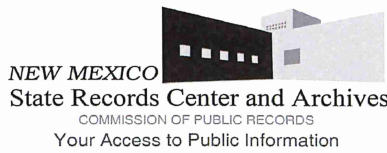


NMAC

Transmittal Form



FILED WITH
STATE RECORDS CENTER

2025 APR 24 PM 12:50

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 Renummer (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:

This rule making by the Secretary of the Department of Health is made in accordance with the following authorities: Sections 24-1-44 and 24-1-44(F),NMSA 1978.

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.

FILED WITH
STATE RECORDS CENTER

2025 APR 24 PM 12:50

The findings in support of this new rule is stated in the attached Statement of Reasons for Adoption of the rule, which is hereby incorporated by reference.

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

Name:

Check if authority has been delegated

Chris D. Woodward

Title:

Acting General Counsel

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Christopher Woodward

Digitally signed by Christopher Woodward
Date: 2025.04.24 11:29:58 -06'00'

4/24/2025

2025 APR 24 PM 12:50

TITLE 7 HEALTH
CHAPTER 30 FAMILY AND CHILDREN HEALTH SERVICES
PART 15 SCHOOL-BASED HEALTH CENTERS

7.30.15.1 ISSUING AGENCY: New Mexico department of health, public health division.
[7.30.15.1 NMAC - N, 5/6/2025]

7.30.15.2 SCOPE: These rules apply to school-based health centers in New Mexico that are funded by the New Mexico department of health, and all persons who provide services within those SBHCs.
[7.30.15.2 NMAC - N, 5/6/2025]

7.30.15.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions"; and the Public Health Act, Subsection F of Section 24-1-44 NMSA 1978, which authorizes the department to adopt and promulgate rules for the regulation, operation and oversight of school-based health centers receiving funding from the department.
[7.30.15.3 NMAC - N, 5/6/2025]

7.30.15.4 DURATION: Permanent.
[7.30.15.4 NMAC - N, 5/6/2025]

7.30.15.5 EFFECTIVE DATE: May 6, 2025, unless a later date is cited at the end of a section.
[7.30.15.5 NMAC - N, 5/6/2025]

7.30.15.6 OBJECTIVE: The purpose of this rule is to implement Section 24-1-44 NMSA 1978 of the Public Health Act. This rule governs the regulation, operations and oversight of school-based health centers (SBHC) in New Mexico receiving funding from the department, and establishes minimum standards for implementation of the provisions of the statute. The school-based health center program supports communities in promoting the health and well-being of the school-age population and local community through the evidence-based best practice within a public health framework. These rules establish the procedure and criteria New Mexico department of health shall use to certify, suspend, and decertify school-based health centers. Certification of an SBHC by the state SBHC program is voluntary; an operating SBHC choose not to participate in certification, only certified SBHCs are eligible for funding from New Mexico department of health.
[7.30.15.6 NMAC - N, 5/6/2025]

7.30.15.7 DEFINITIONS:

- A. Definitions beginning with "A": [RESERVED]**
- B. Definitions beginning with "B": "Behavioral health"** means mental health, lifestyle and health behaviors, substance misuse, life stressors and crises.
- C. Definitions beginning with "C": "Child"** means a person below the age of 18.
- D. Definitions beginning with "D": "Department"** means the New Mexico department of health.
- E. Definitions beginning with "E": [RESERVED]**
- F. Definitions beginning with "F": "FERPA"** means Family Educational Rights and Privacy Act.
- G. Definitions beginning with "G": [RESERVED]**
- H. Definitions beginning with "H":**
 - (1) **"Health"** means a state of physical and mental well-being, not merely the absence of disease.
 - (2) **"HIPAA"** means Health Insurance Portability and Accountability Act.
- I. Definitions beginning with "I": [RESERVED]**
- J. Definitions beginning with "J": [RESERVED]**
- K. Definitions beginning with "K": [RESERVED]**
- L. Definitions beginning with "L": [RESERVED]**
- M. Definitions beginning with "M": "Medicaid"** means medical assistance eligibility, pursuant to Title XIX of the Social Security Act, by the medical assistance division of the New Mexico health care authority.
- N. Definitions beginning with "N": [RESERVED]**

- O. **Definitions beginning with “O”:** [RESERVED]
- P. **Definitions beginning with “P”:**
 - (1) **“Provider”** means any individual or entity furnishing health care at the SBHC.
 - (2) **“Primary health care”** means basic care of a patient’s health needs across a wide continuum, including preventive and well care as well as minor and acute illness or injury.
- Q. **Definitions beginning with “Q”:** [RESERVED]
- R. **Definitions beginning with “R”:** **“Reproductive health”** means state of wellbeing in all matters related to the reproductive system and to its functions and process.
- S. **Definitions beginning with “S”:**
 - (1) **“School-based health center (SBHC)”** means a health care clinic located in a school, a school campus or and is organized through school and health provider agreements and offer both physical and behavioral health care.
 - (2) **“School-based health center program (program; SBHC program)”** means the New Mexico department of health, school-based health center program.
 - (3) **“SBHC site”** means an individual SBHC clinic or access point.
 - (4) **“SBHC system”** means the SBHC sponsoring agency and all the school-based health centers operating under that entity.
 - (5) **“Sponsoring agency”** means an entity that provides, either directly or via contract with another entity, SBHC services that include (but need not be limited to):
 - (a) funding;
 - (b) staffing;
 - (c) clinical oversight;
 - (d) liability insurance; and
 - (e) billing support.
 - (6) **“Student”** means a child or adolescent who is enrolled in school.
- T. **Definitions beginning with “T”:** **“Telehealth”** means patient care via a two-way, real-time interactive communication between a patient and a medical or behavioral health provider at a distant site through telecommunications equipment that includes, at a minimum, audio and visual equipment.
- U. **Definitions beginning with “U”:** [RESERVED]
- V. **Definitions beginning with “V”:** [RESERVED]
- W. **Definitions beginning with “W”:** [RESERVED]
- X. **Definitions beginning with “X”:** [RESERVED]
- Y. **Definitions beginning with “Y”:** [RESERVED]
- Z. **Definitions beginning with “Z”:** [RESERVED]

[7.30.15.7 NMAC - N, 5/6/2025]

7.30.15.8 STANDARD OF COMPLIANCE: The degree of compliance required throughout these rules is designated using the words “shall”, “must”, or “may”. “Shall” or “must” means mandatory. “May” means permissive. The use of the words, “proper” and “appropriate” mean the degree of compliance that is generally accepted throughout the professional field and by those who provide school-based health center services to the public in facilities governed by these rules. However, if any other applicable statute or rule requires mandatory or stricter compliance for school-based health center services than these rules, the school and the SBHC sponsoring agency must comply with the stricter compliance requirements.

[7.30.15.8 NMAC - N, 5/6/2025]

7.30.15.9 SCHOOL-BASED HEALTH CENTER OPERATIONS AND SERVICES:

- A. **Location:** A school-based health center shall be located within a designated clinic space in a school, on a school campus, or adjacent to a school campus within a safe walking distance. School-based health care may also be delivered in a mobile clinic on or near a school campus or offered via telehealth as determined by the school and SBHC sponsoring agency. An SBHC shall operate within an appropriate physical space and comply with all federal, state, and local laws and regulations governing health care practices.
- B. **Consent to services:** An SBHC shall obtain parental, guardian, or student consent for services in accordance with applicable state and federal laws.
- C. **Non-discrimination:** In accordance with state and federal non-discrimination laws, an SBHC shall not discriminate against patients based upon race, color, sexual orientation, gender, gender identity, religion, national origin, immigration status disability, health insurance status, or ability to pay.

7/7 APR 21 PM 12:50

D. Hours of operation: An SBHC shall be open during hours accessible to students.

E. Clinical services: SBHC clinical services shall be provided by professionally qualified staff who are appropriately certified and professionally licensed in the state of New Mexico. SBHC clinical providers shall provide age appropriate, relevant health services to children and students. Services may include:

- (1) Comprehensive primary health care, including, health assessments, diagnosis, and treatment of minor, acute, and chronic medical conditions;
- (2) Well-child examinations, referrals to and follow-up for specialty care, mental health and substance use disorder assessments and treatment;
- (3) Crisis intervention, counseling and treatment;
- (4) Oral health services;
- (5) Vision services; and
- (6) Reproductive health services, including but not limited to diagnosis and treatment of sexually transmitted diseases, HIV testing and counseling, and provision of contraceptives.

F. Storage of supplies and medications: SBHC sites shall abide by state regulations and standards for the proper storage of medical supplies, medications, 16.19.10 NMAC.

G. Referral for services: SBHC shall refer to a continuum of health services not available at the SBHC, including those related to physical health conditions, mental health conditions, substance abuse services, vision and oral health services as needed, services may include but are not limited to:

- (1) vaccinations;
- (2) community support programs;
- (3) inpatient care; and
- (4) outpatient care and programs.

H. Health coverage: All school-based health centers shall take steps to ascertain a student's insurance coverage, health plan, and primary care provider to ensure continuity of care.
[7.30.15.9 NMAC - N, 5/6/2025]

7.30.15.10 SCHOOL-BASED HEALTH CENTER CERTIFICATION: School-based health centers must meet all requirements for certification in the New Mexico standards and benchmarks for school-based health Centers to be eligible to apply to the program for certification. The department may perform reviews of SBHCs as it deems necessary to ensure continued compliance with the New Mexico standards and benchmarks for school-based health centers. Reviews may include site visits, reviews of records and documents, or such other oversight as determined necessary by the department. An SBHC shall make documents and premises available for inspection upon the program's request.

[7.30.15.10 NMAC - N, 5/6/2025]

7.30.15.11 DATA COLLECTION AND SHARING:

A. Medical record: A school-based health center shall maintain and store a medical record for each patient in accordance with applicable laws. *See, e.g.*, 16.10.17.10 NMAC ("Retention, Maintenance and Destruction of Medical Records").

B. Data collection: An SBHC shall participate in data collection for statewide evaluation. Data measures shall be determined by the state of New Mexico school based health center program. School-based health centers shall ensure confidentiality in the storage and sharing of health information, in accordance with applicable state and federal confidentiality laws, including HIPAA and FERPA.

C. Student confidentiality: SBHCs shall follow applicable state and federal laws concerning student confidentiality when billing for services.

[7.30.15.11 NMAC - N, 5/6/2025]

7.30.15.12 SBHC STAFFING:

A. AN SBHC shall provide services through health professionals who maintain up to date New Mexico licensure, training, and proper certification in their individual discipline for the population to be served.

B. The organizational structure of the SBHC must be adequate to provide for appropriate clinic supervision of staff, and to ensure that staff are assigned responsibilities that are consistent with their education and experience and legally within their scope of practice.

C. Staffing of the SBHC must include the designation of an individual as having overall responsibility for the management of the SBHC.

[7.30.15.12 NMAC - N, 5/6/2025]

7.30.15.13 FINANCIAL SUSTAINABILITY:

- A. The SBHC sponsoring agency is responsible for employing financial practices that balance the long-term fiscal health of the SBHC.
- B. The SBHC sponsoring agency shall maintain financial policies and procedures that:
 - (1) Support and guide a sound business plan based on financial strategies that rely on stable and predictable funding sources, maximize patient revenue, and minimize the role of grants to support operations for the long-term; and
 - (2) Require billing Medicaid and other insurers whenever possible.

[7.30.15.13 NMAC - N, 5/6/2025]

7.30.15.14 WAIVERS:

- A. An SBHC system must notify the program within 20 calendar days of any change that brings an SBHC out of compliance with the certification requirements. An SBHC system must submit a request to the program that includes an explanation of the non-compliant requirement, a plan for corrective action, and date for meeting compliance.
- B. The program will review the waiver request and inform the SBHC system of approval or denial of the waiver within two weeks of submission.
- C. If the waiver is approved, the SBHC must comply with certification requirements by the identified deadline for compliance.
- D. If a waiver is denied; an SBHC site or system does not come into compliance by the deadline for compliance stated on the waiver; or an SBHC is out of compliance with certification requirements and has not submitted a waiver, the program may, within its discretion:
 - (1) require the SBHC to complete an additional waiver with an updated plan for corrective action and updated date for meeting compliance;
 - (2) issue a written warning with a timeline for corrective action; or
 - (3) issue a notice of contemplated action to suspend or revoke SBHC certification(s) or take other disciplinary action in accordance with this rule.
- E. An SBHC site with its certification status suspended may have its suspension lifted once the program determines that compliance with certification requirements has been satisfactorily achieved.
- F. An SBHC that has been decertified may reapply.
- G. If these rules are amended in a manner that requires an SBHC to make any operational changes, the program will allow the SBHC system until the beginning of the next certification year or a minimum of 90 days to come into compliance.
- H. The New Mexico school based health center program reserves the right to review any or all selected standards for compliance at all certified sites with a minimum notification of at least five center working days if issues of compliance are raised or come into question.

[7.30.15.14 NMAC - N, 5/6/2025]

7.30.15.15 DISCIPLINARY ACTION; RIGHT OF APPEAL:

- A. **Denial, suspension, and revocation:** SBHC certification may be denied, suspended, or revoked, or may be subject to any other disciplinary action, for violation of or failure to satisfy any requirement of this rule, and on any of the following grounds:
 - (1) abuse, neglect, or exploitation;
 - (2) failure to follow established procedures regarding controlled substances;
 - (4) disclosure of patient information in a manner not consistent with applicable law(s);
 - (3) dispensing, administering, or distributing medications in a manner not consistent with applicable law(s);
 - (4) failure to comply with other applicable law(s);
 - (5) any false, fraudulent, or deceptive statement made to the program;
 - (6) failure to cooperate with the program's review of the SBHC; and
 - (7) any conduct that poses a substantial risk of harm to public health or safety.
- B. **Notification; other action:** If final disciplinary action is taken, the program may notify the New Mexico health care authority, licensing bodies, and others.
- C. **Notice of contemplated action:** The program may issue a notice of contemplated action to deny, suspend, or revoke certification, or take other disciplinary action against an SBHC. The notice shall be served by certified U.S. postal mail (return receipt requested). The notice shall state the grounds for taking the proposed

action, and shall state that the program will take the proposed action unless the SBHC or SBHC applicant mails, within 20 days after service of the notice, a letter (via certified mail, return receipt requested), requesting a hearing.

D. Right to appeal: An SBHC or SHBC applicant may request a hearing to be held before a hearing officer appointed by the cabinet secretary to contest a proposed action under this rule, by mailing a letter via certified mail, return receipt requested, to the program within 20 days after service of the notice of contemplated action. If an SBHC or SBHC applicant fails to request a hearing in the time and manner required, the SBHC or SBHC applicant shall forfeit the right to a hearing, and the proposed action shall become final.
[7.30.15.15 NMAC - N, 5/6/2025]

7.30.15.16 HEARINGS:

A. Scheduling the hearing:

(1) **Appointment of hearing officer:** Upon the program's receipt of a conforming request for hearing, the department shall appoint a hearing officer and schedule a hearing.

(2) **Hearing date:** The hearing shall be held not more than 60 days and not less than 15 days from the date of service of the notice of the hearing.

(3) **Notice of hearing:** The department shall notify the SBHC or SBHC applicant of the date, time, and place of the hearing and the identity of the hearing officer within 20 days of the program's receipt of the conforming request for hearing.

(4) **Hearing venue:** The hearing shall be held in Santa Fe, New Mexico, or may be held via internet-based web video conference by agreement of the parties.

B. Method of service: Any notice or decision required to be served under this section may be served either personally or by certified mail, return receipt requested, directed to the SBHC or SBHC applicant at the last known mailing address shown by the records of the program. The notice or decision shall be deemed to have been served on the date borne by the return receipt showing delivery, or the date of the last attempted delivery of the notice or decision, or the date of the addressee's refusal to accept delivery.

C. Hearing officer duties: The hearing officer shall conduct the hearing, rule on any motions or other matters that arise prior to the hearing, and issue a written report and recommendation(s) to the secretary following the close of the hearing.

D. Official file: Upon appointment, the hearing officer shall establish an official file which shall contain all notices, hearing requests, pleadings, motions, written stipulations, evidence, briefs, and correspondence received in the case. The official file shall also contain proffered items not admitted into evidence, which shall be so identified and shall be separately maintained. Upon conclusion of the proceeding and following issuance of the final decision, the hearing officer shall tender the complete official file to the department for its retention as an official record of the proceedings.

E. Powers of hearing officer: The hearing officer shall have all the powers necessary to conduct a hearing and to take all necessary action to avoid delay, maintain order, and assure development of a clear and complete record, including but not limited to the power to: administer oaths or affirmations; schedule continuances; direct discovery; examine witnesses and direct witnesses to testify; subpoena witnesses and relevant books, papers, documents, and other evidence; limit repetitious and cumulative testimony; set reasonable limits on the amount of time a witness may testify; decide objections to the admissibility of evidence or receive the evidence subject to later ruling; receive offers of proof for the record; take notice of judicially cognizable facts or take notice of general, technical, or scientific facts within the hearing officer's specialized knowledge (provided that the hearing officer notifies the parties beforehand and offers the parties an opportunity to contest the fact so noticed); direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct pre-hearing conferences; impose appropriate evidentiary sanctions against a party who fails to provide discovery or who fails to comply with a subpoena; dispose of procedural requests or similar matters; and enter proposed findings of fact and conclusions of law, orders, reports and recommendations. The hearing officer may utilize his or her experience, technical competence, or specialized knowledge in the evaluation of evidence presented.

F. Postponement or continuance: The hearing officer, at their discretion, may postpone or continue a hearing upon his or her own motion, or upon the motion of a party, for good cause shown. Notice of any postponement or continuance shall be given in person, by telephone, or by mail to all parties within a reasonable time in advance of the previously scheduled hearing date.

G. Conduct of hearing: Hearings shall be open to the public; provided, however, that hearings may be closed in part to prevent the disclosure of confidential information, including but not limited to health information protected by state and federal laws.

H. Recording: The hearing officer or a designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. Such recordings need not be transcribed, unless requested by a party who shall arrange and pay for the transcription.

I. Burden of proof: Except as otherwise provided in this rule, the department has the burden of proving by a preponderance of the evidence the basis for the proposed action. Exception in denied application cases: in cases arising from the denial of an application for certification, the SBHC applicant shall bear the initial burden of proving by a preponderance of the evidence the applicant's qualifications.

J. Order of presentation; general rule: Except as provided in this rule, the order of presentation for hearings in all cases shall be:

- (1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;
- (2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;
- (3) **opening statements:** the opening statement of the department; and then the opening statement of the party challenging the department's action or proposed action;
- (4) **cases:** the department's case-in-chief, and then the case-in-chief of the party challenging the department's action;
- (5) **rebuttal:** the department's case-in-rebuttal;
- (6) **closing argument:** the department's closing statement, which may include legal argument; and then the closing statement of the party opposing the department's action or proposed action, which may include legal argument; and
- (7) **close:** close of proceedings by the hearing officer.

K. Order of presentation in denied application cases: The order of presentation in cases arising from the denial of an application for certification shall be:

- (1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;
- (2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;
- (3) **opening statements:** applicant's opening statement; and then the opening statement of the department;
- (4) **cases:** the applicant's case-in-chief, and then the department's case-in-chief;
- (5) **rebuttal:** the applicant's case-in-rebuttal;
- (6) **closing argument:** the applicant's closing statement, and then the department's closing statement; and
- (7) **close:** close of proceedings by the hearing officer.

L. Admissible evidence; rules of evidence not applicable: The hearing officer may admit evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence, such as the New Mexico rules of evidence for the district courts, shall not apply but may be considered in determining the weight to be given any item of evidence. The hearing officer may at his or her discretion, upon his or her motion or the motion of a party or a party's representative, exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence, including testimony, and may exclude confidential or privileged evidence.

M. Objections: A party may timely object to evidentiary offers by stating the objection together with a succinct statement of the grounds for the objection. The hearing officer may rule on the admissibility of evidence at the time an objection is made or may receive the evidence subject to later ruling.

N. Official notice: The hearing officer may take notice of any facts of which judicial notice may be taken, and may take notice of general, technical, or scientific facts within his or her specialized knowledge. When the hearing officer takes notice of a fact, the parties shall be notified either before or during the hearing of the fact so noticed and its source, and the parties shall be afforded an opportunity to contest the fact so noticed.

O. Record content: The record of a hearing shall include all documents contained in the official file maintained by the hearing officer, including all evidence received during the course of the hearing, proposed findings of fact and conclusions of law, the recommendations of the hearing officer, and the final decision of the secretary.

P. Written evidence from witnesses: The hearing officer may admit evidence in the form of a written statement made by a witness, when doing so will serve to expedite the hearing and will not substantially prejudice the interests of the parties.

Q. Failure to appear: If a party who has requested a hearing or a party's representative fails to appear on the date, time, or location announced for a hearing, and if no continuance was previously granted, the hearing officer may proceed to hear the evidence of such witnesses as may have appeared or may accept offers of proof regarding anticipated testimony and other evidence, and the hearing officer may further proceed to consider

FILED WITH
STATE RECEPTION CENTER
APR 24 PM 12:50

the matter and issue his report and recommendation(s) based on the evidence presented; and the secretary may subsequently render a final decision. Where a person fails to appear at a hearing because of accident, sickness, or other cause, the person may within a reasonable time apply to the hearing officer to reopen the proceeding, and the hearing officer may, upon finding sufficient cause, fix a time and place for a hearing and give notice to the parties.

R. Hearing officer written report and recommendation(s): The hearing officer shall submit a written report and recommendation(s) to the secretary that contains a statement of the issues raised at the hearing, proposed findings of fact and conclusions of law, and a recommended determination. Proposed findings of fact shall be based upon the evidence presented at the hearing or known to all parties, including matters officially noticed by the hearing officer. The hearing officer's recommended decision is a recommendation to the secretary of the New Mexico department of health and is not a final order.

S. Submission for final decision: The hearing officer's report and recommendation(s) shall be submitted together with the complete official file to the secretary of the New Mexico department of health for a final decision no later than 30 days after the last submission by a party.

T. Secretary's final decision: The secretary shall render a final decision within 45 calendar days of the secretary's receipt of the hearing officer's written report. A copy of the final decision shall be mailed to the SBHC or SBHC applicant by certified mail, return receipt requested, within 15 days after the final decision is rendered and signed.

[7.30.15.16 NMAC - N, 5/6/2025]

History of 7.30.15 NMAC: [RESERVED]