

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 370 OVERSIGHT OF LICENSED HEALTHCARE FACILITIES AND COMMUNITY BASED WAIVER PROGRAMS**  
**PART 21 QUALITY MANAGEMENT SYSTEM AND REVIEW REQUIREMENTS FOR PROVIDERS OF COMMUNITY BASED SERVICES**

**8.370.21.1 ISSUING AGENCY:** New Mexico Health Care Authority.  
[8.370.21.1 NMAC - N, 7/1/2024]

**8.370.21.2 SCOPE:** This rule is applicable to persons, organizations or legal entities that are under contract to provide services to the New Mexico health care authority under the following programs: developmental disability waiver (DDW), disabled and elderly waiver (D&EW), medically fragile waiver (MFW), traumatic brain injury (TBI) and family, infants and toddler (FIT) and any additional programs that may require provider compliance with these requirements.  
[8.370.21.2 NMAC - N, 7/1/2024]

**8.370.21.3 STATUTORY AUTHORITY:** Subsection E of Section 9-8-6 NMSA 1978 and Subsections L, O, T and U of Section 24-1-3 of the Public Health Act, NMSA 1978 as amended. 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 health care purchasing and regulation.  
[8.370.21.3 NMAC - N, 7/1/2024]

**8.370.21.4 DURATION:** Permanent.  
[8.370.21.4 NMAC - N, 7/1/2024]

**8.370.21.5 EFFECTIVE DATE:** July 1, 2024, unless a later date is cited at the end of a section.  
[8.370.21.5 NMAC - N, 7/1/2024]

**8.370.21.6 OBJECTIVE:** This rule establishes standards for provider compliance with health care authority (HCA) requirements for quality assurance reviews of DDW, D&EW, MFW, TBI and FIT programs and any additional programs that may require provider compliance with these requirements and specifies that HCA authorized representatives shall have timely access to records, personnel, service locations and clients.  
[8.370.21.6 NMAC - N, 7/1/2024]

**8.370.21.7 DEFINITIONS:** For purposes of these regulations, the following shall apply:

**A. “Client”** means any person who is requesting or receiving services from one or more service providers subject to these requirements.

**B. “HCA”** means the New Mexico health care authority.

**C. “Developmental disability waiver (DDW)”** means a program offering community based services under the administration of the HCA long term services division for persons eligible based on the criteria described in Subsection B of 8.290.400.10 NMAC.

**D. “Disabled & elderly waiver (D&EW)”** means a program offering community based services under the administration of the MAD for persons eligible based on the criteria described in Subsection A of 8.290.400.10 NMAC.

**E. “Family infant and toddler (FIT)”** means a program offering community based services under the administration of the HCA long term services division for persons eligible based on the criteria described in 7.30.8 NMAC.

**F. “MAD”** means the medical assistance division of the New Mexico health care authority.

**G. “Medically fragile waiver (MFW)”** means a program offering community based services under the administration of the HCA long term services division for persons eligible based on the criteria described in Subsection C of 8.290.400.10 NMAC.

**H. “Provider”** means a person, organization or legal entity under contract with HCA to provide services to clients eligible for services under one or more of the following programs: developmental disability waiver (DDW), disabled and elderly waiver (D&EW), medically fragile waiver (MFW); or traumatic brain injury (TBI) and any additional programs that may require provider compliance with these requirements.

**I.** “Timely access” means physical or in-person, electronic or other access needed by authorized representatives of the HCA to conduct a quality review activity. Timely access means immediate access upon request. If immediate access is not possible for a legitimate reason, the access shall be as prompt as reasonably possible.

**J.** “Traumatic brain injury provider (TBI)” means a person, organization or other legal entity as specified in Section 24-1-24 NMSA 1978, operating under the administration of the HCA long term services division, which generally offers community based services to eligible clients.  
[8.370.21.7 NMAC - N, 7/1/2024]

**8.370.21.8 STANDARD OF COMPLIANCE:** The degree of compliance required throughout these regulations is designated by the use of the words “shall” or “must” or “may”. “Shall” or “must” means mandatory. “May” means permissive.  
[8.370.21.8.NMAC - N, 7/1/2024]

**8.370.21.9 CONFIDENTIALITY:** Client specific information reviewed or obtained in the course of quality assurance reviews of providers is confidential in accordance with all applicable federal and state law and regulation and with all applicable contract provisions. Other confidential information may include, but is not limited to: personnel records, the provider’s internal incident investigations, financial documents and proprietary business information.  
[8.370.21.9 NMAC - N, 7/1/2024]

**8.370.21.10 ACCESS TO FACILITATE PROVIDER REVIEW QA ACTIVITIES:**

**A.** HCA shall review the quality of care delivered by providers subject to these requirements. These reviews may be either announced or unannounced.

**B.** Providers of services shall facilitate timely physical or in-person access to:

**C.** Provider records, regardless of media, including but not limited to: financial records, all client records, ISPs, personnel records, board and or committee minutes, incident reports, quality assurance activities, client satisfaction surveys and agency policy/procedures manuals;

**D.** All provider personnel;

**E.** Clients currently receiving services from the provider;

**F.** Any information relevant to accessing guardians, representatives and family members;

**G.** All records, regardless of media, relating to former and deceased clients; and

**H.** All administrative and service delivery sites.

**I.** Failure to grant and facilitate timely physical or in-person access as defined in this rule may subject the provider to all available penalties and sanctions as provided in applicable federal, state or contract provisions.

[8.370.21.10 NMAC - N, 7/1/2024]

**History of 8.370.21 NMAC: [RESERVED]**