanent.
[8.308.8.4 NMAC - Rp, 8.308.8.4 NMAC, 5/1/2018]

8.308.8.5 EFFECTIVE DATE: May 1, 2018, unless a later date is cited at the end of a section.
[8.308.8.5 NMAC - Rp, 8.308.8.5 NMAC, 5/1/2018]

8.308.8.6 OBJECTIVE: The objective of this rule is to provide instructions for the service portion of the New Mexico medical assistance programs (MAP).
[8.308.8.6 NMAC - Rp, 8.308.8.6 NMAC, 5/1/2018]

8.308.8.7 DEFINITIONS: [**RESERVED**]

8.308.8.8 MISSION: We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.
[8.308.8.8 NMAC - Rp, 8.308.8.8 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.9 [RESERVED]
[8.308.8.9 NMAC - Rp, 8.308.8.9 NMAC, 5/1/2018]

8.308.8.10 WRITTEN MEMBER MATERIALS:

A. All written materials will be available in English and all languages spoken by approximately five percent or more of the MCO's membership, as determined by the HCA contracted managed care organization (MCO) or HCA. Upon consent from the appropriate Native American tribal leadership, the MCO shall make every effort when a written form is not in the member's native language to translate the form in the member's native language.

B. The MCO is responsible for providing a member or potential member with its member handbook and provider directory, as requested by a member.

(1) The MCO shall send such information to the member within 30 calendar days of receipt of notification of enrollment in the MCO.

(2) Thereafter, upon the request from a member, the MCO shall send such information within 10 calendar days. The MCO shall provide the requestor the option to receive the material in a written or electronic form or by citation to be found on the member's MCO's website.

(3) On an annual basis, the MCO shall notify the member of the availability of updated materials and how to obtain such materials.

C. All written member materials must comply with provisions set forth in 42 CFR 438.10.
[8.308.8.10 NMAC - Rp, 8.308.8.10 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.11 MEMBER RIGHTS AND RESPONSIBILITIES: The MCO shall provide each member or the member's authorized representative with written information concerning their rights and responsibilities.

A. These include the right:

(1) to be treated with respect and with due consideration for their dignity and privacy;

(2) to receive information on available treatment options and alternatives, presented in a manner appropriate to their condition and ability to understand such information;

(3) to make and have honored their advance directive that is consistent with state and federal laws;

(4) to receive covered services in a nondiscriminatory manner;

(5) to participate in decisions regarding their health care, including the right to refuse treatment;

(6) to be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation, as specified in federal regulations on the use of restraints and seclusion;

(7) to request and receive a copy of their medical records and to request that they be amended or corrected as specified in 45 CFR 164.524 and 526;

(8) to choose an authorized representative to be involved, as appropriate, in making their health care decisions;

(9) to provide informed consent;

(10) to voice grievances concerning the care provided by the MCO;

(11) to appeal any action regarding medicaid services that the member or their authorized representative or authorized provider believes is erroneous;

(12) to protect the member, their authorized representative or authorized provider who uses the grievance, appeal, and HCA administrative hearing processes from fear of retaliation;

(13) to choose from among contracted providers in accordance with their MCO's prior authorization requirements;

(14) to receive information about covered services and how to access these covered services, and providers;

(15) to be free from harassment by the MCO or its contracted providers in regard to contractual disputes between the MCO and the provider;

(16) to participate in understanding physical and behavioral health problems and developing mutually agreed-upon treatment goals; and

(17) to be assured that the MCO complies with any other applicable federal and state laws including: Title VI of the Civil Rights Act of 1964 as implemented by regulations in 45 CFR part 80; the Age Discrimination Act of 1975 as implemented by regulations 45 CFR part 91; the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972 (regarding education programs and activities); Titles II and III of the Americans with Disabilities Act; and section 1557 of the Patient Protection and Affordable Care Act.

B. The MCO shall ensure that each member or the member's authorized representative or authorized provider is free to exercise their rights, and the exercise of those rights does not adversely affect the way that the MCO or provider treats the member or member's authorized representative or authorized provider.

C. The member or their authorized representative or authorized provider, to the extent possible, has a responsibility:

(1) to provide information that the MCO and providers need in order to care for the member, such information includes, but is not limited to the member's:

(a) most current mailing address;

(b) most current email address, if one is available;

(c) most current phone number, including any land line and cell phone, if available; and

(d) most current emergency contact information;

(2) to follow the care plans and instructions from their provider that have been agreed upon;

(3) to keep a scheduled appointment; and

(4) to reschedule or cancel a scheduled appointment rather than simply fail to keep it.

[8.308.8.11 NMAC - Rp, 8.308.8.11 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.12 MEMBER HEALTH RECORDS: The MCO shall provide a member with access to electronic or hard copy versions of their personal health records.

[8.308.8.12 NMAC - Rp, 8.308.8.12 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.13 MEMBER HEALTH EDUCATION: The MCO shall provide health education to its members. Health education is intended to advise or inform the MCO members about issues related to healthy lifestyles, situations that affect or influence health status, behaviors that affect or influence health status or methods of medical treatment.

A. The MCO shall develop a member health education plan that uses classes, individual or group sessions, videotapes, written materials, media campaigns and modern technologies (e.g. mobile applications and tools).

(1) All educational materials shall be provided in a manner and format that is easily understood by a member.

(2) The MCO shall notify its members of the schedule of educational events and shall post such information on its website.

B. The MCO shall distribute a quarterly newsletter that is intended to educate members about the managed care system, the proper utilization of services, and to encourage utilization of preventative care services.
[8.308.8.13 NMAC - Rp, 8.308.8.13 NMAC, 5/1/2018]

8.308.8.14 MEMBER WEBSITE: The MCO shall have a member portal on its website that is available to all members and potential members, and contains accurate, up-to-date information about the MCO to include, services provided, the preferred drug list, the provider directory, member handbook, frequently asked questions (FAQs), contact phone numbers and email addresses as set forth in 42 CFR 438.10. A member or potential member shall have access to the member handbook and provider directory via the website without having to log-in.
[8.308.8.14 NMAC - Rp, 8.308.8.14 NMAC, 5/1/2018]

8.308.8.15 MEMBER TOLL-FREE LINE: The MCO shall operate a call center with a toll-free phone line to respond to member questions, concerns, inquiries and complaints from a member and their provider. The line shall be equipped to handle calls from an individual with limited English proficiency, as well as calls from a member who is hearing impaired. It should be staffed 24 hours a day, seven days a week, with qualified nurses to triage urgent care and emergency calls from a member, and when necessary, to facilitate the transfer of such calls to a care coordinator.
[8.308.8.15 NMAC - Rp, 8.308.8.15 NMAC, 5/1/2018; A, 8/1/2026]

8.308.8.16 MEMBER ADVISORY BOARD: The MCO shall convene advisory boards that meet quarterly and are representative of its membership. The advisory board shall advise the MCO on issues concerning service delivery, quality of its covered services, and other member issues as needed or as directed by HCA.
[8.308.8.16 NMAC - Rp, 8.308.8.16 NMAC, 5/1/2018; A, 8/1/2026]

HISTORY OF 8.308.8 NMAC:

History of Repealed Material:
8.308.8 NMAC - Managed Care Program, Member Education, filed 12/17/2013 Repealed effective 5/1/2018.