

# New Mexico

New Mexico Insurance Commission  
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## Summary of Important Regulations

MEWA Regulations .....	Yes
TPA Regulations .....	Yes
Stop-Loss Regulations .....	Yes
UR Regulations .....	Yes

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	N.M. Ins. Reg. §§ 10.14.1 to 10.14.25	None
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	None	N.M. Stat. Ann. § 59A-18-27.1
Small Employer Health Insurance Availability Model Law	N.M. Stat. Ann. §§ 59A-23C-1 to 59A-23C-9	N.M. Stat. Ann. §§ 59A-56-1 to 59A-56-20
Model Regulation To Eliminate Unfair Sex Discrimination	None	None
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	N.M. Stat. Ann. §§ 59A-22A-1 to 59A-22A-7	None
Utilization Review Model Law	None	N.M. Stat. Ann. § 59-4-2
Managed Care Plan Network Adequacy Model Law	None	None
Third Party Administrator Law	N.M. Stat. Ann. §§ 59A-22A-1 to 59A-22A-7	N.M. Ins. Regs. §§ 4.5.1 to 4.5.22

Stop-loss Insurance Model Law

None

None

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Jurisdiction of Health Care Providers Model Law	N.M. Stat. Ann. §§ 59A-15-15 to 59A-15-19	None
Standard Group Health Model Law	None	N.M. Stat. Ann. §§ 59A-23-1 to 59A-23-5
Group Health Insurance Mandatory Conversion Law	None	N.M. Stat. Ann. § 59A-18-16
Group Coverage Discontinuance/ Replacement Model Regulation	N.M. Ins. Reg. §§ 10.5.1 to 10.5.13	None
Premium Rates and Renewability of Coverage-Small Groups	N.M. Stat. Ann. §§ 59A-23C-1 to 59A-23C-9	None
Group Coordination of Benefits Model Law	None	None
Model Regulation for Certification of Health Plans	None	None
Off-Label Drug Use Model Law	None	None
Group Health Mandatory Drug/ Alcohol Dependency Law	None	N.M. Stat. Ann. § 59A-47-35
Model Newborn Children's Law	N.M. Stat. Ann. § 59A-22-34; § 59A-23-4; § 59A-47-27	None
Health Examination Benefits New Mexico	None	N.M. Stat. Ann. §§

Availability Law

59A-11-1 to 59A-12-2

## NAIC Model Laws or Regulations

<b><u>Name of Model Law/Regulation</u></b>	<b><u>Model/Similar</u></b>	<b><u>Related</u></b>
Accident and Sickness Insurance Minimum Standards Model Law	None	None
Agents and Brokers Licensing Model Law	None	N.M. Stat. Ann. §§ 59A-11-1 to 59A-12-2
MEWA Licensing Model Law	N.M. Ins. Regs. §§ 19.3.1 to 19.3.15	None
Managing General Agents Law	N.M. Stat. Ann. §§ 59A-12B-1 to 59A-12B-8	None
Health Maintenance Organization Model Law	N.M. Stat. Ann. §§ 59A-46-1 to 59A-46-32	None
Insurance Information and Privacy Protection Law	None	None
Unfair Trade Practices Law	N.M. Stat. Ann. §§ 59A-16-1 to 59A-16-29	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness	N.M. Stat. Ann. § 59A-16-13.2	None

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plan Model Law	N.M. Stat. Ann. §§ 59A-16B-1 to 59A-16B-10	N.M. Admin. Code §§ 7.5.1 to 7.5.17
Unfair Claims Settlement Practices Law	N.M. Stat. Ann. § 59A-16-20	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	N.M. Stat. Ann. § 59A-2-9.1;13 N.M. Admin. Code 17.5.6 to 17.5.16
Private Employer Workers' Compensation Group Self-Insurance Model Law	N.M. Stat. Ann. §§ 52-6-1 to 52-6-25	None
Public Employee Workers' Compensation Group Self-Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

## State-Mandates

### **Benefits That Must Be Covered**

- Breast reconstruction
- Cervical cancer screening (Pap smear)
- Contraceptives, only for health plans that also cover prescription drugs. Religious organizations are exempt
- Diabetic supplies, education
- Emergency services
- Mammography screening
- Minimum mastectomy stays
- Minimum maternity stays
- TMJ disorders
- Well-child care

### **Benefits That Must Be Offered**

- Alcoholism treatment
- Home healthcare

### **Persons Who Must Be Offered Coverage**

- Adopted children
- Continuation/dependents
- Conversion to non-group
- Handicapped dependents
- Newborns

### **Providers Who Must Be Covered**

- Acupuncturists
- Chiropractors
- Dentists
- Licensed Health Professionals
- Nurses
- Nurse (Anesthetists)
- Nurse Midwives
- Nurse Practitioners
- Nurse Psychiatric
- Optometrists
- Osteopaths
- Physical Therapists
- Podiatrist

- Psychologists
- Social Workers

### **Coordination of Benefits**

New Mexico does not regulate coordination of benefits.

### **Patient's Bill of Rights Legislation**

None

### **High Risk Health Pool**

Yes—capped at 150%

### **External Grievance System**

Yes – all health care plans

#### **Basis of Filing Grievance**

Any denial

#### **Status of Decision of Grievance Panel**

Advisory only

### **Prompt Payment of Health Claim Requirement**

Yes—45 days

### **Commentary**

- Transportation where medically necessary to protect the life of the infant or mother, for a medically high-risk pregnant woman with an impending delivery of a potentially viable infant, to the nearest available tertiary care facility for newly born infants, if the policy provides the maternity coverage on an expense-incurred basis.
- No insurance company (including HMOs) may refuse to insure an individual solely because of blindness. Also, no group long-term care insurance coverage may be offered to a resident of New Mexico under a group policy issued in another state unless the coverage meets New Mexico law requirements.

## **MEWA Regulation**

New Mexico has a new reporting statute which requires licensed agents, insurance administrators, and consultants to inform the Department of Insurance prior to assisting in any way the transaction of insurance by certain types of multiple employer arrangements.<sup>1</sup> The state wants to identify unauthorized insurance arrangements and to help licenses protect themselves from potential liability for assistance in the transaction of unauthorized insurance. The statute identifies a reportable MEWA as an entity that provides health care benefits or coverage to the employees of two or more employers. A MEWA does not include an authorized insurer, an arrangement that is fully insured, or a collectively bargained arrangement.

## TPA Regulations

The state of New Mexico enacted a TPA registration in 1989.<sup>2</sup>

- Penalty for violating this law is punishable by a fine not to exceed \$1,000 and by forfeiture to the states of an amount equal to all compensation for services as administrator received, or to be received, by the violator by reason of the prohibited transactions.
- TPAs operating before the effective date of the Act shall apply for a license not later than the 60<sup>th</sup> day after the effective date of this Act.
- TPAs cannot use a name that is the same as, or that closely resembles, the name of another TPA licensed in the state.
- TPAs must maintain the confidentiality of personal data identifying an individual covered by a plan or insurance carrier or data concerning a person that self-funds unless the information is requested by the Insurance Board or consent is given by the individual.
- There are certain inducements which are prohibited when a TPA is contracting with a plan or carrier.
- Written exam required.
- Documents or financial information from TPAs:
  - Biographical information
  - Written agreements between administrator and insurer
- Surety or cash bond for a minimum of \$10,000.
- Approval of advertisement is required.
- Fees:
  - Exam--\$50
  - Annual application and registration--\$50
  - Continuation--\$20
  - Duplicates under the same firm name--\$20
  - Annual report filings--\$50
- Administrator not required to hold license if:
  - Administrator has principal place of business in another state and is not soliciting business in the state.
  - Any group policy or plan if insurance the less of 5% or 100 certificate holders reside in the state.
  - If benefits are provided and established by an employer or employee organization for which state law is preempted.

Licensing of TPA. An out-of-state TPA need only get a letter from the state in which is licensed and submit the license to New Mexico. If no one in the TPA firm is licensed, someone must become licensed as an agent or broker in their home state to become eligible for licensing in New Mexico. Otherwise, the TPA firm will have to send its personnel to take the TPA examination.

## Stop-Loss Regulation

It is reported that New Mexico is requiring a \$7,500 minimum specific stop-loss benefit by departmental positions.

## Utilization Firm Regulations

A New Mexico statute<sup>3</sup> defining practice of medicine to include utilization review implies that only a New Mexico-licensed physician may do utilization review.

### Miscellaneous

#### State Premium Taxes

Commercial insurers and Blue Cross pay 3%, which may go as low as .9%, depending on investments in state securities. HMOs are taxed at 3%.

#### Small Group Reform

New Mexico permits insurers to offer minimum health care policies to groups of fewer than 20 members where the members have been without health insurance for at least the preceding six months (or since the group's formation if it is less than six months old). The policy must include certain cost control features, including an exclusion for services that are not medically necessary or are not covered preventive health services, and a procedure for preauthorizing electing hospital admissions.<sup>4</sup>

The policy may include additional cost control features, such as:(1) a panel of providers who have agreed to provide services at specified reimbursement levels and to forego charges to any insured for services found by the insurer not to be medically necessary;(2) a requirement to obtain a second opinion before elective surgery is performed;(3) a procedure for utilization review by the insurer.

#### MSA Legislation<sup>5</sup>

Who May Establish	Only through an employer
Tax Treatment	Contribution to an MSA, interest earned thereon, and money used to pay medical expenses are all tax-exempt
Policy Deductible	\$1,000-\$3,000 minimax, individuals or families
Max. Annual Deposit	\$3,000
Non-Medical Withdrawals	10% penalty if withdrawn prior to 59 ½
Eligible Medical Expenses	Tracks IRC §213

#### Continuation of Coverage and Conversion of Benefits

New Mexico requires that group policies allow continued coverage for up to six months for covered employees, surviving spouses, and dependents in the event of an employee's death or employment termination. Individuals who apply for continuation coverage must have been covered under the group plan on the date of termination. Coverage must be provided without requiring evidence of insurability. Those who elect continued coverage must apply for it and pay the first premium within 30 days following the receipt of written notice of eligibility from the employer. Coverage may be limited if the beneficiaries are also entitled to Medicare or are eligible to participate in other state or federal insurance programs.<sup>6</sup>

Conversion Rights. Employees, spouses, and dependent children are eligible to convert from group

coverage to individual coverage in the event of loss of coverage under the group plan.

## Endnotes

- <sup>1</sup> N.M. Stat. Ann. §§ 59A-23-1 et. seq.
  - <sup>2</sup> N.M. Stat. Ann. §§ 59A-11 and 59(a)-12A;N.M. Ins. Reg. § 12A, Rule I.
  - <sup>3</sup> N.M. Stat Ann. § 61-6-6.
  - <sup>4</sup> N.M. Stat. Ann. §§ 59A-23B-1 to 59A-23B-11.
  - <sup>5</sup> N.M. Stat. Ann. \_\_\_\_\_.
  - <sup>6</sup> N.M. Stat. Ann. § 59A-18-16.
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