

This is an amendment to 8.285.400 NMAC, Sections 5, 9, 10, 12, 13, 14, 17 and 19, effective December 1, 2008. This rule was also renumbered and reformatted from 8 NMAC 4 ESA.000 and ESA.400 to comply with NMAC requirements.

8.285.400.5 **EFFECTIVE DATE:** February 1, 1995, unless a later date was cited at the end of a section. [2/1/95; 8.285.400.5 NMAC - Rn, 8 NMAC 4.ESA.000.5 & A, 12/1/08]

8.285.400.9 **EMERGENCY MEDICAL SERVICES FOR UNDOCUMENTED ALIENS - CATEGORY 085:** [~~Nonqualified, undocumented, illegal, and nonimmigrant aliens who meet all eligibility criteria for medicaid 02, categories 030, 032, 035 or SSI, except for citizenship or legal alien status, can receive coverage for emergency services. See 42 CFR Section 440.225.~~] Certain non-citizens who are undocumented or who do not meet the qualifying immigration criteria specified in 8.200.410.11 NMAC, but who meet all eligibility criteria for medicaid categories 030, 032, 035, 072, or SSI can receive coverage for emergency services. See 42 CFR Section 440.225. [2/1/95; 4/30/98; 8.285.400.9 NMAC - Rn, 8 NMAC 4.ESA.400 & A, 12/1/08]

8.285.400.10 **BASIS FOR DEFINING THE GROUP:**

~~[A. Medical services qualifying as a bona fide emergency are covered for the duration of the emergency. The process requires a 100 percent prepayment review. No prior approval is given for any services, as the services would not, by definition, meet the criteria for emergency services. **Definition of emergency:**] The determination of emergency status is made by the [medical assistance division (MAD) or its designee.] medicaid utilization review contractor. For purposes of determining emergency status, the following definition applies. An “emergency” is a medical condition, including all emergency labor and delivery, inductions and cesarean sections, manifested by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in placing the patient’s health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. [See Section MAD 769, Emergency Services for Undocumented Aliens.] See 8.325.10 NMAC, *Emergency Services for Aliens.*~~

~~(1) Emergency labor and delivery services: Coverage of emergency labor and delivery services is available from the time the mother is first treated for active labor until the mother and child are stabilized. The child is not eligible for newborn coverage under category 031.~~

~~(2) Child’s eligibility: In some instances, a child can have legal alien or citizenship status due to its birth in the United States. In these cases, the child can be eligible for category 032 or AFDC. If the child is not eligible for any of these categories and the services the child received qualified as emergency services, an application for category 085 for the child can be made at the same time as the mother’s application.]~~

[2/1/95; 8.285.400.10 NMAC - Rn, 8 NMAC 4.ESA.402 & A, 12/1/08]

8.285.400.12 **ENUMERATION:** An alien applicant is exempt from the requirement to provide a social security number. If the applicant is found eligible for coverage of emergency services, the claims are paid using a dummy number. Issuance of the dummy number is done on [~~“interim state ID—computer issuance system”.~~] the current eligibility system.

[2/1/95; 8.285.400.12 NMAC - Rn, 8 NMAC 4.ESA.411 & A, 12/1/08]

8.285.400.13 **CITIZENSHIP:** [~~An alien applicant must be a nonqualified, undocumented, illegal, or nonimmigrant alien. Verification of non-immigrant status is required.~~] An applicant must be a noncitizen who is undocumented or who does not meet the qualifying immigration criteria specified in 8.200.410.11 NMAC, *Citizenship.*

[2/1/95; 4/30/98; 8.285.400.13 NMAC - Rn, 8 NMAC 4.ESA.412 & A, 12/1/08]

8.285.400.14 **RESIDENCE:** An [~~alien~~] applicant must provide proof of New Mexico residence. Undocumented aliens traveling through New Mexico, visiting in New Mexico, or touring New Mexico do not meet the residence requirements for eligibility.

[2/1/95; 8.285.400.14 NMAC - Rn, 8 NMAC 4.ESA.413 & A, 12/1/08]

8.285.400.17 **SSI STATUS:** [~~Aliens~~] Applicants who apply under SSI coverage must meet the income and resource limits. Eligibility is determined using the SSI methodology contained in [~~Section SSI, Supplemental Security Income Methodology~~] Title 8, Chapter 215 NMAC, Medicaid Eligibility - Supplemental Security Income (SSI) Methodology. Disability is determined by disability determination services.

[2/1/95; 8.285.400.17 NMAC - Rn, 8 NMAC 4.ESA.427 & A, 12/1/08]

8.285.400.19 ASSIGNMENT OF SUPPORT:

~~[A.]~~ **Assignments of medical support:** As a condition of eligibility, applicants/recipients must [42 CFR Section 433.146; 27-2-28 (G) NMSA 1978 (Repl. Pamp. 1991):

~~[(1)]~~ A. assign rights to medical support and payments to the human services department (HSD); the assignment authorizes HSD to pursue and make recoveries from liable third parties on the recipient's behalf;

~~[(2)]~~ B. assign the rights to medical support and payments of other individuals eligible for medicaid, for whom he/she can legally make an assignment; and

~~[(3)]~~ C. assign his/her individual rights to any medical care/support available under an order of a court or an administrative agency.

~~[B. — Assignment of parental support: Assignment of parental support rights is required for all minor medicaid recipients with absent or deceased parents. By signing applications and receiving medicaid benefits, applicants/recipients have assigned support rights and agreed to cooperate with parental support requirements. See Section MAD 425, Eligibility Assignment and Cooperation Requirements. Medicaid benefits are not denied to an otherwise eligible applicant/recipient solely because he/she cannot legally assign his/her own support rights when the individual who is legally able to assign his/her rights refuses to assign or cooperate, as required by law.]~~

[2/1/95; 8.285.400.19 NMAC - Rn, 8 NMAC 4.ESA.434 & A, 12/1/08]