

Instructions for completing the NMAC TRANSMITTAL FORM



Your agency must complete the following:

Volume, Issue and Publication Date. Example: Volume: XXXII , Issue: 10, Publication date: May 25, 2021.

Provide the total number of pages of the paper version of the new rule, amendment, repeal, or emergency document.
Note: Do not include the pages of the transmittal form, billing sheet, PO, etc.

Sequence number is for **ALD use only**.

Issuing agency § name and mailing address.

Agency § 3-digit DFA code. Example: 123

Contact person's Name, Phone number, E-mail address.

Check type of rule action: **New** (brand new rule or replacement rule), **Amendment**, **Repeal** (repeal and do not replace or repeal and replace), **Emergency**, or **Renumber**. **For a repeal and replacement rule, the agency must provide TWO signed transmittal forms; one for the repeal statement and another for the new (replacement) rule.**

Most Recent Filing Date of the Part for **ALD use only**.

Identify NMAC Title, Chapter and Part numbers and Title, Chapter and Part names.

Example:

Title 19 Natural Resources and Wildlife
Chapter 30 Wildlife Administration Aquatic
Part 14 Invasive Species

Description of Amendment: (if amending) Example: "Amending three sections".

Amendment § NMAC citation: (if amending) Example: "Sections 9, 10 and 18 of 7.1.13 NMAC".

Are any materials incorporated by reference? Check: Yes or No. If Yes, please list attachments or provide Internet site.

If incorporated, has copyright permission been granted? Check Yes or No or check if document is in the public domain.

Concise Explanatory Statement for rulemaking adoption See 1.24.25.14 NMAC:

Provide your agency's specific statutory or other authority authorizing rulemaking: Check with your agency's general counsel office to determine the correct citation(s) authorizing your agency to make rules.

Provide your Notice date(s) (when notice of rulemaking was published in Register): Hearing date(s) (if agency has board or commission): Rule adoption date: (see note below) and Rule effective date (date rulemaking becomes effective)

Note:

- There must be at least **30** days between the notice publication date and hearing date.
- Your agency **must file** your rule within **15** days from rule adoption date. The date of adoption of the proposed rule shall be the date the concise explanatory statement is signed by the agency, unless otherwise specified in the concise explanatory statement. Unless your rule is an emergency filing, the rule effective date cannot be any earlier than the publication date in the New Mexico Register.

Findings required for rulemaking adoption. If attaching a separate document as findings or as concise explanatory statement, please indicate as such in findings section.

Check with your agency's general counsel office regarding substance of any required findings to be filed.

Issuing Authority: Name, Title Date signed and original Signature of issuing authority or their delegate in **black ink**:

Note: If authority has been delegated, this box must be checked. A letter of delegation must be on file with the State Records Center and Archives, Administrative Law Division.

NMAC

Transmittal Form



Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use) Recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Please see attached document.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

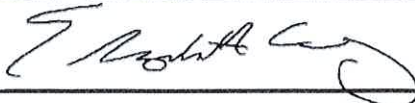
Elizabeth Groginsky

Check if authority has been delegated

Title:

Cabinet Secretary, ECECD

Signature: (BLACK ink only OR Digital Signature)



Date signed:

4/28/2022

8.15.2 NMAC Concise Explanatory Statement For Rulemaking Adoption:

These amendments are emergency rule amendments made pursuant to NMSA 1978, § 14-4-5.6. These are temporary rule amendments. Pursuant to NMSA 1978, § 14-4-5.6(E), these emergency amendments are not permanent and will expire if no permanent rule is adopted within one hundred and eighty (180) days from the effective date of these emergency amendments. These emergency amendments are necessary because the Early Childhood Education and Care Department (ECECD) finds that the time required to complete the normal rulemaking procedures would (1) cause an imminent peril to the public health, safety and welfare of families receiving child care assistance subsidies from ECECD; and, (2) to ensure that the child care assistance subsidy system remains economically viable for all intended recipients in New Mexico.

For these reasons, these emergency rule amendments are filed, effective on the dates set forth below, to amend 8.15.2 NMAC, Sections **8.15.2.9(G)** and **8.15.2.14(C)(2)**.

Summary:

1). 8.15.2.9(G) NMAC amends the Copayment Requirements as follows:

G. Priority four plus: During this period of economic recovery and subject to budgetary considerations, child care assistance for essential workers whose income is above two hundred percent of the federal poverty level but at or below three hundred fifty percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below four hundred percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC. The department prioritizes child care services within priority four plus for children with special needs, disabilities, homeless families, and for teen parents. [Co-payments for families in priority four plus are not waived. Co-payments for families will be capped at three hundred percent of the federal poverty level.]

Effective date: May 1, 2022

ECECD is removing the co-payment requirements for families receiving child care assistance in this category of income (200% of federal poverty level (FPL) to 400% FPL) in order to encourage the economic recovery of the state by ensuring that a sufficient workforce exists for the New Mexico economy to recover from the COVID-19 public health emergency, rising national inflation, and other economic stressors affecting New Mexico's working class. The current formula for setting co-payments is outdated and needs substantial overhaul, including the research and development of economic indicators that accurately reflect a family's ability to pay a co-payment for child care assistance. In the meantime, ECECD is making this emergency change to remove the copayment requirement for families receiving child care assistance earning 200-400% FPL in order to relieve the economic stressors on New Mexico's families and encourage more capable adults to return to the workforce.

Funds to pay for this benefit expansion will come from the federal American Rescue Plan Act of 2021, also called the COVID-19 Stimulus Package or American Rescue Plan, which is a \$1.9 trillion economic stimulus bill passed by the United States Congress and signed into law by President Joe Biden on March 11, 2021, to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession. The American Rescue Plan includes federal relief funds for child care assistance in order to help parents return to work and jumpstart the economy. It is generally understood and accepted that the lack of high quality, affordable child care is the primary impediment to a parent or guardian's stable employment. Further, it is generally understood and accepted that an otherwise capable

adult is unable to enter the workforce if they do not have quality child care to cover for hours of employment and/or educational/vocational classes.

2). 8.15.2.14(C)(2) NMAC amends the Case Suspensions and Closure requirements as follows:

C. (2) income in excess of two hundred and fifty percent federal poverty level or a client designated as an essential worker, as defined in Paragraph (2) of Subsection E of 8.15.2.9 NMAC, with an income in excess of four hundred [~~and fifty~~] percent of the federal poverty level;

ECECD is amending this section to correct a clerical oversight from the most recent rule making process completed January 1, 2022. ECECD never intended to raise the suspension and closure requirement to 450% of the FPL. The intention was to raise it to 400% FPL. This emergency amendment also makes this requirement consistent with similar requirements in this chapter, wherein closure or exit from the child care assistance programs must occur at 400% FPL, and not 450% FPL. *See* 8.15.2.9(G) & 8.15.2.12 NMAC. In addition to the inconsistency, ECECD would not possess sufficient state and federal funds to pay for its child care assistance obligations without this emergency change to lower the FPL suspension and closure requirement to 400%. For purposes of reference, the U.S. Health and Human Services (HHS) Department's 2022 federal poverty guidelines for the 48 Contiguous States set 400% of the FPL for a family of four at \$111,000 annually. 450% FPL is not listed on HHS's website for 2022. *See* <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

Effective date: May 1, 2022