

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 8.200.400, *Medicaid Eligibility-General Recipient Rules-General Medicaid Eligibility*, that went into effect on October 1, 2024. HCA is re-promulgating these sections of the rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

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: October 22, 2024

Hearing Date: November 22, 2024

Adoption Date: Proposed as January 1, 2025

Technical Citations: 42 Code of Federal Regulations (CFR) 435.909(2)(b)

Background

The federal Department of Health and Human Services issued a final rule (federal register/Vol. 88, No. 182) dated September 21, 2023, regarding Medicare Savings Program eligibility determination and enrollment. The final rule requires that by October 1, 2024, states must deem Medicare-enrolled Supplemental Security Income (SSI) Medicaid recipients into the Qualified Medicare Beneficiary (QMB) eligibility group who are entitled to premium-free Part A.

For individuals enrolled in Part B only the Department can at state option automatically deem individuals enrolled in SSI Medicaid eligible for the QMB eligibility group the first month they are both enrolled in Part B and eligible for a Medicare enrollment period bypassing the need for actual or conditional Part A at the Social Security Administration. The Department intends to take up this state option which has been incorporated into this rule change. The effective date for this option is dependent on the Centers for Medicare and Medicaid (CMS) readiness to accept these enrollments from the Department.

SSI Medicaid beneficiaries deemed into the QMB group would get a twelve (12) month certification period for QMB. At renewal the Department would only need to verify that the individual continues to receive SSI and continued Medicare Part A coverage to renew QMB for another twelve (12) months. The regular renewal process for QMB would apply when an individual loses their SSI Medicaid.

The final federal rule, effective January 1, 2024, limits the state's liability for retroactive Part B premiums for full-benefit Medicaid beneficiaries, including individuals receiving SSI Medicaid, to a period of no greater than thirty-six (36) months prior to the date of the Medicare enrollment determination.

The Department is proposing to amend the rule as follows:

8.200.400 NMAC

Section 1 is being amended to reflect the change from the Human Services Department (HSD) to the Health Care Authority (HCA).

Section 8 is amended to reflect the new mission statement for the Health Care Authority.

Section 15 is amended to add the following new text:

Automatic enrollment of SSI recipients in the QMB group:

A. SSI recipients entitled to premium-free part A: Effective October 1, 2024, the HCA shall automatically deem SSI recipients into QMB the first month they are eligible for SSI Medicaid and entitled to

premium-free part A. The start of the part B buy-in coverage is the first month of entitlement to premium-free part A and the QMB eligibility group coverage is the first day of the following month.

B. SSI recipients enrolled in part B only: Effective upon the centers for medicare and medicaid services (CMS) and HCA systems' capacity, the HCA shall automatically deem individuals enrolled in SSI medicaid eligible for the QMB eligibility group the first month they are both enrolled in part B and eligible for a medicare enrollment period, bypassing the need for actual or conditional part A enrolment at the social security administration.

C. Effective January 1, 2024, the HCA's liability for retroactive part B premiums for full-benefit medicaid beneficiaries, including individuals receiving SSI medicaid, is limited to a period of no greater than 36 months prior to the date of the medicare enrollment determination.

D. For SSI medicaid recipients deemed eligible for the QMB group, renewal for QMB is required only to the extent to verify that an individual continues to receive SSI medicaid and has continued medicare part A coverage. The regular renewal process for QMB applies when an individual loses their SSI medicaid.

These proposed rule changes will be contained in 8.200.400 NMAC. 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/2024-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.

The HCA proposes to fully promulgate this NMAC by January 1, 2025.

A public hearing to receive testimony on this proposed rule will be held on **November 22, 2024, at 9:30 a.m.** The hearing will be held at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Zoom.

Join Zoom Meeting

<https://us02web.zoom.us/j/86854369692?pwd=5ZgZxVLqJap398D4tMmkaJ2QG7dYM.1> or by phone 833-548-0282, US Toll-free.

Meeting ID: 868 5436 9692

Passcode: 458698

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 accommodations.

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 p.m. MT on November 22, 2024**. 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/2024-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.