TITLE 8 SOCIAL SERVICES
CHAPTER 200 MEDICAID ELIGIBILITY - GENERAL RECIPIENT RULES
PART 410 GENERAL RECIPIENT REQUIREMENTS

8.200.410.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.200.410.1 NMAC - Rp, 8.200.410.1 NMAC, 10/1/2017; A, 7/1/2024]

8.200.410.2 SCOPE: The rule applies to the general public.
[8.200.410.2 NMAC - Rp, 8.200.410.2 NMAC, 10/1/2017]

8.200.410.3 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.
[8.200.410.3 NMAC - Rp, 8.200.410.3 NMAC, 10/1/2017; A, 7/1/2024]

8.200.410.4 DURATION: Permanent.
[8.200.410.4 NMAC - Rp, 8.200.410.4 NMAC, 10/1/2017]

8.200.410.5 EFFECTIVE DATE: October 1, 2017, unless a later date is cited at the end of a section.
[8.200.410.5 NMAC - Rp, 8.200.410.5 NMAC, 10/1/2017]

8.200.410.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.200.410.6 NMAC - Rp, 8.200.410.6 NMAC, 10/1/2017]

8.200.410.7 DEFINITIONS: [**RESERVED**]

8.200.410.8 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.
[8.200.410.8 NMAC - A, 1/1/2022; A, 10/1/2026]

8.200.410.9 GENERAL RECIPIENT REQUIREMENTS: To be eligible or continue eligibility for medicaid or other medical assistance programs, an applicant or eligible recipient must meet specific non-financial requirements. In addition to the rules in this chapter, refer to 8.100.130 NMAC regarding the following requirements:

A. citizenship or non-citizen status;
B. enumeration;
C. residence;
D. non-concurrent receipt of assistance;
E. applications for other benefits; and
F. assignment of medical support rights.

[8.200.410.9 NMAC - Rp, 8.200.410.9 NMAC, 10/1/2017]

8.200.410.10 USE OF SOCIAL SECURITY NUMBER (42 CFR 435.910): Federal law requires, as a condition of eligibility, that each individual (including children) seeking medicaid furnish each of their social security numbers (SSN).

A. HCA will advise the applicant of:
(1) the statute or other authority under which the agency is requesting the applicant's SSN; and

(2) the uses HCA will make of each SSN, including its use for verifying income, eligibility, and amount of medical assistance payments per 42 CFR 435.940 through 435.960.

B. If an applicant cannot recall their SSN or SSNs or has not been issued a SSN HCA will:

(1) assist the applicant in completing an application for an SSN;

(2) obtain evidence required under the social security administration (SSA) regulations to establish the age, the citizenship or non-citizen status, and the true identity of the applicant; and

(3) either send the application to SSA or, if there is evidence that the applicant has previously been issued a SSN, request SSA to furnish the number.

C. HCA cannot deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN by SSA or if the individual meets one of the exceptions in Paragraph (5) of Subsection A of 8.200.410.10 NMAC.

D. HCA will verify the SSN furnished by an applicant or beneficiary with SSA to ensure the SSN was issued to that individual, and to determine whether any other SSNs were issued to that individual.

E. Exception:

(1) The requirement of Paragraph (3) of Subsection A of 8.200.410.10 NMAC does not apply and HCA may give a medicaid identification number to an individual who:

(a) is not eligible to receive an SSN;

(b) does not have an SSN and may only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104; or

(c) refuses to obtain an SSN because of well-established religious objections.

(2) The identification number may be either an SSN obtained by HCA on the applicant's behalf or another unique identifier.

(3) The term well established religious objections means that the applicant;

(a) is a member of a recognized religious sect or division of the sect; and

(b) adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

(4) HCA may use the medicaid identification number established by HCA to the same extent as an SSN is used for purposes described in Subparagraph (b) of Paragraph (1) of Subsection A of 8.200.410.NMAC.

[8.200.410.10 NMAC - Rp, 8.200.410.10 NMAC, 10/1/2017; A, 10/1/2026]

8.200.410.11 CITIZENSHIP STATUS ELIGIBILITY:

A. To be eligible for medicaid, an individual must be:

(1) a citizen of the United States:

(2) United States national;

(3) Lawful Permanent Residents (LPRs) who have met the five-year waiting period calculated from the time they obtain LPR status;

(4) A noncitizen who has been granted the status of Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education and Assistance Act of 1980 (Public Law 96-422);

(5) Individuals who are considered compact of free association migrants (COFA) are also referred to as compact citizens under section 1612(b)(2)(G) of title 8. COFA is an agreement between the United States and the three Pacific Island sovereign states of federated states of Micronesia, the republic of the Marshall Islands, and the republic of Palau as freely associated states; or

(6) A non-citizen who meets the requirements set forth in either Subsection A, B, or C of 8.200.410.11 NMAC.

B. Qualified non-citizens: Other than those individuals listed in Subsection A of this section, qualified non-citizens who entered the United States on or after August 22, 1996, are barred from medicaid eligibility other than emergency services (under category 085) for a period of five years after obtaining LPR status, unless they meet an exception below. LPRs who adjust from a status listed below (previously exempt from the five-year bar) are not subject to the five-year bar after obtaining LPR status. The five-year bar begins on the date the non-citizen obtained the qualified status. The following categories of qualified non-citizens are exempt from the five-year bar immediately upon obtaining LPR status:

(1) a non-citizen admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

(2) a non-citizen granted asylum under Section 208 of the Immigration and Nationality Act;

(3) a non-citizen whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act;

(4) a noncitizen who is lawfully residing in the state and who is a veteran with an honorable discharge not on account of non-citizen status; is on active duty other than on active duty for training, in the armed forces of the United States; or the spouse or unmarried dependent child under the age of 18 of such veteran or active duty non-citizen; and

(5) a non-citizen admitted to the United States as an Amerasian immigrant pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988:

C. Children and Pregnant Individuals: Children under age 21 and pregnant individuals under Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA 214 option). A child or pregnant individual is considered lawfully present if they are:

(1) a non-citizen who is lawfully residing in the state and who is a veteran with an honorable discharge not on account of non-citizen status; is on active duty other than on active duty for training, in the armed forces of the United States; or the spouse or unmarried dependent child under the age of 18 of such veteran or active duty non-citizen;

(2) a non-citizen who is granted asylum under Section 208 of INA; or

(3) a refugee who is admitted to the United States under Section 207 of the act; or

(4) an Amerasian who is admitted to the United States under Section 207 of the act; or

(5) a non-citizen who is paroled into the United States under Section 212(d)(5) of such act for a period of at least one year; or

(6) a non-citizen whose deportation is being withheld under Section 243(h) of such act or under Section 241(b)(3); or

(7) a non-citizen who is granted conditional entry pursuant to 203(a)(7) or such act as in effect prior to April 1, 1980; or

(8) a non-citizen admitted to the United States as an Amerasian immigrant pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988; or

(9) as qualified under Violence Against Women Act (VAWA), an individual who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the non-citizen but only if (in the opinion of HCA) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided. This also includes noncitizen parents of battered children and noncitizen children of a battered parent; or

(10) victims of a severe form of trafficking and their spouses, children, siblings, or parents; or

(11) members of a federally recognized Indian tribe, as defined in 25 U.S.C. 450b(e); or

(12) American Indians born in Canada to whom Section 289 of the Immigration and Nationality Act applies; or

(13) Afghan and Iraqi special immigrants under Section 8120 of Pub. L. 111-118 of the Department of Defense Appropriations Act, 2010; or

(14) a qualified non-citizen as defined in Section 431 of PRWORA (8 USC Section 1641); or

(15) a non-citizen in nonimmigrant status who has not violated the terms of the status under which they were admitted or to which they have changed after admission as defined under 8 USC; or

(16) a non-citizen who belongs to one of the following classes:

(a) non-citizen currently in temporary resident status pursuant to Section 210 or 245A of the Immigration and Nationality Act (8 U.S.C. Section1160 or 1255a, respectively);

(b) non-citizens granted temporary protected status (TPS) pursuant to Section 244 of the Immigration and Nationality Act (8 U.S.C. Section 1254a), and pending applicants for TPS who have been granted employment authorization;

(c) non-citizens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(d) family unity beneficiaries pursuant to Section 301 of Pub. L. 101-649, as amended including individuals who are granted benefits under Section 1504 of the Legal Immigration and Family Equity (LIFE) Act amendments of 2000;

(e) non-citizens currently under deferred enforced departure (DED) pursuant to a decision made by the president;

(f) non-citizens currently in deferred action status except those with deferred action under "deferred action for childhood arrivals" who are not considered lawfully present;

(g) non-citizens who have pending or approved visa petitions and who have a pending application for adjustment of status;

(17) a non-citizen with pending applicants for asylum under Section 208(a) of the INA (8 U.S.C. Section 1158) or for withholding of removal under Section 241(b)(3) of the INA (8 U.S.C. Section 1231) or under the convention against torture who has been granted employment authorization, or is an applicant under the age of 14;

(18) children who have pending or approved applications for special immigrant juvenile status as described in Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C.).

D. The income and resources of a non-citizen sponsor, of any individual applying for medicaid, are deemed available to the applicant, when an affidavit of support is executed pursuant to Section 213 of the Immigration and Nationality Act, on or after August 22, 1996. This counting of non-citizen sponsor income and resources is effective until the sponsored non-citizen achieves citizenship.

E. The state assures that it provides limited medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the social security act and 8.285.400 NMAC and implemented at 42 CFR 440.255, to the following individuals who meet all medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status or present an SSN.

(a) qualified non-citizens subject to the five-year waiting period described in 8 USC 1613; or

(b) non-qualified non-citizens, unless covered as a lawfully residing child or pregnant individual by the state under the option in accordance with 1903(v)(4) and implemented at 42 CFR 435.406(b).

[8.200.410.11 NMAC - Rp, 8.200.410.11 NMAC, 10/1/2017; A/E, 1/18/2018; A, 8/1/2018; A, 1/1/2022; A, 9/1/2024; A, 10/1/2026]

8.200.410.12 TYPES OF ACCEPTABLE DOCUMENTARY EVIDENCE OF CITIZENSHIP (42 CFR 435.407):

A. **Stand-alone evidence of citizenship:** The following must be accepted as sufficient documentary evidence of citizenship:

(1) A U.S. passport, including a U.S. passport card issued by the department of state, without regard to any expiration date as long as such passport or card was issued without limitation.

(2) A certificate of naturalization.

(3) A certificate of U.S. citizenship.

(4) A valid state-issued driver's license if the state issuing the license requires proof of U.S. citizenship, or obtains and verifies a SSN from the applicant who is a citizen before issuing such license.

(a) A real ID issued on or after November 14, 2016 is sufficient documentary evidence of citizenship.

(b) A driver authorization card (DAC) is not sufficient documentary evidence of citizenship.

(5) Documentary evidence issued by a federally recognized Indian tribe identified in the federal register by the bureau of Indian affairs within the U.S. department of the interior, and including tribes located in a state that has an international border, which;

(a) Identifies the federally recognized Indian tribe that issued the document;

(b) Identifies the individual by name; and

(c) Confirms the individual's membership, enrollment, or affiliation with the tribe.

(d) Documents described in Paragraph (5) of Subsection A of 8.200.410.12 NMAC include, but are not limited to:

(i) A tribal enrollment card;

(ii) A certificate of degree of Indian blood;

(iii) A tribal census document;

(iv) Documents on tribal letterhead, issued under the signature of the appropriate tribal official, that meet the requirements of Paragraph (5) of Subsection A of 8.200.410.12 NMAC.

(6) A data match with the SSA.

B. **Evidence of citizenship:** If an applicant does not provide documentary evidence from the list in Subsection A of 8.200.410.12 NMAC, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by an identity document listed in Subsection C of 8.200.410.12 NMAC:

(1) A U.S. public birth certificate showing birth in one of the 50 States, the District of Columbia, Guam, American Samoa, Swain's Island, Puerto Rico (if born on or after January 13, 1941), the Virgin Islands of the U.S. or the Commonwealth of the Northern Mariana Islands (CNMI) (if born after November 4, 1986, (CNMI local time)). The birth record document may be issued by a state, commonwealth, territory, or local jurisdiction. If the document shows the individual was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in Paragraph (1) of Subsection B of 8.200.410.12 NMAC, the individual may be a collectively naturalized citizen. The following will establish U.S. citizenship for collectively naturalized individuals:

(a) Puerto Rico: Evidence of birth in Puerto Rico and the applicant's statement that they were residing in the U.S., a U.S. possession, or Puerto Rico on January 13, 1941;

(b) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI));

(i) Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986, (NMI local time) and the applicant's statement that they did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);

(ii) Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration before January 1, 1975, and the applicant's statement that they did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);

(iii) Evidence of continuous domicile in the NMI since before January 1, 1974, and the applicant's statement that they did not owe allegiance to a foreign state on November 4, 1986 (NMI local time). Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

(2) A certification of report of birth, issued to U.S. citizens who were born outside the U.S.

(3) A report of birth abroad of a U.S. citizen.

(4) A certification of birth in the U.S.

(5) A U.S. citizen identification card.

(6) A Northern Marianas identification card issued by the U.S. department of homeland security (or predecessor agency).

(7) A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.

(8) Evidence of U.S. civil service employment before June 1, 1976.

(9) U.S. military record showing a U.S. place of birth.

(10) A data match with the Systematic Alien Verification for Entitlements (SAVE) Program or any other process established by the department of homeland security (DHS) to verify that an individual is a citizen.

(11) Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000 as amended (8 U.S.C. 1431).

(12) Medical records, including, but not limited to, hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.

(13) Life, health, or other insurance record that indicates a U.S. place of birth.

(14) Official religious record recorded in the U.S. showing that the birth occurred in the U.S.

(15) School records, including pre-school, head start and daycare, showing the child's name and U.S. place of birth.

(16) Federal or state census record showing U.S. citizenship or a U.S. place of birth.

(17) If the applicant does not have one of the documents listed in Subsection A or Paragraph (1) through (17) of Subsection B of 8.200.410.12 NMAC, they may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

C. Evidence of identity:

(1) HCA will accept the following as proof of identity, provided such document has a photograph or other identifying information sufficient to establish identity, including, but not limited to, name, age, sex, race, height, weight, eye color, or address:

(a) Identity documents listed at 8 CFR 274a.2 (b)(1)(v)(B)(1), except a driver's license issued by a Canadian government authority.

(b) Driver's license issued by a state or territory.

(c) School identification card.

(d) U.S. military card or draft record.

(e) Identification card issued by the federal, state, or local government.

(f) Military dependent's identification card.

(g) U.S. coast guard merchant mariner card.

(h) For children under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.

(i) Two other documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards; high school, high school equivalency and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.

(2) Finding of identity from a federal or state governmental agency. The agency may accept as proof of identity a finding of identity from a federal agency or another state agency including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual.

(3) If the applicant does not have any document specified in Paragraph (1) of Subsection C of 8.200.410.12 NMAC and identity is not verified under Paragraph (2) of Subsection C of 8.200.410.12 NMAC, the agency must accept an affidavit signed, under penalty of perjury, by a person other than the applicant who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity, as described in Paragraph (1) of Subsection C of 8.200.410.12 NMAC. The affidavit does not have to be notarized.

D. Verification of citizenship by a federal agency or another state: HCA may rely, without further documentation of citizenship or identity, on a verification of citizenship made by a federal agency or another state agency, if such verification was done on or after July 1, 2006.

E. Assistance with obtaining documentation: HCA will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of citizenship in a timely manner.

F. Documentary evidence: A photocopy, facsimile, scanned or other copy of a document must be accepted to the same extent as an original document under this section, unless information on the copy submitted is inconsistent with other information available to HCA or HCA otherwise has reason to question the validity of, or the information in, the document.

[8.200.410.12 NMAC - N, 10/1/2017; A, 1/1/2022; A, 9/1/2024; A, 10/1/2026]

8.200.410.13 REASONABLE OPPORTUNITY PERIOD (42 CFR 435.956(b)):

A. HCA provides a reasonable opportunity period to individuals who have made a declaration of citizenship or satisfactory immigration status in accordance with 42 CFR 435.406, and for whom the HCA is unable to verify citizenship or satisfactory immigration status. During the reasonable opportunity period, the HCA continues efforts to complete verification of the individual's citizenship or satisfactory immigration status, or request documentation if necessary. The HCA provides notice of such opportunity that is accessible to persons who have limited English proficiency and individuals with disabilities, consistent with 42 CFR 435.905(b). During such reasonable opportunity period, the HCA must, if relevant to verification of the individual's citizenship or satisfactory immigration status:

(1) in the case of individuals declaring citizenship who do not have an SSN at the time of such declaration, assist the individual in obtaining an SSN in accordance with 42 CFR 435.910 and Paragraph (2) of Subsection A of 8.200.410.10 NMAC, and attempt to verify the individual's citizenship once an SSN has been obtained and verified;

(2) provide the individual with information on how to contact the electronic data source so that they can attempt to resolve any inconsistencies defeating electronic verification directly with such source, and pursue verification of the individual's citizenship or satisfactory immigration status if the individual or source informs the HCA that the inconsistencies have been resolved; and

(3) provide the individual with an opportunity to provide other documentation of citizenship or satisfactory immigration status, in accordance with section 1137(d) of the Act and 42 CFR 435.406 or 435.407 and 8.200.410.12 NMAC.

B. The reasonable opportunity period:

(1) begins on the date on which the notice is received by the individual. The date on which the notice is received is considered to be five days after the date on the notice, unless the individual shows that they did not receive the notice within the five-day period; and

(2) ends on the earlier of the date the HCA verifies the individual's citizenship or satisfactory immigration status or determines that the individual did not verify their citizenship or satisfactory immigration status or 90 days except that;

(3) HCA extends the reasonable opportunity period beyond 90 days, allowing for up to three 10 day extensions, for individuals declaring to be in a satisfactory immigration status if the HCA determines that the individual is making a good faith effort to obtain any necessary documentation or the agency needs more time to verify the individual's status through other available electronic data sources or to assist the individual in obtaining documents needed to verify their status.

(4) if, by the end of the reasonable opportunity period, the individual's citizenship or satisfactory immigration status has not been verified the HCA will take action within 30 days to terminate eligibility.
[8.200.410.13 NMAC - N, 10/1/2017; A, 9/1/2024; A, 10/1/2026]

8.200.410.14 RESIDENCE: To be eligible for medicaid, an applicant or eligible recipient must be living in New Mexico on the date of application and final determination of eligibility and have demonstrated an intention to remain in the state.

A. Establishing residence: Residence is established by living in the state and carrying out the types of activities associated with day-to-day living, such as occupying a home, enrolling a child in school or getting a state driver's license. An applicant or recipient who is homeless is considered to have met the residence requirements if they intend to remain in the state.

B. Recipients receiving benefits out-of-state: An applicant or an eligible recipient who receives financial or medical assistance in another state which makes residence in that state a condition of eligibility are considered residents of that state until the ISD office receives verification from the other state agency indicating that it has been notified by an applicant or eligible recipient of the abandonment of residence in that state.

C. Individuals court ordered into full or partial responsibility of the state children youth and families department (CYFD): When CYFD places a child in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, the state must provide limited medicaid coverage for medicaid services that are part of the state medicaid benefit package and not available in the new state of residence.

D. Abandonment: Residence is not abandoned by temporary absences. Temporary absences occur when an eligible recipient leaves the state for specific purposes with time-limited goals. Residence is considered abandoned when the applicant or the eligible recipient leaves the state for any of the following reasons:

(1) intends to establish residence in another state;

(2) for no specific purpose with no clear intention of returning;

(3) applies for financial, food or medical assistance in another state which makes residence in that state a condition of eligibility; or

(4) for more than 30 consecutive calendar days, without notifying HCA of their departure or intention of returning.

E. Evidence of immigration status may not be used to determine that an individual is not a state resident per 42 CFR 435.956 (c)(2).
[8.200.410.14 NMAC - Rp, 8.200.410.12, 10/1/2017; A, 9/1/2024; A, 10/1/2026]

8.200.410.15 NON-CONCURRENT RECEIPT OF ASSISTANCE:

A. An applicant or an eligible recipient receiving medicaid in another state is not medical assistance program eligible in New Mexico except when:

(1) institutional care medicaid begins on a specific date within the month rather than automatically reverting to the first day of the month, if an applicant for institutional care medicaid (Category 081, 083 or 084) moves to New Mexico from another state and it can be verified that the other state will terminate the individual's medicaid eligibility under that state program prior to the initial eligibility date in New Mexico, the application may be approved even though the individual receives medicaid from the other state for part of the month; coverage in New Mexico begins after the end date of services from the other state;

(2) an individual is court ordered into full or partial responsibility CYFD; when CYFD places a child in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, New Mexico must provide limited medicaid coverage for medicaid services that are part of New Mexico's medicaid benefit package and not available in the new state of residence.

B. An individual who is eligible for a full-coverage medicaid program may also be eligible for one of the medicare cost sharing medical assistance program categories. See 8.200.400 NMAC.

C. When a supplemental security income (SSI) recipient enters into a nursing home or hospital (institutionalized), SSA will re-evaluate SSI and related medicaid eligibility.

(1) When SSA determines that the individual remains eligible for SSI while institutionalized, the SSI benefit is adjusted as follows:

(a) if institutionalized for more than 90 calendar days - the SSI benefit is limited to thirty ($30) a month; or

(b) if institutionalized for 90 calendar days or less - the SSI benefit continues at the regular amount.

(2) When SSA determines that the individual is not eligible for SSI, the individual or their authorized representative should file an application at HCA for institutional care medicaid. If the individual meets all factors of eligibility, approval of the institutional care medicaid application should be coordinated with the SSI closure date. If eligible, there will not be a break in eligibility and the individual shall not receive both SSI and institutional care medicaid in the same month pursuant to 8.281.400.10 NMAC.

[8.200.410.15 NMAC - Rp, 8.200.410.13, 10/1/2017; A, 10/1/2026]

8.200.410.16 APPLICATIONS FOR OTHER BENEFITS: As a condition of eligibility, a medicaid applicant or an eligible recipient must take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, within 30 calendar days from the date HCA furnishes notice of the potential benefit, unless they can show good cause for not doing so.

A. Benefit types: Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, old age survivors and disability insurance (OASDI) benefits, railroad retirement benefits, and unemployment compensation.

B. Exceptions to general requirement/good cause: An individual may request a good cause waiver to this requirement by presenting ISD with corroborating evidence that:

(1) applying for other benefits is against the best interest of the individual, child or others, including physical or emotional harm to a child, parent or caregiver relative, adoption proceedings, and potential for emotional impairment; or

(2) exceptions applicable to institutional care medicaid, the SSI-related categories and the home and community based waivers are pursuant to Subsection B of 8.215.500.9 NMAC, Subsection B of 8.281.500.9 NMAC, and Subsection B of 8.290.500.9 NMAC.

C. Failure to apply for and take steps to determine eligibility for other benefits: When the parent(s) or where applicable the specified relative fails or refuses to apply for and take steps to determine eligibility within 30 calendar days from the date HCA furnishes notice of the potential benefit, the parent(s) or specified relative is not eligible for medicaid. An eligible recipient under the age of 18 years shall not lose their medicaid eligibility under this provision.

[8.200.410.16 NMAC - Rp, 8.200.410.14, 10/1/2017; A, 10/1/2026]

8.200.410.17 INMATE IN A PUBLIC INSTITUTION:

A. A public institution is a:

(1) state and private correctional facility;

(2) county and privately operated jail;

(3) department of health behavioral health facility forensic unit;

(4) detention facility operated under the authority of CYFD; or

(5) facility that is operated under the authority of CYFD that provides for the care and rehabilitation of an individual who is under 18 years of age and who has committed an act that would be designated as a crime under the law if committed by an individual who is 18 years of age or older.

B. An inmate is a person incarcerated in a public institution listed in Subsection A of 8.200.410.15 NMAC for 30 or more days.

C. An inmate who is incarcerated in a public institution is not eligible for MAP services. The only exception are those services provided to an inmate while they are an inpatient in a medical facility outside the public institution for 24 hours or longer.

D. Incarceration in a public institution is not a basis for denying or terminating a MAP category of eligibility. During the time of incarceration an inmate may apply or recertify for a MAP category of eligibility.

[8.200.410.17 NMAC - Rp, 8.200.410.15, 10/1/2017; A, 9/1/2024]

8.200.410.18 AUTOMATIC ENROLLMENT INTO MEDICARE PART B COVERAGE:

A. Beginning August 1, 2019, HCA automatically enrolls into medicare part B individuals:

(1) who are active on a full medicaid or medicare savings program category of eligibility with the exception of the following categories:

(a) other adults (COE 100);

(b) newborn (COE 031);

(c) children, youth and families department medicaid categories (COEs 017, 037, 046, 047, 066, and 086);

(d) family planning (COE 029);

(e) pregnancy services (COE 301);

(f) refugee (COE 049 and 059);

(g) qualified disabled working individuals (COE 050);

(h) breast and cervical cancer (COE 052); and

(2) who are enrolled in medicare part A and eligible for and not enrolled in medicare part B.

B. HCA informs applicants and recipients in writing who may be eligible for automatic enrollment into medicare part B. HCA will automatically enroll eligible individuals into medicare part B regardless of whether general or open enrollment of medicare part B is allowed under federal law at the time an individual is approved for medicaid.

[8.200.410.18 NMAC - N, 8/1/2019; A, 10/1/2026]

HISTORY OF 8.200.410 NMAC:

History of Repealed Material:

8.200.410 NMAC, General Recipient Requirements, filed 6/11/2003 - Repealed effective 1/1/2014.

8.200.410 NMAC, General Recipient Requirements, filed 12/2/2013 - Repealed effective 10/1/2017.

NMAC History:

8.200.410 NMAC, General Recipient Requirements, filed 12/2/2013 was replaced by 8.200.410 NMAC, General Recipient Requirements effective 10/1/2017.