

# STATE OF NEW MEXICO

## OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE  
Russell Toal



DEPUTY SUPERINTENDENT  
Robert E. Doucette, Jr.

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**BULLETIN 2020-013**

**MAY 20, 2020**

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**TO: ALL INSURERS AND PRODUCERS AUTHORIZED TO SELL EXCEPTED BENEFIT PLANS**

**RE: DECEPTIVE MARKETING AND ADVERTISING PRACTICES**

The New Mexico Office of Superintendent of Insurance (“OSI”) is charged with protecting New Mexicans from misleading and deceptive practices connected to the marketing and advertising of excepted health benefit plans, i.e., limited benefit plans that do not offer the full coverage required by the Affordable Care Act (“ACA”). In Docket No. 20-00017-COMP-LH, OSI ordered companies that issue certain excepted benefit products to inform current and prospective purchasers that those products do **not** provide major medical coverage. Any marketing or advertising practice that suggests otherwise is deceptive, misleading and, thus, prohibited by Sections 59A-16-4, 59A-16-5 and 59A-16-20, NMSA 1978.

This bulletin identifies some specific deceptive and misleading marketing and advertising practices of which OSI has become aware and will take action against. These include:

- Representing that an excepted benefit plan provides benefits that it does not.
- Selling, or offering to sell, multiple excepted benefit plans to an individual as part of a single transaction without providing a written disclosure that the combined products are not a substitute for major medical coverage.
- Using terms such as “bronze,” “silver,” “gold,” “platinum” or “essential health benefits” to describe the coverage or benefits included in an excepted benefit plan that are associated with an ACA-compliant plan,.
- Using terms to describe the coverage or benefits included in an excepted benefit plan that are associated with comprehensive major medical coverage, such as “PPO,” “network,” “copay,” “coinsurance,” “direct pay to providers” or “dollar first plan”.

- Selling an excepted benefit plan through an association or group, unless the group is in compliance with Sections 59A-23-3, 59A-23-8 and 59A-23-9, NMSA 1978 and approved by OSI, or selling association or group memberships in conjunction with the sale of excepted benefit products.
- Failing to explain to a prospective purchaser the difference between comprehensive major coverage and the limited coverage provided by an excepted benefit plan.
- Failing to deliver to each prospective purchaser of an excepted benefit product (excluding excepted benefit products offered to members of groups identified in Sections 59A-23-(A)(1)-(3), NMSA 1978) the Coverage Options Flyer attached hereto.
- “Spoofing” phone numbers on a call recipient’s caller ID display to pose as another caller to market insurance, especially if the number spoofed appears to be from another carrier, healthcare provider, or government agency.
- Providing a false name or National Producer Number (NPN).
- Soliciting sales of excepted benefit products through a website, printed advertisement, text message, or phone call without identifying the producer.
- Using printed advertising media that has not been approved by OSI.

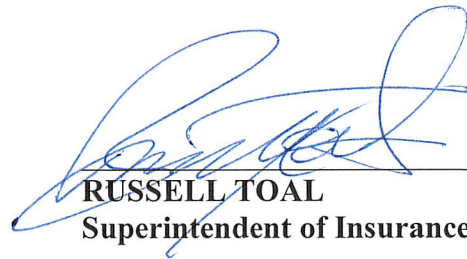
To aid OSI’s monitoring and enforcement operations, the superintendent directs every producer or producer representative offering excepted benefit products (excluding products offered to members of groups identified in Sections 59A-23-(A)(1)-(3), NMSA 1978) to include the producer’s name and NPN on every advertisement for health insurance or an excepted benefit product. In such advertisements or other printed materials, the producer’s name and NPN must be clearly visible in no less than 12-point font type or in print type equal to the second largest print type in the advertisement. These disclosure and font requirements also apply to any text message, email or website intended to solicit sales in New Mexico. Any producer who contacts a prospective purchaser of any health insurance or excepted benefit product shall disclose this information at the start of the contact. A producer who contacts a prospective purchaser by phone, but fails to connect with that contact, shall leave a voice message, if that option is available, that includes the producer’s name and NPN.

Any producer who markets an excepted benefit product using a form of advertisement previously approved by OSI shall include the producer's name and NPN on that advertisement, but shall not make any other change to the advertisement. For previously approved print advertisements, a producer can comply with this requirement by affixing the required disclosure to the printed material in any manner that is likely to remain attached, and include the associated SERFF tracking number.

Insurers have a duty to ensure that the advertising and marketing of their excepted benefit plans are not deceptive or misleading. OSI deems all unapproved forms to be deceptive and misleading and will hold plan issuers responsible for both direct marketing and indirect marketing through producers of such forms as well as misrepresentation of the coverage and benefits provided under approved forms. The marketing or sale of any plan using a deceptive practice subjects both the producer and issuer to fines and penalties, including the revocation of a producer license or certificate of authority.

If you have questions regarding this bulletin, please contact the Life and Health Product Filing Bureau at (505) 827-4601 or [LHRFF.osi@state.nm.us](mailto:LHRFF.osi@state.nm.us).

**ISSUED this 20<sup>th</sup> day of May, 2020.**



**RUSSELL TOAL**  
**Superintendent of Insurance**

# In these difficult times, you can get health coverage.

## We are here to help.

During the Pandemic, **EVERYONE QUALIFIES** for coverage. We will help you get covered for free or at a low-cost to you.

Start Here

### Do you qualify for Medicaid?

Depending on your income and family size, you may qualify for Medicaid. To apply, call 1-855-637-6574 or apply online at the YES New Mexico portal.

1-855-637-6574  
[yes.state.nm.us](http://yes.state.nm.us)

### Are you eligible to enroll in a plan through beWellnm?

If you don't qualify for Medicaid, you **may now qualify** for no or low-cost private insurance through beWellnm. **If you have recently lost your job or seen a reduction in your income, call 1-833-862-3935 to see if you qualify for coverage.**

1-833-862-3935  
[bewellnm.com](http://bewellnm.com)

Another option:

### The New Mexico Medical Insurance Pool

If you don't qualify for Medicaid or coverage through beWellnm, **everyone in New Mexico** can get coverage through the New Mexico Medical Insurance Pool. To request an application call 1-844-728-7896 or visit [www.nmmip.org](http://www.nmmip.org).

1-844-728-7896  
[nmmip.org](http://nmmip.org)

**No matter what, you can get covered.**



be well nm®

THE PLACE TO SHOP, COMPARE AND BUY HEALTH INSURANCE. *Affordably.*

# How to qualify for coverage.

Federal Poverty Level (FPL), is a measure of income used to determine eligibility for Medicaid and the Children's Health Insurance Program (CHIP), as well as premium subsidies and cost-sharing reductions (cost-sharing subsidies) in the exchange, and other federal programs.

**Light Blue** = Could qualify for a discounted premium.

**Blue** = Could qualify for a premium tax credit and cost-sharing reduction.

**Dark Blue** = Could qualify for Medicaid coverage.

| What is your monthly household income? (FPL = Federal Poverty Level)               |                                                                                                                                                                                            |          |                                  |          |          |          |                                     |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------------------------|----------|----------|----------|-------------------------------------|
|   | <b>New Mexico Insurance Pool</b><br>Coverage available if you cannot get covered through Medicaid or beWellnm<br>Discounted premiums available for individuals with incomes under 400% FPL |          |                                  |          |          |          |                                     |
|   | beWellnm (Lawfully present immigrants who do not qualify for Medicaid)                                                                                                                     |          | beWellnm with Premium Assistance |          |          |          | beWellnm without Premium Assistance |
|  | Medicaid for Kids (age 0-5)                                                                                                                                                                |          |                                  |          |          |          |                                     |
|                                                                                    | Medicaid for Kids (age 6-18)                                                                                                                                                               |          |                                  |          |          |          |                                     |
|                                                                                    | Medicaid for Adults (age 19-64)                                                                                                                                                            |          |                                  |          |          |          |                                     |
| How many people are in your household?                                             | 0-100% FPL                                                                                                                                                                                 | 138% FPL | 139% FPL                         | 240% FPL | 300% FPL | 400% FPL | Over 400% FPL                       |
| Individuals                                                                        | \$1,064                                                                                                                                                                                    | \$1,468  | \$1,469                          | \$2,552  | \$3,190  | \$4,256  | \$4,256+                            |
| Family of 2                                                                        | \$1,437                                                                                                                                                                                    | \$1,983  | \$1,984                          | \$3,449  | \$4,311  | \$5,748  | \$5,748+                            |
| Family of 3                                                                        | \$1,810                                                                                                                                                                                    | \$2,498  | \$2,499                          | \$4,344  | \$5,430  | \$7,240  | \$7,240+                            |
| Family of 4                                                                        | \$2,184                                                                                                                                                                                    | \$3,013  | \$3,015                          | \$5,240  | \$6,550  | \$8,736  | \$8,736+                            |
| Family of 5                                                                        | \$2,557                                                                                                                                                                                    | \$3,529  | \$3,530                          | \$6,137  | \$7,671  | \$10,228 | \$10,228+                           |
| Family of 6                                                                        | \$2,930                                                                                                                                                                                    | \$4,044  | \$4,045                          | \$7,032  | \$8,790  | \$11,720 | \$11,720+                           |

The FPL amounts are valid through March 31, 2021. If you think you qualify or are unsure what you qualify for, give us a call so we can help!



**1-855-637-6574**  
[yes.state.nm.us](http://yes.state.nm.us)



**1-833-862-3935**  
[bewellnm.com](http://bewellnm.com)



**1-844-728-7896**  
[nmmip.org](http://nmmip.org)

# En estos tiempos difíciles, puede obtener cobertura de salud.

## Estamos aquí para ayudar.

**Durante la pandemia, TODOS CALIFICAN para la cobertura.**  
Le ayudaremos obtener una cobertura gratuita o de bajo costo para usted.

### Comience aquí ¿Califica para Medicaid?

Dependiendo de sus ingresos y el tamaño de su familia, puede calificar para Medicaid. Para aplicar, llame al 1-855-637-6574 o llene una solicitud en la página web de YES New Mexico.

**1-855-637-6574**  
**yes.state.nm.us**

### ¿Es usted elegible para inscribirse en un plan a través de beWellnm?

Si no califica para Medicaid, ahora puede calificar para un seguro privado gratuito o de bajo costo a través de beWellnm. **Si recientemente perdió su trabajo o vio una reducción en sus ingresos, llame al 1-833-862-3935 para ver si califica para cobertura.**

**1-833-862-3935**  
**bewellnm.com**

### Otra opción: **The New Mexico Medical Insurance Pool**

Si no califica para Medicaid o cobertura a través de beWellnm, **todos en Nuevo México** pueden obtener cobertura a través de The New Mexico Medical Insurance Pool. Para obtener una solicitud, llame al 1-844-728-7896 o visite [www.nmmip.org](http://www.nmmip.org).

**1-844-728-7896**  
**nmmip.org**

**Pase lo que pase, usted puede estar cubierto.**



## be well nm®

THE PLACE TO SHOP, COMPARE AND BUY HEALTH INSURANCE. *Affordably.*

# Cómo calificar para la cobertura.

El Nivel Federal de Pobreza (FPL) es una medida de ingresos utilizada para determinar la elegibilidad para Medicaid y el Programa de Seguro Médico para Niños (CHIP), así como subsidios de primas y reducciones de costos compartidos (subsidios de costos compartidos) en el intercambio, y otros programas federales.

**Azul claro** = Podría calificar para una prima con descuento.

**Azul** = Podría calificar para un crédito fiscal premium y una reducción de costos compartidos.

**Azul Oscuro** = Podría calificar para la cobertura de Medicaid.

| ¿Cuál es el ingreso mensual de su hogar? (FPL = Nivel de pobreza federal)           |                                                                                                                                                                                                          |                                           |                 |                 |                 |                 |                                           |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-----------------|-----------------|-----------------|-----------------|-------------------------------------------|
|    | <b>New Mexico Insurance Pool</b><br>Cobertura disponible si no puede obtenerla a través de Medicaid o beWellnm<br>Primas con descuento disponibles para personas con ingresos inferiores al 400% del FPL |                                           |                 |                 |                 |                 |                                           |
|    | <b>beWellnm</b><br>(inmigrantes legalmente presentes que no califican para Medicaid)                                                                                                                     | <b>beWellnm</b><br>con Asistencia Premium |                 |                 |                 |                 | <b>beWellnm</b><br>sin Asistencia Premium |
|  | <b>Medicaid para niños (age 0-5)</b>                                                                                                                                                                     |                                           |                 |                 |                 |                 |                                           |
|                                                                                     | <b>Medicaid para niños (age 6-18)</b>                                                                                                                                                                    |                                           |                 |                 |                 |                 |                                           |
|                                                                                     | <b>Medicaid para Adultos (age 19-64)</b>                                                                                                                                                                 |                                           |                 |                 |                 |                 |                                           |
| <b>¿Cuántas personas hay en su hogar?</b>                                           | <b>0-100% FPL</b>                                                                                                                                                                                        | <b>138% FPL</b>                           | <b>139% FPL</b> | <b>240% FPL</b> | <b>300% FPL</b> | <b>400% FPL</b> | <b>Over 400% FPL</b>                      |
| <b>Individuos</b>                                                                   | \$1,064                                                                                                                                                                                                  | \$1,468                                   | \$1,469         | \$2,552         | \$3,190         | \$4,256         | \$4,256+                                  |
| <b>Familia de 2</b>                                                                 | \$1,437                                                                                                                                                                                                  | \$1,983                                   | \$1,984         | \$3,449         | \$4,311         | \$5,748         | \$5,748+                                  |
| <b>Familia de 3</b>                                                                 | \$1,810                                                                                                                                                                                                  | \$2,498                                   | \$2,499         | \$4,344         | \$5,430         | \$7,240         | \$7,240+                                  |
| <b>Familia de 4</b>                                                                 | \$2,184                                                                                                                                                                                                  | \$3,013                                   | \$3,015         | \$5,240         | \$6,550         | \$8,736         | \$8,736+                                  |
| <b>Familia de 5</b>                                                                 | \$2,557                                                                                                                                                                                                  | \$3,529                                   | \$3,530         | \$6,137         | \$7,671         | \$10,228        | \$10,228+                                 |
| <b>Familia de 6</b>                                                                 | \$2,930                                                                                                                                                                                                  | \$4,044                                   | \$4,045         | \$7,032         | \$8,790         | \$11,720        | \$11,720+                                 |

Los montos de FPL son válidos hasta el 31 de marzo del 2021. Si cree que califica o no está seguro para qué califica, llámenos para que podamos ayudarlo!



**1-855-637-6574**

**yes.state.nm.us**



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