

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 370 OVERSIGHT OF LICENSED HEALTHCARE FACILITIES AND COMMUNITY BASED WAIVER PROGRAMS**  
**PART 6 ACCESS TO MEDICAL RECORDS BY DISABILITY APPLICANTS**

**8.370.6.1 ISSUING AGENCY:** New Mexico Health Care Authority.  
[8.370.6.1 NMAC - N, 07/01/2024]

**8.370.6.2 SCOPE:** This regulation applies to requests for copies of medical records by any person, or that person's authorized representative, who is applying for social security disability benefits or appealing a denial of social security disability benefits.  
[8.370.6.2 NMAC - N, 07/01/2024]

**8.370.6.3 STATUTORY AUTHORITY:** This regulation is promulgated pursuant to Section 14-6-3, NMSA 1978 as amended. Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (authority) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.  
[8.370.6.3 NMAC - N, 07/01/2024]

**8.370.6.4 DURATION:** Permanent.  
[8.370.6.4 NMAC - N, 07/01/2024]

**8.370.6.5 EFFECTIVE DATE:** July 1, 2024, unless a later date is cited at the end of a section.  
[8.370.6.5 NMAC - N, 07/01/2024]

**8.370.6.6 OBJECTIVE:** The purpose of this regulation is to establish the health care provider's duty to furnish medical records within 30 days of the request, and to set and enforce fee schedules for the provision of copies of medical records, when copies of such medical records are requested by persons applying for social security disability or appealing a denial of such benefits.  
[8.370.6.6 NMAC - N, 07/01/2024]

**8.370.6.7 DEFINITIONS:**

**A. "Authorized representative"** means a person who lawfully may act on behalf of the individual who is applying for social security disability or appealing a denial of such benefits and whose medical records are the subject of a request to furnish copies.

**B. "Health care provider"** means a person licensed or certified by the state of New Mexico, or otherwise authorized by law to provide health care services in New Mexico in the ordinary course of business or practice of a profession, and includes facilities and entities that employ or contract with such a person, and it includes entities which maintain, process or store, medical records for such persons or facilities.

**C. "Medical records"** means information in a medical or mental health patient file, including drug or alcohol treatment records, clinical notes, nurses' notes, history of injury, subjective and objective complaints, diagnostic and laboratory test results and interpretations of tests, reports and summaries of interpretations of tests and other reports, diagnoses and prognoses, bills, invoices, referral requests, consultative reports, and reports of any services requested by the medical care provider.

**D. "Person"** means an individual who has been a patient of a health care provider or health care facility.

[8.370.6.7 NMAC - N, 07/01/2024]

**8.370.6.8 REQUIREMENT OF WRITTEN REQUEST:**

**A.** A person applying for social security disability, or appealing denial of such benefits, or the authorized representative, shall be furnished copies of requested medical records by health care providers who are provided a written and dated request for medical records signed by such person or authorized representative.

**B.** Requests shall be accompanied by a written verification that a person is applying for social security disability benefits, or is appealing a denial of such benefits.

[8.370.6.8 NMAC - N, 07/01/2024]

**8.370.6.9 PRODUCTION OF RECORDS:** Any records requested pursuant to this regulation or Section 14-6-3, NMSA 1978 as amended, shall be produced within 30 calendar days of receipt of the written request, regardless of prior receipt of the fee for the records.  
[8.370.6.9 NMAC - N, 07/01/2024]

**8.370.6.10 FEES AUTHORIZED; SCHEDULE:** A reasonable fee for copying and furnishing requested medical records may be charged by the health care provider. No health care provider shall charge more than:  
**A.** \$2.00 per page for the first 10 one-sided pages;  
**B.** For each page after the first 10 one-sided pages, not more than twenty cents per page.  
[8.370.6.10 NMAC - N, 07/01/2024]

**8.370.6.11 COMPLAINTS; ENFORCEMENT:**  
**A.** Complaints by any person, or person's authorized representative, that a health care provider has failed to comply with the requirements of this rule, shall be made, in writing, to the New Mexico health care authority, division of health improvement.  
**B.** Complaints shall include a description of manner in which the health care provider failed to follow this rule, and shall include copies of all documents relevant to the alleged violation.  
**C.** Complaints alleging violation of this rule made against health care providers which are substantiated by the authority, or any failure by a health care provider to timely submit payment of any assessed civil monetary penalty, may be referred to the appropriate professional or facility licensure or certification authority for further action.  
[8.370.6.11 NMAC - N, 07/01/2024]

**8.370.6.12 PENALTIES:** If the authority finds that the health care provider has violated these regulations, the authority may impose a civil monetary penalty in an amount not to exceed \$100 per violation.  
[8.370.6.12 NMAC - N, 07/01/2024]

**History of 8.370.6 NMAC: [RESERVED]**