

## NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.200.430, *Medicaid Eligibility-General Recipient Rules-Recipient Rights and Responsibilities*.

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: June 11, 2024

Hearing Date: July 15, 2024

Adoption Date: Proposed as November 1, 2024

Technical Citations: 1917(a) and (b) of the Social Security Act

### **Background**

House Bill 98 (HB98) passed during the legislative session excludes the Department from pursuing Medicaid estate recovery from Achieving a Better Life Experience (ABLE) accounts. The ABLE account exclusion from Medicaid estate recovery contained in HB98 has an effective date of July 1, 2024.

### **The Department is proposing to amend the rule as follows:**

#### **8.200.430.19 (c)**

Adding a paragraph three (3) under subsection C to include the exemption of ABLE accounts from Medicaid estate recovery. Throughout the NMAC, amendments have also been made to comply with formatting and language requirements, including amending the rule to capture the name change from the Human Services Department (HSD) to the Health Care Authority (HCA).

## VI. RULE

These proposed rule changes will be contained in 8.200.430 NMAC. This register and the proposed rule are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/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.

## VII. EFFECTIVE DATE

The Department proposes to implement this rule effective November 1, 2024.

## VIII. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held in person at the **Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505** and via Zoom on **July 15, 2024 at 9:00 am, Mountain Time (MT)**.

### **Join Zoom Meeting:**

<https://us02web.zoom.us/j/9182801909?pwd=YXZrNTV0M3MrUUFudUNVMGxIUkMvZz09&omn=86596241621>

**Meeting ID:** 918 280 1909

**Passcode:** y2CwhJ

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The

Department requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

#### **IX. ADDRESS**

Interested persons may address written comments to:

Human Services Department  
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: [HSD-madrules@hsd.nm.gov](mailto:HSD-madrules@hsd.nm.gov). Written mail, electronic mail and recorded comments must be received **no later than 5 p.m. MT on July 15, 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 HSD website at <https://www.hsd.state.nm.us/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.