

## 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.

Specific statutory or other authority authorizing the rule:  
Sections 9-23-15 and 9-23-6(E) NMSA 1978.

Effective date of the rule:  
August 12, 2025

Date of adoption of the rule:  
July 31, 2025

#### Reasons for adopting the rule:

The purpose for adopting the rule is to provide rules for the administration of the Kinship Caregiver Support Pilot Program. The Pilot Program will be implemented within five to seven counties in the state and serve fifty participants in each county. The Aging and Long-Term Services Department (ALTSD) will provide program navigators to assist kinship caregivers, thereby improving the lives of kinship caregivers and the child or children in their care.

#### Reasons for any change between the published rule and the final rule:

The ALTSD reviewed and considered all written and oral comments received during the public comment period. Changes between the published proposed rule and the adopted rule include adding subsection 9-23-6 (E) to the statutory authority section of the rule. This provides additional authority for the rulemaking beyond what was included in 9-23-15. Changes also include amending the effective date throughout the rule to reflect the publishing of the adopted rule on August 12, 2025, in the 2025 New Mexico Register, Volume XXXVI, Issue 15. ALTSD changed 9.2.25.8(D) by removing "assist with" and changing "identifying" and "accessing" to "identify" and "access" as "assist with" was already included in the introduction to the list in that section. Finally, in response to public comment, 9.2.25.9(C) was removed as it was not necessary to include that language to ensure that all eligible kinship caregivers would be able to participate in the pilot program.

Reasons for not accepting substantive arguments made through public comment:  
Please see "9.2.25, Response to Public Comment," attached.

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

Name:

Emily Kaltenbach

Check if authority has been delegated

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Title:

ALTSD Cabinet Secretary

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Signed by:

Emily kaltenbach

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07/31/2025

**Response to Public Comment**  
**9.2.25, Kinship Caregiver Support Pilot Program**

**Public Comment Period: June 24, 2025 – July 25, 2025**

<b>Comments</b>	
<b>Summary of Comments</b>	<b>ALTSD Response</b>
<b>Expressing Need for Pilot Program</b>	
Comments expressing support for the program and requesting assistance from the program.	ALTSD concurs and hopes that all eligible kinship caregivers, residing in a participating county, submit applications for the pilot program.
<b>Objective</b>	
The commenter requested that additional language be added to this section to acknowledge that “the Opioid Epidemic is causing a high number of newborn children to be born inutero exposed to drugs such as heroin, fentanyl and other drugs <b>and</b> is the cause of this current guardianship crisis.” Also, the commenter stated that current resources for kinship caregivers are insufficient; therefore, navigator reliance on current resources will leave kinship caregivers with their needs being unmet.	The Kinship Caregiver Support Pilot Program was created to serve kinship caregivers and the children in their care in five-seven New Mexico counties—50 participants per county. Navigators will conduct a needs assessment for all participants, aiming to address the needs of kinship caregivers and children in their care. The Pilot Program was not created to address any specific cause for the rise in the number of kinship caregivers in New Mexico.
The commenter requested to remove the sentence Program navigators will provide information and referrals, including legal assistance and monthly economic support through program partners and place it under section 9.2.25.8 ADMINISTRATION prior to the sentence that reads “[t]he department shall provide for navigators to assist with the following tasks:.”	The Administration section includes these provisions; therefore, inclusion in the objective section is not necessary.
<b>Definitions</b>	
The commenter requested to Add definitions (or examples) for Partners, State Agencies, Members of the Business Community, Community Organizations, Nonprofit Organizations, and Area Foundations. These are all referred to in the next section and it would be helpful to have this information.	Program Partners are defined in Section 9-23-15 NMSA 1978, in a general manner that will provide the program with myriad opportunities to support the Pilot Program. Navigators will need to work with State Agencies, some of which are specifically named in Section 9-23-15, and members of the business community to complete the

	<p>tasks outlined in the Administration of the rules. With this in mind, using these terms without definition provides sufficient notice to the public of the entities that navigators will be working with to Administer the pilot program. For example, navigators may collaborate with members of the business community to explore respite opportunities for participants, such as child care.</p>
<b>Administration</b>	
<p>The commenter requested that these issues be addressed: What does department shall provide for navigators to assist with the following tasks mean? Change B to read: assist families with completion and processing of pilot program applications. Change D to read: assist participants with identifying, accessing, and maintaining public assistance programs or other resources; Change E to read: assist participants with identifying, accessing, and obtaining legal assistance, which shall include using legal assistance contractors.</p>	<p>ALTSD will ensure that the pilot program is staffed with navigators. The inclusion of the word “assist” in B, D, and E, is not necessary as “assist with” is included in the introduction to the list. Accordingly, ALTSD has removed “assist with” from D.</p>
<p>The commenter asked why tribes or tribal organization were not included? Also, the commenter asked if the state agency would use an existing needs assessment or would the agency develop its own assessment?</p>	<p>Tribal members residing within participating counties will be eligible to participate in the pilot program even if they reside within the territory belonging to the Tribe, Nation, or Pueblo. ALTSD will provide education about the pilot program and conduct outreach to Tribes, Nations, and Pueblos. The agency will select the format of the needs assessment that best suits the needs of the pilot program.</p>
<b>Participant Eligibility</b>	
<p>The commenter requested that kinship caregivers raising children with Neonatal Abstinence Syndrome (NAS) be made a priority for eligibility as NAS children and their biological parents</p>	<p>The Pilot Program will prioritize all eligible kinship caregivers as the Pilot Program was created to serve kinship caregivers regardless of the</p>

<p>were left out of the Opioid Settlement. Commenter also asked for priority to be given to Native American kinship caregivers and U.S. citizens.</p>	<p>circumstances that led to the need for kinship caregiving.</p>
<p>The commenter requested the following modifications: Under A (3) add or who regularly receives support services in so the whole statement reads: resides in or regularly receives support services in one of the participating counties. This is especially important in our rural state where so many have to travel to obtain adequate support services. Change A (4) to read: has completed a department-created application and provided information regarding the kinship caregiver's household including but not limited to the number of children under their kinship care and the special needs of the children (with adequate documentation: families with children born substance exposed or were exposed to substances/trauma as a child to be given priority consideration). Income consideration should not be referenced as an eligibility because it is the Program Partner or Foundation who is determining that eligibility criteria. Based on what the rule states in B of this section, the State has no say on income eligibility. We need to be especially careful of this now that some of my families' Medicaid assistance has been reduced due to the Federal cuts. The commenter requested to remove C completely as adding reference to immigration status just convolutes and distracts from the critical eligibility requirements.</p>	<p>The pilot program will require that participants be residents of the participating county, which will enable the pilot program to accurately document outcomes per county. The language in A(4) reflects the requirements for establishing the pilot program in 9-23-15(C)(1) NMSA 1978. The Pilot Program is available to 50 eligible kinship caregivers per participating county, regardless of immigration status.</p>
<p>The commenter requested a clearer definition of kinship caregiver to possibly include a requirement that kinship caregivers are legal kinship guardians. Also, the commenter</p>	<p>"Kinship Caregiver" is defined in Section 9-23-15(A)(3) NMSA 1978. Pilot Program navigators will provide referrals to participants to legal assistance providers for participants, which may include assistance in</p>

requested clarification of the definition for “needs of child or children.”	attaining a legal kinship guardianship. The requirement that eligibility criteria includes the needs of the child or children in the kinship caregiver’s care is stated in Section 9-23-214(C)(1).
<b>Selection of Participating Counties</b>	
The commenter requested the following information and changes: A – How is ALTSD determining the number of kinship families in each county? What data are they using? B – Remove reference to this criteria because ALTSD isn’t the entity that’s determining eligibility for financial support and ALL kinship families face financial hardship and social barriers so this isn’t a good criteria. C – change Program Partners to the number of existing program partners that are currently supporting kinship families.	ALTSD will utilize reliable, available data to prioritize those counties that meet the criteria in A and B in determining eligibility for participating counties. The pilot program will prioritize counties that have program partners at the time that ALTSD selects participating counties.
The commenter asked, relative to the size of participating counties, how many program partners are allowed and if the vicinity between the program partners will matter?	This will not be a consideration when ALTSD determines whether a county should be prioritized at the time ALTSD designates the five to seven participating counties.
The commenter asked what data is being relied upon to determine the high number of kinship families and significant financial or social barriers? Also, the commenter asked whether the pilot program is open to all counties in New Mexico.	ALTSD will rely on reliable, available data to determine eligibility for participating counties. All counties in New Mexico are eligible to be selected as one of the five to seven participating counties for the pilot program.
The commenter asked if there is any requirement for funding for a participating county?	The only requirement is that ALTSD will prioritize counties with program partners.
<b>Continued Eligibility, Termination, and Program Limits</b>	
The commenter requested that “within three years of pilot program existence” be added to subsection B.	The pilot program will end on June 30, 2028; therefore, this addition is not necessary.
The commenter asked if a child turns 18 prior to the end of pilot program, will this impact eligibility.	A participant may be terminated from the pilot program if the participant is no longer eligible for the program.

<b>Notice</b>	
<p>The commenter requested the following modifications and suggestion: Move current A verbiage to B and change A to read upon approval of application</p> <p>Suggestion for ALTSD: Create, maintain, and post on ALTSD a list of participating counties, program partners, and resources once the program's been established.</p>	<p>Notice that an application has been approved is not necessary as participants will receive notice that the application is approved by way of the agreement pursuant to 9.2.25.11. ALTSD will take note of the commenter's suggestion.</p>
<b>Suspension of Program</b>	
<p>The commenter asked about the source of funding for this pilot program, whereby Fiscal Impact Report for HB 252 stated that funding would come from HB 2, does the funding come from HB 2 or HB 252?</p>	<p>The funds for the pilot program come from HB 2.</p>