	DEPARTMENT: Long Term Care Administration	SUBJECT New Mexico Resident Miner Admission to Miners' Colfax Medical Center Long Term Care Facility
	DATE ORIGINATED: June 1988	DATE REVISED: 4/90, 7/91, 11/92, 9/95, 10.99, 4/04, 8/04, 10/05, 4/07, 8/20/08, 8/28/09, <u>1/13/11</u>
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New Mexico Resident Miner Admission to Miners' Colfax Medical Center Long Term Care Facility with Miners' Trust Benefits

1. Purpose:

To establish clear, measurable criteria in order to conform to the laws of the United States of America, and the State of New Mexico and to meet the legal requirements for the Miners' Colfax Medical Center in Raton, New Mexico for the care of Miners requiring Long Term Care Admission. These rules and regulations are consistent with prior admissions under the Miners' Trust since its founding in 1903, as set forth by previous governing bodies. This provision has been agreed to by the United States Attorney General and the State of New Mexico Attorney General, both being parties to the Miners' Trust.

2. Applicability: Miners' Colfax Medical Center (MCMC) Board of Trustees (the "Board"), Long Term Care (LTC) Administration, MCMC Administration, Social Services, LTC Nursing, LTC Medical Director, Care Management, and the Business Office Manager


3. Effective Date: Immediately as approved by the Board

4. Policy:

Miners who meet certain criteria as established in the Enabling Act as interpreted by the Board are eligible for Miners' Trust benefits. The specific nature and level of benefits available shall be determined by the Board and is subject to change. The applicant bears the burden of proof that they meet the applicable criteria. Provision of fraudulent or misleading information may result in criminal prosecution and/or denial of benefits.

5. References:

- 5.1 Section 23-1-1 NMSA 1978, (2002)
- 5.2 1915-16 Op. Attorney General 38
- 5.3 Enabling Act of New Mexico, Chap 310 Stat. 557, June 20, 1910
- 5.4 Ferguson Act, Chap 489, Stat. 484, June 21, 1898
- 5.5 NMAC 7.9.2, Requirements for Long Term Care Facilities, August 31, 2000


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6. Procedure:

6.1 The criteria for Miner eligibility include the following:


6.1.1 New Mexico Resident. The miner applicant must be a resident of the State of New Mexico and must be currently working in a mine, or must have previously worked in a mine, as defined in 6.1.2. For the purpose of this policy, "Residency" is defined as having lived in the State of New Mexico for at least 185 consecutive calendar days immediately prior to the date of application for Miner benefits. The term "residency" is normally understood as referring to a person's place of abode rather than his/her place of work. Under this policy, for a person to be a resident of New Mexico, he/she must intend and actually make the State of New Mexico his or her home. Consequently, a person living in another state, yet having worked in New Mexico mines, does not meet the residency requirement under Section 23-3-1, NMSA, 1978. Regardless of whether a person worked in New Mexico mines, his/her residency in this case is in another state, not New Mexico and therefore the applicant would not meet the residency requirement. In such case, the person can be admitted only upon payment of all expenses until such person reaches the required 185 consecutive calendar days as a resident of New Mexico. On the other hand, if a person lived in New Mexico for 185 consecutive calendar days prior to application for admission, he/she shall be considered a resident of New Mexico, even though he or she has worked in a mine in another state. As such, that person meets the residency requirement and can be admitted under Section 23-3-1, NMSA 1978 and the current Admission policy to MCMC with Miners' Trust Benefits. The following can be used in MCMC's determination of residency status:

- A. Lease or residential purchase contract;
- B. Personal Income Tax Statement;
- C. Property tax bill;
- D. Voter registration;
- E. Residency in a Long Term Care facility in New Mexico for over 185 consecutive calendar days immediately prior to application for Miners' benefits.

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6.1.2 The applicant is or has been employed as a miner for 185 consecutive days, unless a mine related injury or illness resulted before the completion of 185 consecutive day employment period. A “miner” is defined as any individual who is or was employed at a mine and who performed duties directly related to extraction and/or preparation of minerals taken out of that mine. ”Miner” as used in the Constitution of New Mexico and Statutes relating to MCMC and in Attorney General’s opinions which are used a authoritative guidance by MCMC, is clearly restricted to or defined as ‘one who mines, a digger of metals and other minerals.’ “Miner” does not refer to or include individuals involved in drilling and/or digging for oil, nor those working in quarries. Only those individuals actually involved in “mining” ie. digging or working in immediate mining related capacities in or around the mine are eligible for care at MCMC under the terms of the Act. Those persons involved in mining support functions such as administrative, clerical, switchboard operators, contractors, warehouse workers, security personnel, general office personnel or non-related transportation are not “miners” under the Enabling Act. The definition of preparation of a mineral is the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of such mineral. A “mine” is defined as surface and underground operations to extract coal, metals, and other mineral substances from their deposits (exclusive of natural gas and petroleum), all tunnel operations, all caisson operations, all mills, ore houses and treatment plants, pits, open-cut workings, stripping, placer mines, sand, gravel, and similar banks. A “mineral” is defined as coal, metallic or non-metallic ores or any naturally occurring rock substances that are mined or recovered on or under the surface of the earth. Evidence of employment as a miner must include one or more of the following:

- A. Employment records as a miner;
- B. Proof of eligibility for mine related benefits;
- C. Documentation or affidavits written by other miners;

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- D. Mining employers or peers who can attest to the applicant's employment as a miner;
- E. Additional affidavits may also be considered.


6.1.3 The miner applicant must have one or more of the following:

- A. A disabling injury that is directly related to work as a miner;
- B. Illness that resulted from work as a miner;
- C. Physician documentation of current condition which may have been a result of mine employment;
- D. Needs assessment for assistance requiring nursing and or daily support;
- E. Evidence must include one or more of the following.
 - Proof of eligibility, for mine related disability benefits, such as determination letter, Black Lung card, mine records, etc.
 - Physician's written statement or other evidence documenting the medical probability that the applicant has an injury or illness, which resulted from employment as a miner.
 - Evidence of qualifications required from MCMC mid-level or nursing assessment screening.

6.1.4 The applicant must be in need of medical, health, and/or nursing services within the scope of the services and staffing available at MCMC's Long Term Care Facility under both State and Federal regulations and licensure guidelines.

6.2 Admission Procedures

6.2.1 A completed application and all supporting documentation must be submitted by the applicant or his/her representative (s) in order to allow consideration of eligibility.

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6.2.2 The Long Term Care Admission Committee (the “Committee”) shall be comprised of a panel made up of at least three (3) of the following individuals who will consider all available information and make a recommendation of admission or denial of admission to the Chief Executive Officer (CEO):


- Long Term Care Administrator
- Long Term Care Medical Director
- Long Term Care Director of Nursing
- Social Services Manager
- Care Management Director
- Business Office Manager

6.2.3 The Committee shall convene and review the completed application (see MCMC Policy *Long Term Care Internal Admission Process*). The Committee shall communicate with the applicant/family, current care providers, or others as needed to obtain additional information, if necessary, regarding care needs and/or Miners’ Trust eligibility.

6.2.4 If medical information is either inconclusive regarding confirmation of a mine related disability and/or medical/mental status, the admission of the applicant may be denied based on licensing restrictions and the applicant may be requested to obtain additional medical opinions at their own expense.

6.2.5 The Committee shall consider all available information and make a recommendation of approval or denial for admission in writing, to the CEO within twenty (20) working days of receiving the application. The Committee report shall be accompanied by all related documentation,

6.2.6 After receiving the application materials from the Committee, the CEO shall approve or deny the admission in writing and shall notify the applicant and his/her representative within twenty (20) working days of receipt of the file by the CEO. If the admission is denied, the CEO shall advise the applicant/representative in writing of his/her right to appeal the decision to the Board.

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- 6.2.7 The CEO shall notify the Committee of his/her decision by sending a copy of the letter sent to the applicant/representative accompanied by all of the application materials.
- 6.2.8 If the admission is approved, the applicant shall have thirty (30) days to enter into the LTC facility for care. If the approved applicant does not enter into the facility within thirty (30) days, he/she must reapply for admission.
- 6.2.9 If admission is denied by the CEO,, a request for appeal in writing by the applicant/representative may be made in writing to the Board within ten (10) working days of receipt of the CEO's determination.
- 6.2.10 The applicant/representative shall be notified in writing of the date and time of the appeal to be heard by the Board
- 6.2.11 A member of the Committee, the CEO, or the CEO's designee may assist the applicant in the appeal process, if required.
- 6.2.12 The Board shall make the final decision regarding admission within forty-five (45) working days of hearing the appeal. The decision of the Board shall be final.
- 6.2.13 At the appeal hearing, the applicant may be represented by legal counsel or another representative. Both MCMC and the applicant may present and cross examine witnesses and each side shall be allowed to make opening and closing statements. Witnesses shall be examined under oath.
- 6.2.14 An applicant who has failed to meet the eligibility criteria as described above may reapply at a later date.
- 6.2.15 The eligibility application and decision regarding admission shall not be processed until such time as the applicant's need for service is requested or necessary.