

TITLE 7 HEALTH
CHAPTER 29 PRIMARY AND RURAL HEALTH CARE SERVICES
PART 3 RURAL PRIMARY HEALTH CARE ACT

7.29.3.1 ISSUING AGENCY: New Mexico Department of Health.
 [7.29.3.1 NMAC - Rp, 7 NMAC 29.3.1, 10/16/06]

7.29.3.2 SCOPE: Rural Primary Health Care Act rules shall apply to the use of the funds by eligible programs available pursuant to the Rural Primary Health Care Act, Sections 24-1A-1 to 24-1A-4 NMSA 1978.
 [7.29.3.2 NMAC - Rp, 7 NMAC 29.3.2, 10/16/06]

7.29.3.3 STATUTORY AUTHORITY: The Rural Primary Health Care Act, Sections 9-7-6(F) and 24-1A-4 NMSA 1978, as amended.
 [7.29.3.3 NMAC - Rp, 7 NMAC 29.3.3, 10/16/06]

7.29.3.4 DURATION: Permanent.
 [7.29.3.2 NMAC - Rp, 10/16/06]

7.29.3.5 EFFECTIVE DATE: October 16, 2006, unless a later date is cited at the end of a section.
 [7.29.3.5 NMAC - Rp, 7 NMAC 29.3.5, 10/16/06]

7.29.3.6 OBJECTIVE: The objective of 7.29.3 NMAC is to establish standards and procedures for regulating programs under the Rural Primary Health Care Act. The purpose of the Rural Primary Health Care Act is to assist in the provision of primary health care services in underserved areas of the state in order to better serve the health care needs of the public. This purpose will be accomplished through, but not limited to, the following activities:

- A.** assist communities in the recruitment, placement, and retention of health care personnel in underserved areas of the state which includes the coordination of such effort with health professional education programs at post-secondary schools and other institutions involved in the training of health professional personnel;
- B.** develop plans and encourage coordination between publicly supported programs, and between public and private sector providers;
- C.** provide technical assistance;
- D.** distribute financial assistance to eligible programs in order to sustain or provide a minimum level of primary health care services; and which assist in the provision of primary health care services in underserved areas in order to better serve the health needs of the public; and
- E.** provide a program for enabling the development of new primary health care services and facilities.

[7.29.3.6 NMAC - Rp, 7 NMAC 29.3.6, 10/16/06]

7.29.3.7 DEFINITIONS:

- A.** "**Act**" means the Rural Primary Health Care Act, Sections 24-1A-1 to 24-1A-4 NMSA 1978.
- B.** "**Department**" means the department of health.
- C.** "**Eligible programs**" means nonprofit community based entities that provide or commit to provide primary health care services for residents of health care underserved areas and include rural health facilities and those serving primarily low income populations.
- D.** "**Health care personnel**" means health care professionals who contribute to ensuring adequate availability of primary health care services including but not limited to: licensed practical nurses, registered nurses, pharmacists, physician assistants, nurse practitioners, certified nurse midwives, primary care physicians (family practice, general practice, pediatrics, obstetrics and gynecology, and internal medicine), dentists and dental hygienists.
- E.** "**Health care underserved areas**" (HCUA) means geographic areas where it has been determined by the department of health, through the use of indices and other standards set by the department, that

sufficient primary health care is not being provided to the citizens of that area. These designations may recognize need for either general or special health care services. HCUA designations may give consideration to federally designated health professional shortage areas (HPSA) and medically underserved areas (MUA).

F. "Medically indigent" means individuals who are unable to afford all medical care that they require. This includes both those individuals below the federal poverty level not covered by medicaid, medicare or other third party health care insurance and those individuals between 100 percent and 200 percent of federal poverty levels who are not covered by any third party health insurance. Medically indigent individuals are usually expected to pay for some portion of the cost of their health care based upon the level of their income.

G. "Minimum level of primary health care services" means basic primary health care services provided to the general population by health care personnel.

H. "Nonprofit community based entities" means nonprofit organizations with an internal revenue service 501c(3) tax exempt status which have a governing board whose membership is broadly representative of the area served including consumer representatives. Nonprofit community based entities also include local governments and tribal governments. Nonprofit community based entities which are local governments, tribal governments and/or are multi-purpose or provide services in more than one HCUA, shall have local or regional primary health care advisory boards whose membership is generally representative of the area served.

I. "Patient collections" means receipts generated from patient encounters for primary health care services. Patient collections include revenues from medicaid, medicare, private insurance, Title XX, other third party sources or self pay.

J. "Primary health care advisory board" means a board, advisory to an organization's governing board, which has responsibility for consideration of and input into matters related to the provision of primary health care services in a local HCUA or regional combination of HCUA(s) being served. A majority of the advisory board shall be consumers of primary health care services.

K. "Primary health care services" are those provided at the first level of basic or general health care for an individual's health needs, including medical, dental and behavioral health diagnostic and treatment services and supportive services. Any dental or behavioral health services shall be provided in conjunction with primary medical services. Primary health care services are those provided as part of either general practice, family practice, obstetrics, gynecology, pediatrics or general internal medicine.

L. "Total revenues" means all receipts collected in support of primary health care services. Includes but not limited to: patient collections; Section 329, 330 and 340 Federal Funds, P.L. 93-638 or IHS support; Title V, X and WIC programs; other federal grants; other state grants/contracts; and local income, including city, county or other unit of government, direct grant or value of donated property or facilities. In addition, other revenues including but not limited to: gifts, cash donations or grants from private foundations, church organizations, or other sources, general operating revenues from clinic services and interest, dividends, and other income derived from certificates of deposit, saving accounts and other investments.

[7.29.3.7 NMAC - Rp, 7 NMAC 29.3.7, 10/16/06]

7.29.3.8 FUND DISTRIBUTION:

A. Duty of the department: To the extent funds are made available for the purposes of the act Section 24-1A-3.1D NMSA 1978, the department, in accordance with applicable procurement procedures, shall provide for the distribution of financial assistance to eligible programs which have applied for and demonstrated a need for assistance in order to sustain the delivery of a minimum level of primary health care services.

B. Eligibility: To receive financial assistance through Section 24-1A-3.1D NMSA 1978, of the act, an eligible program shall:

(1) be a New Mexico nonprofit community based entity with federal internal revenue service 501c(3) tax exempt status, a local government or a tribal government which provide or commits to provide primary health care services to residents of an health care underserved area (HCUA) designated for primary health care needs;

(2) have a governing board whose membership is generally representative of the HCUA(s) it serves, including consumers of the primary health care services it provides; an eligible program which is a local government or tribal government and/or is multi-purpose or provides services in more than one HCUA shall have a local or regional primary health care advisory board whose membership is generally representative of the HCUA(s) being served; a majority of the advisory board shall be consumers of the primary health care services;

the local or regional primary health care advisory board shall have opportunity for consideration of and input into the decisions regarding budgets, scope of services, payment policies and procedures, hours of operation and staffing; the eligible program shall be able to demonstrate the ability to meet the governing board and/or the advisory board requirements or have a practical plan for its establishment and implementation;

(3) have as its purpose to sustain or provide a minimum level of primary health care services as defined in Subsection D of 7.29.3.6 NMAC; services may additionally include medical support, diagnostic and treatment services, pharmacy, laboratory, radiology, preventive health services, behavioral health services, patient follow-up and/or dental and dental support services; any dental and/or behavioral health services shall be provided in conjunction with primary medical care services;

(4) have policies and procedures which assure that no person will be denied primary health care services they require because of inability to pay; these policies and procedures should address medically indigent persons below poverty not covered by third party payors and those between 100 percent and 200 percent of poverty without third party coverage; the eligible program should be able to demonstrate either the successful impact of these policies and procedures, or have a practical plan for their implementation;

(5) have billing policies and procedures which maximize patient collections, except where federal rules or contractual obligations prohibit the use of such measures; the program should be able to demonstrate either the successful impact of these policies and procedures, or have a practical plan for their implementation;

(6) have viable systems and infrastructure to deliver primary health care services including facility, staff and financial management systems;

(7) have comprehensive policies and procedures governing the primary health care operations which assure the delivery of effective, efficient and quality care; and

(8) meet other requirements as determined by the department.

C. Eligible items/uses of expenditures: Funds made available under Section 24-1A-3.1D NMSA of the act may be used for the following types of expenditures:

(1) salaries and benefits for the employees of contractor in support of the provision of primary health care services;

(2) purchase, repair and/or maintenance of necessary medical and dental equipment;

(3) purchase of office, medical, and/or dental supplies;

(4) in-state travel to obtain training or improve coordination in order to better support or provide primary health care services;

(5) general operating expenses;

(6) programs or plans to improve the coordination, effectiveness or efficiency of the delivery of primary health care services; and

(7) contracts for medical and dental personnel services.

D. Ineligible item/uses of expenditures: Costs which are not eligible for funding under Section 24.1A-3.1.D., NMSA 1978, of the act include:

(1) land acquisition;

(2) building, construction, renovation;

(3) debt amortization;

(4) emergency medical services (EMS) including stand-by, dispatch, transport, ambulance runs, equipment and salary, fringe benefits and other costs associated with personnel to provide emergency medical services;

(5) home health care or visiting nurses services;

(6) school nurse programs;

(7) in-patient care;

(8) non-primary health care specialty care including but not limited to surgery, outpatient specialty care and long term care;

(9) freestanding services not otherwise meeting the definition of primary health care;

(10) political activity; and

(11) lobbying.

E. Distribution of financial assistance: In any state fiscal year, the distribution of financial assistance to eligible programs selected pursuant to these rules shall be determined according to the following guidelines.

(1) The award amount will be set by the department reflecting the demonstrated need of the eligible program in its proposal. The demonstrated need of an applicant will be established by the department based upon information contained in the proposal. The department reserves the right to award an amount less than the full amount of demonstrated need.

(2) In any state fiscal year, a maximum award to an eligible program for use in a single HCUA designated for primary health care needs shall not exceed an amount greater than 10 percent of the funds made available by the department for the purposes of distribution of financial assistance under Subsection D of 7.29.3.6 NMAC of these rules, except that eligible programs which are found to have exceptional need may be funded in an amount not to exceed 15 percent of the funds available.

(3) The relative need of an eligible program for financial assistance as demonstrated in the proposal.

(4) The relative need for primary health care services of the HCUA served by the eligible program as reflected in the proposal or other department documents which demonstrate the relative need for primary health care services. Consideration will be given by the department to avoiding the funding of duplicative services and to sustain the provision of a minimum level of primary health care services by eligible organizations which demonstrate the ability to deliver and maintain quality, effective, efficient and appropriate primary health care services.

(5) The degree to which the eligible program has adequate structures and procedures to administer and deliver primary health care services, including but not limited to staffing, the ability to administer effective and appropriate primary health care services, effective and appropriate financial management systems and adequate systems to maximize patient revenues.

(6) The priority given by the department for the proposed use of the funds.

(7) Other guidelines as determined by the department.

F. Evaluation of proposals: Each proposal will be evaluated and ranked with consideration given to the following factors:

(1) the relative need of an eligible program for financial assistance to sustain or provide primary health care services in a HCUA designated for primary health care needs as demonstrated in the proposal process. Financial need will be evaluated based on several factors, including but not limited to:

(a) the applicant's dependence upon patient collections as a percentage of total revenues available to the applicant for primary health care services;

(b) the extent to which write-offs and adjustments to charges, based on appropriate sliding fee scale implementation, affect the ability of the eligible program to sustain the delivery of primary health care services to an HCUA designated for primary health care needs, as demonstrated in the proposal;

(c) the existence of fund balances which may be used by the applicant to sustain or provide a minimum level of primary health care services in an HCUA designated for primary health care needs;

(d) the projected deficit as demonstrated in the proposal which will impact the ability to sustain or provide a minimum level of primary health care services in an HCUA designated for primary health care needs;

(e) the probable impact which any projected deficit as demonstrated in the proposal will have on the provision of primary health care in an HCUA; and

(f) other need criteria developed by the department.

(2) the relative need of the HCUA served by the applicant for primary health care services, as reflected in the proposal and measured by, including but not limited to:

(a) the severity of need within the HCUA as indicated in department documents or demonstrated in the proposal;

(b) the number and/or percentage of medically indigent population residing in the HCUA;

and
(c) other need criteria developed by the department;

(3) the degree to which the applicant has adequate structure and procedures to administer and deliver primary health care services including, but not limited to, staffing, ability to administer effective and appropriate primary health care services, effective and appropriate financial management systems and adequate systems to maximize patient revenues;

(4) the priority given by the department will be for application proposals which have shown need under Subsection E of 7.29.3.9 NMAC of these rules and will be evaluated based on the following criteria,

including but not limited to:

- (a) proposals where state funds are critical in assuring that any basic primary health care services can be provided in an HCUA designated for primary health care needs. This could include, but not be limited to, support for compensation of providers which is needed for their recruitment and/or retention;
 - (b) proposals where state funds will be used to supplement the quality/quantity of basic primary health care services in an HCUA designated for primary health care needs. This could include, but not be limited to, support for compensation of providers which is needed for their recruitment and/or retention;
 - (c) proposals which demonstrate coordination and/or innovative relationships with those funded by the department including, but not limited to, local public health division offices, mental health programs, and substance abuse program and/or other health care services;
 - (d) proposals where state funds will be used to maintain or expand the comprehensiveness of services beyond basic primary medical services in an HCUA designated for primary health care needs. This could include, but not be limited to, support for compensation of providers which is needed for their recruitment and/or retention; and
 - (e) other priorities as established by the department.
- (5) other factors established by the department.

G. Reports: The department will monitor the performance of the contractor(s) to ensure compliance with the intent of the act.

H. Award of contracts: The department will award contracts in accordance with the New Mexico Procurement Code and applicable department rules.

I. Protest procedure: Any offeror or contractor who is aggrieved in connection with the award process may use the protest procedure established by the New Mexico Procurement Code and applicable department rules.

[7.29.3.8 NMAC - Rp, 7 NMAC 29.3.9, 10/16/06]

7.29.3.9 NEW PRIMARY HEALTH CARE SERVICES/FACILITIES:

A. Duty of the department: To the extent funds are made available for the purposes of the act, Section 24-1A.3.1E NMSA 1978, the department shall provide a program for enabling the development of new primary health care services or facilities. The department in establishing the program for new primary health care services or facilities will give consideration to proposals for planning as well as for implementation.

B. Eligibility: To be eligible to receive funds to assist in planning for the development of primary health care services or facilities in HCUA(s) designated for primary health care needs, eligible program(s) shall:

- (1) be a New Mexico nonprofit community based entity with Federal Internal Revenue Service 501c(3) tax exempt status, local government or tribal government;
- (2) have a local or regional primary health care advisory board whose membership is generally representative of the HCUA(s) for which it is developing the primary health care plan; and
- (3) meet other requirements as determined by the department.

[7.29.3.9 NMAC - Rp, 7 NMAC 29.3.10, 10/16/06]

7.29.3.10 PERSONNEL RECRUITMENT:

A. Duty of the department: To the extent funds are made available for the purposes of the act, Section 24-1A-3.1A NMSA 1978, the department may contract, in accordance with applicable procurement procedures, with New Mexico nonprofit entities to assist communities in the recruitment, placement, and retention of health care personnel in health care underserved areas of the state and to coordinate such effort with health professional education programs. Such efforts shall be consistent with priorities set out by the department. The department will monitor the performance of the contractor to ensure compliance with the intent of the act.

B. Eligibility: In order to contract pursuant to this part of the rules, the entity shall meet the following requirements:

- (1) be a New Mexico nonprofit entity which has obtained and maintains a federal internal revenue service 501c(3) tax exempt status;
- (2) have a governing board of directors which is representative of the geographic areas and ethnic populations in New Mexico and is comprised of both health care providers and consumers;

(3) have the capability to carry out the purposes of Subsection A of 7.29.3.8 NMAC of these rules, including qualified professional staff;

(4) not be a health care provider or association of health care providers; and

(5) meet other requirements as determined by the department.

C. Reports: The department will monitor the performance of the contractor(s) to ensure compliance with the intent of the act. The contractor shall submit to the department all financial and program reports required by the contract.

D. Selection of candidates: The contractor shall conduct all recruitment activities based upon the following considerations:

(1) all candidates shall be considered on an equal opportunity basis without regards to race, age, color, national origin, gender, sexual orientation, handicap or disability or religion or ethnicity; and

(2) whenever possible, emphasis will be placed upon assisting native New Mexicans, New Mexico residents and graduates from New Mexico health professional education programs in relocating to health care underserved areas.

[7.29.3.10 NMAC - Rp, 7 NMAC 29.3.8, 10/16/06]

HISTORY OF 7.29.3 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

HED 81-3 (HSD), Rural Primary Health Care Act Regulations, filed 7/2/1981.

HED 81-5 (HSD), Rural Primary Health Care Act Regulations, filed 7/28/1981.

HED 82-8 (HPDD), Rural Primary Health Care Act Regulations, filed 8/11/1982.

HED 84-3 (HSD), Rural Primary Health Care Regulations, filed 8/13/1984.

HED 86-2 (HSD), Rural Primary Health Care Regulations, filed 3/12/1986.

DOH 93-5 (PHD), Regulations Governing the Rural Primary Health Care Act, filed 4/13/1993.

History of Repealed Material: 7 NMAC 29.3, Rural Primary Health Care Act (filed 11/26/96) repealed 10/16/06.

Other History: DOH 93-5(PHD), Regulations Governing the Rural Primary Health Care Act (filed 4/13/93) renumbered, reformatted and replaced by 7 NMAC 29.3, Rural Primary Health Care Act, effective 1/01/97. 7 NMAC 29.3, Rural Primary Health Care Act (filed 11/26/96) renumbered, reformatted and replaced by 7.29.3 NMAC, Rural Primary Health Care Act, effective 10/16/06.