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Volume: XXXVI **Issue:** 20 **Publication date:** 10/21/2025 **Number of pages:** 1 **(ALD Use Only) Sequence No.** 276.7

Issuing agency name and address: HCA - Medical Assistance Division

Agency DFA code: 630

Contact person's name: Tabitha Mondragon

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Type of rule action:

New ☐ **Amendment** ☑ **Repeal** ☐ **Emergency** ☐ **Renumber** ☐

(ALD Use) Recent filing date: 12/11/2018

Title number: 8 **Title name:** Social Services

Chapter number: 281 **Chapter name:** Medicaid Eligibility - Institutional Care (Categories 081, 083 and 084)

Part number: 600 **Part name:** Benefit Description

Amendment description (If filing an amendment): Amending (3) Sections.

Amendment's NMAC citation (If filing an amendment): Sections 10, 12, and 14 of 8.281.600 NMAC.

Are there any materials incorporated by reference?

Yes ☐ **No** X

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? **Yes** ☐ **No** ☐ **Public domain** ☐

Specific statutory or other authority authorizing rulemaking:

42 CFR 435.201 and 435.217

Notice date(s): 5/20/2025

Hearing date(s): 6/23/2025

Rule adoption date: 9/22/2025

Rule effective date: 11/1/2025

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Concise Explanatory Statement For Rulemaking Adoption:

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Findings required for rulemaking adoption:

Findings MUST include:

- **Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;**
- **Reasons for any change between the published proposed rule and the final rule; and**
- **Reasons for not accepting substantive arguments made through public comment.**

There were no public comments related to changes to 8.281.600. The rule is being adopted as proposed with two wording changes to add the acronym for level of care (LOC) and remove the word "all" as unnecessary as indicated in the final register.

Issuing authority (If delegated, authority letter must be on file with ALD):
Name:

Kari Armijo

Check if authority has been delegated ☐

Title:

Secretary

Signature: **(BLACK ink only OR Digital Signature)**

DocuSigned by:
Kari Armijo
15A9EB5EAD00493...

Date signed:

9/30/2025

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This is an amendment to 8.281.600 NMAC, Sections 10, 12, and 14, effective 11/1/2025.

8.281.600.10 BENEFIT DETERMINATION:

A. Application for institutional care medicaid is made using the HSD 100 application. Completed applications must be acted upon and notice of approval, denial, or delay sent out within 45 days from the date of registration. The income support division (ISD) worker explains time limits to the applicant and informs [~~him or her~~] them of the date by which the application should be processed.

B. Representatives applying on behalf of individuals: If a representative makes application on behalf of an institutionalized individual, the representative is relied upon for information. The ISD worker sends all notices to the applicant/recipient in care of the representative. If the individual who makes an application is an employee of the institution, the ISD worker contacts the applicant's family or other involved individuals. The ISD worker focuses on the applicant/recipient's current circumstances and on past circumstances which may provide clues to existing or potential resources.

[8.281.600.10 NMAC - Rp, 8.281.600.10 NMAC, 1/1/2019; A, 11/1/2025]

8.281.600.12 ONGOING BENEFITS: A complete redetermination of eligibility must be performed by the ISD worker for each open case at least annually.

A. Regular reviews: For each regular yearly review, the ISD worker must determine:

(1) whether medical care credit payments are up to date; an overdue balance may indicate a change in circumstances that is unreported, particularly where rental property is involved; and

(2) whether the deposit to the recipient's personal fund is consistently no more than the applicable personal needs allowance amount per month; a larger deposit may indicate an increase in income that is unreported or a previously unidentified source of income.

B. [~~Level of care reviews are required to be completed at least annually. Level of care determinations are made by the utilization review contractor or a member's selected or assigned managed care organization.~~] Level of care (LOC) determinations are made by a member's selected or assigned managed care organization or by New Mexico medicaid's designated third party accessor or utilization review contractor. LOC reviews are required to be completed at least annually for institutional care medicaid programs.

[8.281.600.12 NMAC - Rp, 8.281.600.12 NMAC, 1/1/2019; A, 11/1/2025]

8.281.600.14 CHANGES IN ELIGIBILITY:

A. The following procedures apply when an institutional care medicaid recipient leaves an institution:

(1) the recipient is notified in writing that [~~his/her~~] their eligibility for institutional care medicaid has terminated;

(2) the institutional care medicaid case is closed;

(3) the recipient is screened for other medicaid program eligibility; or

(4) the recipient is referred to the social security administration for determination of eligibility for SSI benefits if appropriate; if a recipient dies in an institution, the case is closed the following month.

B. Discharge status: Discharge status continues after the utilization review (UR) contractor determines that there is no medical necessity for a high nursing facility (NF) or low NF placement. Discharge status does not apply to an acute care placement. After placement in discharge status, the recipient continues to be eligible for institutional care medicaid since [~~he/she requires~~] they still require institutional care.

(1) Abstract submission: Discharge status requires a new abstract be submitted at regular intervals. The institution must attach verification to the abstract that adequate placement has been and is being sought.

(2) Case closure: The ISD worker takes no action to close a case until the recipient is actually discharged from the institution. If the recipient is transferred from high NF to low NF, medicaid coverage is not interrupted, unless the recipient is ineligible for other reasons.

[8.281.600.14 NMAC - Rp, 8.281.600.14 NMAC, 1/1/2019; A, 11/1/2025]