

# New Mexico Register

The official publication for all official notices of rulemaking  
and filing of proposed, adopted and emergency rules.

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# New Mexico Register

Volume XXVIII, Issue 16

August 29, 2017

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## **The New Mexico Register**

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## Notices of Rulemaking and Proposed Rules

<div>GAME AND FISH, DEPARTMENT OF</div> <div>STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE</div> <div>The New Mexico State Game Commission (“Commission”) has scheduled a regular meeting and rule hearing for Thursday, September 28, 2017, beginning at 9:00 a.m., at Red River Community House, 116 E. Main Street, Red River, New Mexico, to hear and consider action as appropriate on the following: Presentation of proposed changes to Manner and Method and associated rules;</div> <div>Notice of Rule Making</div> <div>The Commission may consider the following items of rulemaking at the meeting:</div> <div>Amend</div> <table><tr><td>19.31.10 NMAC</td><td>Hunting and Fishing-Manner and Method of Taking</td></tr><tr><td>19.31.5 NMAC</td><td>Upland Game</td></tr><tr><td>19.31.6 NMAC</td><td>Migratory Game Bird</td></tr><tr><td>19.31.11 NMAC</td><td>Bear and Cougar</td></tr><tr><td>19.31.12 NMAC</td><td>Barbary Sheep, Oryx, and Persian Ibex</td></tr><tr><td>19.31.13 NMAC</td><td>Deer</td></tr><tr><td>19.31.14 NMAC</td><td>Elk</td></tr><tr><td>19.31.15 NMAC</td><td>Pronghorn Antelope</td></tr><tr><td>19.31.16 NMAC</td><td>Turkey</td></tr><tr><td>19.31.17 NMAC</td><td>Bighorn Sheep</td></tr><tr><td>19.31.21 NMAC</td><td>Javelina</td></tr></table> <div>Repeal</div> <table><tr><td>19.31.3 NMAC</td><td>Hunting and Fishing Licenses and Application</td></tr></table> <div>Replace</div> <table><tr><td>19.31.3 NMAC</td><td>Hunting and Fishing Licenses and Application</td></tr></table> <div>Synopsis (Bows and Crossbows):</div> <div>The purpose is to amend Manner and Method and associated game rules</div>	19.31.10 NMAC	Hunting and Fishing-Manner and Method of Taking	19.31.5 NMAC	Upland Game	19.31.6 NMAC	Migratory Game Bird	19.31.11 NMAC	Bear and Cougar	19.31.12 NMAC	Barbary Sheep, Oryx, and Persian Ibex	19.31.13 NMAC	Deer	19.31.14 NMAC	Elk	19.31.15 NMAC	Pronghorn Antelope	19.31.16 NMAC	Turkey	19.31.17 NMAC	Bighorn Sheep	19.31.21 NMAC	Javelina	19.31.3 NMAC	Hunting and Fishing Licenses and Application	19.31.3 NMAC	Hunting and Fishing Licenses and Application	<div>(below) with some modifications as described below to allow for the use of illuminated pins/reticles and magnifications on bows and crossbows.</div> <div>The proposed changes to 19.31.10 NMAC include some general formatting to clarify rule language, adding a change in definition to bow and crossbow for the allowance of illuminated pins/reticles and scopes of any magnification, changes to language under Subsections A and B of Section 19 of 19.31.10 NMAC to allow the use of a crossbow during any legal sporting arm or muzzle loader hunt, and prohibit the use of crossbows during a bow only hunt unless in possession of a mobility impaired (MI) card or reasonable accommodation or otherwise allowed by rule. Removing language in Subsection C of Section 19 of 19.31.10 NMAC as it is duplicated language.</div> <div>The proposed changes to 19.31.5 NMAC include changes to definition of bow and crossbow for the allowance of illuminated pins/reticles and scopes of any magnification. Removing/renumbering language in Subsections K and M of Section 9 of 19.31.5 NMSA as it is duplicated language in 19.31.10 NMAC.</div> <div>The proposed changes to 19.31.6 NMAC include changes to definition of bow and crossbow for the allowance of illuminated pins/reticles and scopes of any magnification.</div> <div>The proposed changes to 19.31.11 NMAC include changes to formatting and change in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification and removing the word archery and replacing with bow in Subsection B of Section 11 of 19.31.11 NMAC.</div> <div>The proposed changes to 19.31.12 NMAC include changes to formatting and change in definition of bow and crossbow for the allowance of</div>	<div>illuminated pins/reticles; scopes of any magnification and adding crossbow to Section 14 of 19.31.12 NMAC to allow crossbow as a legal weapon type during a muzzle loader rifle hunt.</div> <div>The proposed changes to 19.31.13 NMAC include formatting and change in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification and adding definitions of weapon types for corresponding hunt codes to Section 15 of 19.31.13 NMAC; adding language of crossbows to Subsection B of Section 15 of 31.31.13 NMAC.</div> <div>The proposed changes to 19.31.14 NMAC include formatting and change in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification; amend Subsection C of Section 13 of 19.31.14 NMAC to replace “archery” with “bow” for the weapon type designated and adding crossbow to Section 15 of 19.31.14 NMAC; amend Section 16 of 19.31.14 NMAC added crossbow as a legal weapon type during a muzzle loader rifle hunt.</div> <div>The proposed changes to 19.31.15 NMAC include formatting and change in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification; amend Section 12 of 19.31.15 NMAC to replace “archery” with “bow” for weapon type designated; adding crossbow to Section 13 of 19.31.15 NMAC to allow crossbow as a legal weapon type during a muzzle loader rifle hunt.</div> <div>The proposed changes to 19.31.16 NMAC include formatting and change in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification; amend Section 12 of 19.31.16 NMAC to replace “archery” with “bow” for the weapon type designated.</div> <div>The proposed changes to 19.31.17 NMAC include formatting and change</div>
19.31.10 NMAC	Hunting and Fishing-Manner and Method of Taking																											
19.31.5 NMAC	Upland Game																											
19.31.6 NMAC	Migratory Game Bird																											
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19.31.3 NMAC	Hunting and Fishing Licenses and Application																											
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in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification and adding definitions of weapon types for corresponding hunt codes to Section 11 of 19.31.17 NMAC.

The proposed changes to 19.31.21 NMAC include formatting and change in definition of bow and crossbow for the allowance of illuminated pins/reticles; scopes of any magnification; amend Section 11 of 19.31.21 NMAC to replace “archery” with “bow” for the weapon type designated.

**Synopsis: (Donation of License):**

The purpose is to repeal and replace 19.31.3 NMAC Hunting and Fishing License and Application rule with some modifications as described below to allow for the transfer of hunting licenses to youth hunters and New Mexico resident veterans and New Mexico first responders.

The proposed changes to Subsection F of Section 11 of 19.31.3 NMAC: current rule only allows for the transfer of a license to a nonprofit organization approved by the state game commission to youth hunters 17 and younger; change to rule will add transfers of license through a nonprofit to qualified New Mexico veterans and New Mexico first responders as well.

Interested persons may submit comments on the proposed changes to (bows and crossbows) rules listed above at [dgf-fieldopscomments@state.nm.us](mailto:dgf-fieldopscomments@state.nm.us); proposed changes to (donation of licenses) rules listed above at: [specialhunts@state.nm.us](mailto:specialhunts@state.nm.us); or individuals may submit written comments to the physical address below. Comments are due by 9 a.m. on September 28, 2017 when the final rule amendments will be voted on by the Commission during a public meeting on September 28, 2017. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on September 28, 2017. Full copies of text of the proposed rule changes, technical information

related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, P.O. Box 25112, Santa Fe, New Mexico 87507, or from the Department’s website at [www.wildlife.state.nm.us/commission/proposals-under-consideration/](http://www.wildlife.state.nm.us/commission/proposals-under-consideration/). This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director’s Office at (505) 476-8000, or the Department’s website at [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us) for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission’s Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

## RACING COMMISSION

### NOTICE OF PUBLIC MEETING AND RULE-MAKING HEARING

The New Mexico Racing Commission (Commission) will hold a Public Meeting and Rule-Making Hearing on October 12, 2017. The Rule-Making hearing will be held during the Commission’s regular business meeting with the public session beginning at 8:30 a.m. in the Boardroom, at 4900 Alameda Blvd NE, Albuquerque, NM. Copies of the **tentative** agenda may be obtained ten

(10) days prior to the meeting from Tina Arce, Paralegal, New Mexico Racing Commission, 4900 Alameda Blvd. NE, Albuquerque, New Mexico 87113, (505) 222-0714, [Tina.Arce@state.nm.us](mailto:Tina.Arce@state.nm.us). The **final** agenda will be available seventy-two (72) hours prior to the meeting. A copy of the **final** agenda may be obtained from Tina Arce or from the Commission’s website, [nmrc.state.nm.us](http://nmrc.state.nm.us).

The purpose of the Rule-Making Hearing is to consider adoption of the proposed amendment to the Rules Governing Horse Racing in New Mexico. Sections 60-1A-1 through 60-1A-30, NMSA 1978 authorizes the Commission to promulgate rules and regulations and carry out the duties of the Act to regulate horse racing.

The proposed amendment to 15.2.6.9 NMAC that is to be heard is as follows:

#### 15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:

The classification guidelines contained within the “uniform classification guidelines for foreign substances and recommended penalties and model rule”, [~~December 9, 2016, version 13.01~~] April 20, 2017, version 13.02 and “association of racing commissioners international inc. controlled therapeutic medication schedule for horses”, [~~version 3.2, revised December 9, 2016~~] version 4.0, revised April 20, 2017 by the association of racing commissioners international, are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

The purpose of the proposed amendment of 15.2.6.9 NMAC is to reference the current versions of the ARCI’s documents, “Uniform Classification Guidelines for Foreign Substances and Recommended Penalties” and “Model Rule and the Controlled Therapeutic Medication Schedule for Horses”.



All comments submitted and discussion heard during the Rule-Making Hearing will be considered and discussed by the Commission during the open meeting following the Rule-Making Hearing. The Commission will vote on the proposed rules during the public meeting.

A copy of the proposed rule may also be found on <http://nmrc.state.nm.us/rules-regulations.aspx>. Interested persons may submit their written comments on the proposed rules to the Commission at the address below and/or may appear at the scheduled meeting and make a brief verbal presentation of their view. The written comment period closes at 5:00 p.m. on October 2, 2017. The Commission must receive all written comments at that time. Please submit comments to:

Rosemary Garley, Manager  
New Mexico Racing Commission  
4900 Alameda Blvd. NE  
Albuquerque, NM 87113  
Telephone: 505.222.0704  
Fax: 505.222.0713  
Email: [rosemary.garley@state.nm.us](mailto:rosemary.garley@state.nm.us)

Anyone who requires special accommodations is requested to notify the commission of such needs at least five days prior to the meeting.

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## STATE LAND OFFICE

### NOTICE OF PROPOSED RULEMAKING AND HEARING

The New Mexico State Land Office ("SLO") will hold a public hearing on Thursday, October 5, 2017, at 9:00 a.m., and continuing thereafter as necessary, in Morgan Hall, 310 Old Santa Fe Trail, Santa Fe, New Mexico. Any change to the location or time will be posted with a final agenda on the SLO webpage (<http://www.nmstatelands.org>) at least 72 hours prior to the date and time specified above.

The purpose of the hearing is to

receive public comments on a proposed new rule (19.2.23 NMAC) that would provide for the orderly, lawful, and appropriate expenditure of funds from the State Trust Lands Restoration and Remediation Fund created under Section 19-1-11, NMSA 1978 (2017). The Commissioner's authority to promulgate this Rule is found in Section 19-1-2 NMSA 1978.

The proposed new rule is available on the SLO website (<http://nmstatelands.org>), the Sunshine Portal (<http://www.sunshineportalnm.com>), at the SLO building located at 310 Old Santa Fe Trail, Santa Fe, New Mexico, and at SLO district offices (see [nmstatelands.org/District\\_Offices.aspx](http://nmstatelands.org/District_Offices.aspx)). To request a hard copy, contact Stephanie LeMaster at (505) 827-5761 or [slemaster@slo.state.nm.us](mailto:slemaster@slo.state.nm.us).

Written comments may be submitted by mail to: Stephanie LeMaster, New Mexico State Land Office, Attention: Rulemaking Comments, P.O. Box 1148, Santa Fe, New Mexico 87504-1148, or by email to [slemaster@slo.state.nm.us](mailto:slemaster@slo.state.nm.us). Written comments will be accepted until 5pm on October 3, 2017.

If you are an individual with a disability and you require assistance or an auxiliary aid (such as a sign language interpreter) to participate in any aspect of this process, please contact Selena Romero by September 25, 2017 at (505) 827-5790 or [sromero@slo.state.nm.us](mailto:sromero@slo.state.nm.us).

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## End of Notices of Rulemaking and Proposed Rules

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## Adopted Rules

### Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

### ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION

This is an amendment to 19.15.39 NMAC, adding a new Section 11, effective 8/29/2017.

#### 19.15.39.11 SPECIAL PROVISIONS FOR A SELECTED AREA OF THE ROSWELL ARTESIAN BASIN:

##### A. Designated area.

The designated area shall comprise:

(1) the area within the following townships and ranges in Chaves county:

(a) township 5 south, ranges 22 and 23 east;

(b) township 6 south, ranges 22 east through 24 east;

(c) township 7 south, ranges 22 east through 24 east;

(d) township 8 south, ranges 21 east through 25 east;

(e) township 9 south, ranges 21 east through 25 east;

(f) township 9½ south, range 24 east;

(g) township 10 south, ranges 21 east through 25 east;

(h) township 11 south, ranges 21 east through 26 east;

(i) township 12 south, ranges 21 east, 21½ east, and 22 east through 26 east;

(j) township 13 south, ranges 21 east through 27 east;

(k) township 14 south, ranges 21 east through 27 east;

(l) township 15 south, ranges, 21 east through 27 east;

(m) township 18 south, range 20 east;

(n) township 19 south, range 20 east; and (2) the area within the following townships and ranges in Eddy county:

(a) township 16 south, ranges 21 east and 23 east through 27 east;

(b) township 17 south, ranges 21 east and 23 east through 27 east;

(c) township 18 south, ranges 21 east and 23 east through 27 east;

(d) township 19 south, ranges 21 east and 23 east through 27 east;

(e) township 20 south, ranges 21 east and 23 east through 27 east;

(f) township 20½ south, ranges 21 east through 23 east;

(g) township 21 south, ranges 22 east through 25 east;

(h) township 22 south, ranges 22 east through 24 east; and

(i) township 23 south, ranges 22 east and 23 east.

**B. Applicability.** All well drilling commenced after August 29, 2017 from surface locations within the designated area, or which will penetrate the designated area above the base of the San Andres formation, shall be permitted, drilled and operated in accordance with 19.15.39.11 NMAC.

##### **C. Wells that penetrate the designated area.**

For wells that will penetrate the designated area defined in Subsection

A of 19.15.39.11 NMAC, the operator shall include in the casing program at least the following.

(1) If a conductor pipe is used, it shall be adequately cemented in place to prevent drainage of fluids from the surface to shallow formations.

(2) The operator shall set a surface casing string, at a minimum, 50 feet below the base of the artesian aquifer, provided:

(a) in areas where the artesian aquifer is not present at depth, or if the well will not be drilled through the artesian aquifer, the hole shall be drilled to the first show of hydrocarbons on a mud log, and the surface casing set no more than 50 feet above the first show;

(b) in areas where the artesian aquifer is present, and the well will be drilled through the artesian aquifer, the operator shall determine the depth for setting of the surface casing string with the concurrence of the district supervisor of the division's Artesia district office; the operator, in its proposed casing program, shall identify the criteria utilized to locate the base of the artesian aquifer and the information supporting the criteria;

(c) the operator shall circulate to surface the cement for surface casing covering all aquifers;

(d) if the cement is not circulated to the surface, the operator shall furnish a cement bond log to the division's Artesia district office, and shall not proceed with drilling until the division approves the cementing;

(e) if the operator encounters significant loss of circulation during drilling within an aquifer, the operator shall immediately notify the division's

Artesia district office:

(f)

if the operator observes significant inflow of fresh water into the mud pit, the operator shall immediately notify the division's Artesia district office.

(3)

If the well is equipped with an intermediate casing string, the operator shall circulate cement on the intermediate casing string to the surface. If the well is not equipped with an intermediate casing string, the operator shall circulate cement on the production casing string to the surface. If cement is not circulated to surface on the intermediate casing string or the production casing string, as applicable, the operator shall determine the cement top and report it to the division's Artesia district office.

#### **D. District supervisor discretion.**

Notwithstanding Subsection C of 19.15.39.11 NMAC, the district supervisor of the division's Artesia district office may:

(1)

require a modification of a casing program that provides for an additional water-protection casing string, if the district supervisor finds that the proposed casing program is not reasonably sufficient to prevent fluid movement into or out of the well bore from or to aquifers in the designated area; or

(2)

approve a casing program that allows for the setting of the shoe for the water-protection casing string at a different depth than required in Paragraph (2) of Subsection C of 19.15.39.11 NMAC if the district supervisor finds, based on the information and data provided by the operator, that the proposed casing program will adequately protect all fresh water formations the well can reasonably be expected to encounter; and

(3)

in either case, attach such conditions of approval as, in the district supervisor's judgment, are reasonably necessary to prevent such fluid movement.

#### **E. Compliance**

with statewide rules. 19.15.39.11 NMAC shall not be construed to relieve the operator of any well from

the obligation to comply with any applicable statewide rules, including, but not limited to 19.15.16.9, 19.15.16.10 and 19.15.16.11 NMAC.

#### **F. Transitional**

**provisions.** Any APD for a proposed well within the designated area that was previously approved and suspended by emergency order of the division shall be reinstated if it meets the requirements of 19.15.39.11 NMAC. Any operator may amend any such APD within one year after the effective date of 19.15.39.11 NMAC to comply with 19.15.39.11 NMAC. If the division reinstates or approves as amended a previously suspended APD, the APD shall continue in force for two years from the date of original approval, plus the number of days that such APD was suspended.

[19.15.35.11 NMAC - N, 8/29/2017]

### **HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

On 07/14/2017, the secretary of the Human Services Department, repealed the department's rule 8.102.630 NMAC, Description of Program/ Benefits - Changes In Eligibility, filed on 6/18/2001, effective 09/01/2017.

### **HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

**This is an amendment to 8.102.100 NMAC, Sections 5, 7 and 8, effective 09/01/2017.**

#### **8.102.100.5 EFFECTIVE**

**DATE:** July 1, 2001, unless a later date is cited at the end of a section. [8.102.100.5 NMAC - N, 07/01/2001; A, 09/01/2017]

#### **8.102.100.7 DEFINITIONS:**

##### **A. Definitions A-L:**

##### **(1) Applicant:**

means person applying for cash assistance on behalf of a benefit group.

(2)

**Application:** means a written or electronic request, on the appropriate ISD form, with the signature of the applicant or on the applicant's behalf by an authorized representative, for assistance.

(3)

**Attendant:** means an individual needed in the home for medical, housekeeping, or child care reasons.

(4)

**Authorized representative:** means an adult, who is designated in writing by the applicant, who is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and can represent the benefit group.

##### **(5) Basic**

**needs:** include food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.

##### **(6) Beginning**

**month:** means the first month for which a benefit group is certified after a lapse in certification of at least one calendar month; [Beginning] beginning month and initial month are used interchangeably. A benefit group is budgeted prospectively in a beginning month. [~~means a group of people, either mandatory or optional, to be included in determining the monthly benefit amount.~~]

##### **(7) Benefit**

**group:** means a group of people, either mandatory or optional, to be included in determining the monthly benefit amount.

##### **(8) Benefit**

**month:** means the month for which cash assistance benefits have been issued. This term is synonymous with issuance month defined below.

##### **(9) Budget**

**month:** means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.

##### **(10) Capital**

**gains:** means proceeds from the sale of capital goods or equipment.

##### **(11) Cash**

**assistance:** means cash payments funded by the temporary assistance

for needy families (TANF) block grant pursuant to the federal act and by state funds; or state funded cash assistance in the general assistance program.

(12) **Caretaker**

**relative:** means an individual who assumes parental control over a child living in the home.

(13)

**Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements.

(a)

**Financial CE:** Any SNAP household in which all members receive Title IV-A assistance (TANF), general assistance (GA), or supplemental security income (SSI) benefits is considered to be categorically eligible for SNAP benefits.

(b)

**Broad-based CE:** Any SNAP household, in good standing, in which at least one member is receiving a non-cash TANF/MOE funded benefit or service and household income is below ~~[+65%]~~ one hundred sixty five percent FPG.

(14)

**Certification:** means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.

(15)

**Certification period:** means the time period assigned to a benefit group that is approved to receive cash assistance benefits. The certification period shall conform to calendar months and include an interim report to be completed mid certification.

(16) **Collateral**

**contact:** means an individual or agency designated by the benefit group to provide information concerning eligibility.

(17)

**Conciliation process:** means a 30-day process prior to imposing a sanction during which the department and the individual have the opportunity to address barriers to compliance or to correct whatever failure has generated the noncompliance determination.

(18)

**Conversion factor:** means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.

(19) **Date**

**of application:** means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. The date the application and forms received by ISD will be documented on the form. Applications that are dropped off or submitted electronically after regularly scheduled business hours, holidays and weekends will be considered received as of the next business day.

(20) **Date**

**of admission:** means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.

(21) **Date of**

**entry:** means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.

(22)

**Department:** means the human services department.

(23) **Dependent**

**child:** means a natural child, adopted child, stepchild or ward that is:

(a) 17

years of age or younger; or

(b)

18 years of age and is enrolled in high school; or

(c)

between 18 and 22 years of age and is receiving special education services regulated by the public education department.

(24) **Director:**

means the director of the income support division.

(25) **Diversion**

**payment:** means a lump sum payment, which will enable the applicant to keep a job or to accept a bona fide offer of employment.

(26)

**Documentation:** means a written statement entered in the paper or electronic case record regarding the type of verification used and a summary of the information obtained to determine eligibility.

(27) **Earned**

**income:** means cash or payment in-kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services.

(28) **Education**

**works program (EWP):** provides state-funded cash assistance to a benefit group where at least one individual is enrolled in a post-secondary institution. The applicant or recipient benefit group must be otherwise eligible for NMW cash assistance, but chooses to participate in the education works cash assistance program.

(29)

**Emancipated:** means an individual under the age of 18 years who is legally recognized as no longer under parental control due to marriage or by a decision of a court.

(30)

**Encumbrance:** means debt owed on property.

(31) **Equity**

**value:** means the fair market value of property, less any encumbrances owed on the property.

(32) **Expedited**

**services:** means the process by which benefit groups reporting little or no income or resources will be provided an opportunity to participate in the SNAP program.

(33)

**Expungement:** means the permanent deletion of cash benefits from an EBT account that is stale.

(34) **Fair**

**hearing:** means an administrative proceeding which a claimant or claimant's representative may request if:

(a)

an application is not acted on within a reasonable time after the filing of the

application;

(b)

an application is denied in whole or in part; or

(c)

the cash assistance or services are modified, terminated or not provided.

(35) **Fair**

**market value (FMV):** means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or offer as a trade-in. It is not the amount the dealer would sell the vehicle for at retail.

(36) **Federal**

**act:** means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.

(37) **Federal**

**fiscal year:** October 1 through September 30 of the calendar year.

(38) **Federal**

**means-tested public benefit:** means benefits from the SNAP program; the food assistance block grant programs in Puerto Rico, American Samoa and the commonwealth of the Northern Mariana islands, supplemental security income (SSI), and the TANF block grant program under Title IV of the Social Security Act; medicaid and SCHIP.

(39) **Federal**

**poverty guidelines:** means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services.

(40) **Five-**

**year bar:** means the federally imposed prohibition on receiving federal means-tested public benefits for certain qualified aliens who entered the United States (U.S.) on or after August 22, 1996, until they continuously lived in the U.S. for five years. The count for the five year bar begins on the date the non-citizen attains qualified alien status.

(41) **Food**

**Stamp Act:** the Food Stamp Act of 1977 (P.L. 95-113), the Food and Nutrition Act of 2008 (P.L. 110-246), and subsequent amendments.

(42) **General**

**assistance (GA) benefit group:**

means a benefit group in which all members receive cash assistance financed by state or local funds.

(43)

**Government entity:** includes any federal, state, tribal or local unit of government as well as any non-government entity which receives public funds for the purpose of meeting the housing needs of its clientele.

(44) **Gross**

**income:** means the total amount of income that a benefit group is entitled to receive before any voluntary or involuntary deductions are made, such as, but not limited to, federal and state taxes, FICA, garnishments, insurance premiums (including medicare), and monies due and owing the benefit group, but diverted by the provider. Gross income does not include specific income exclusions, such as but not limited to, the cost of producing self-employment income, and income excluded by federal law.

(45) **Gross**

**income test (eighty-five percent test):** for the benefit group to be eligible, the gross earned income of the benefit group must be less than eighty-five percent of the federal poverty guidelines as determined in 8.102.500.8 NMAC.

(46) **Hardship**

**extension:** means an extension of the TANF/NMW 60-month lifetime limit due to specific conditions enumerated at 8.102.410.17 NMAC.

(47) **Head of**

**household:** means the payee who is the responsible case head for the benefit group. The payee may be the parent, guardian, sole adult member, specified relative, pregnant woman, a GA recipient, or caretaker relative.

(48)

**Immigrant:** means a non-citizen or an alien within the meaning found in Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(49)

**Immigration and naturalization service (INS):** a division of the U.S. department of justice dealing with

U.S. citizenship and immigration services.

(50)

**Impairment:** means a condition resulting from anatomical, physiological, or psychological abnormalities evidenced by medically acceptable clinical and laboratory diagnostic techniques. Impairment has to do only with the medical, psychiatric, or both processes. To evaluate both physical and mental impairment, medical evidence consisting of signs, symptoms and objective findings must be obtained.

(51) **Incapacity**

**review unit:** means a special unit in the department that determines the status of participants for the family violence option and limited work participation status. This is also known as the IRU.

(52) **Individual**

**development account program:** means an account created for eligible individuals which is established and maintained by an authorized financial institution to be used for individual development.

(53) **Individual**

**development program:** means a program that establishes and administers individual development accounts and reserve accounts in order to provide financial training required by the division for account owners.

(54) **Ineligible**

**alien:** means an individual who does not meet the eligible alien requirements [or who is not admitted for permanent residence].

(55) **Initial**

**month:** means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.

(56) **Inquiry:**

means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application.

(57) **Institution**

**of higher education:** means certain



college-level institutions, such as vocational schools, trade schools, and career colleges that award academic degrees or professional certifications.

**(58) Institution of post-secondary education:** means an institution of post-secondary education, any public or private educational institution that normally requires a high school diploma or equivalency certificate for enrollment, or that admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located, regardless of the high school prerequisite, provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or a program of training to prepare students for gainful employment.

**(59) Irrevocable trust funds:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

**(60) Issuance month:** means the calendar month for which cash assistance is issued. In prospective budgeting, the budget and issuance months are the same.

**(61) Legal guardian:** means a legally created relationship between a child and appointed adult wherein the appointed adult acquires legal decision making authority for a child.

**(62) Limited work participation hours:** means the reduced work requirement hours approved by the IRU or the NMW service provider, as appropriate, after a participant has been approved for a limited work participation status.

**(63) Limited work participation status:** means a NMW participant has a verified condition or barrier as outlined at Subsection A of 8.102.420.11 NMAC that precludes the ability to meet the standard work requirement hours and has been approved for such status by the IRU or NMW service provider, as appropriate.

## **B. Definitions M-Z:**

**(1) Maintenance of effort (MOE):**

means the amount of general funds the state agency must expend annually on the four purposes of temporary assistance for needy families (TANF) to meet a minimum expenditure requirement based on a state's historical assistance to families with dependent children (AFDC) expenditures.

**(2) Medicaid:** medical assistance under title XIX of the Social Security Act, as amended.

**(3) Minor unmarried parent:** means an unmarried parent under the age of 18 years or is age 18 and enrolled in high school.

**(4) Month of approval:** means the month the action to approve a benefit group for cash assistance is taken.

**(5) Net income tests:** means for the benefit group to be eligible, the benefit group's net earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.

**(6) Net monthly income:** means gross non-exempt income minus the allowable deductions. It is the income figure used to determine eligibility and cash assistance benefit amount.

**(7) Non-benefit group members:** means persons residing with a benefit group who are specifically excluded by regulation from being included in the benefit group certification.

**(8) Non-cash TANF/MOE benefit or service:** means non-cash TANF/MOE benefit or services include programs or services that do not provide cash to recipients, but are funded by the TANF program, either by the federal TANF block grant or the state MOE share. These services may include transportation, childcare, counseling programs, parenting programs, pamphlets or referrals to other TANF/MOE-funded services.

**(9) Non-citizen U.S. national:** means a person who is not an U.S. citizen but was born in an outlying possession

of the U.S. on or after the date the U.S. acquired the possession, or a person whose parents are non-citizen U.S. nationals. A person who resides on one of the following U.S. island territories is a non-citizen U.S. national: American Samoa, Swains island or the Northern Mariana islands.

**(10) Notice:** means written correspondence that is generated by any method including handwritten, typed or electronic, delivered to the client or their authorized representative by hand, U.S. mail, professional delivery or by any electronic means. The term "written notice" and "notice" are used interchangeably.

**(11) Notice of adverse action (NOAA):** means a written or electronic notice that includes a statement of the action the department has taken or intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any over-issuance received if the hearing decision is adverse to the benefit group. This notice may be received prior to an action to reduce benefits, or at the time reduced benefits will be received, or if benefits are terminated, at the time benefits would have been received if they had not been terminated. Recipients have 13 days from the mailing date or the date of electronic transmittal of the notice to request a fair hearing and to have benefits restored to their previous level.

**(12) NMW compliance requirements:** means the various work program activities a TANF/NMW participant is expected to attend and complete in order to avoid conciliation or sanction.

**(13) Over-issuance:** means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.

**(14) Parent:** means natural parent, adoptive parent,

or stepparent.

(15)

**Participant:** means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority.

(16) **Payment**

**standard:** means the amount of the cash assistance payment, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and prior to reduction by sanction, recoupment or both.

(17)

**Permanent total disability:** means an individual must have a physical or mental impairment, expected to last at least 12 months, that prevents gainful employment in any employment position within the individual's current employment capacity.

(18) **Person:**

means an individual.

(19)

**Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on a reasonable estimate of income and circumstances that will exist in the current month and future months.

(20) **Qualified**

**alien status:** means a person lawfully admitted into the United States under INA guidelines as defined in PROWRA of 1996.

(21) **Real**

**property:** means land, affixed improvements, and structures which include mobile homes. Grazing permits are also considered real property.

(22)

**Recertification:** means a complete review of all conditions of eligibility which are subject to change and a redetermination of the amount of assistance payment for an additional period of time.

(23) **Recipient:**

means a person receiving cash assistance benefits.

(24) **Refugee:**

means a lawfully admitted individual granted conditional entry into the United States.

(25)

**Regular reporting:** means a reporting requirement that requires a participating household to report a change within ten days of the date a change becomes known to the household.

(a)

A financial change becomes known to the household when the household receives the first payment attributed to an income or resource change, or when the first payment is made for a change in an allowable expense.

(b)

A non-financial change including but not limited to, a change in household composition or a change in address, becomes known to the household on the date the change takes place.

(26) **Resource**

**standard:** means the financial standard with respect to resources and property, \$2,000 for non-liquid resources and \$1,500 for liquid resources.

(27)

**Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.

(28) **Resource**

**planning session:** means a planning session to ascertain the applicant's immediate needs and to assess the applicant's financial and non-financial options.

(29) **School**

**age:** means any dependent child who turns six years prior to September first and is under 18 years of age.

(30) **Secretary:**

means the secretary of the department.

(31) **Self-**

**employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income and who does not have the usual withholding deducted from this income.

~~(32)~~

**Semiannual reporting:** means a reporting requirement that allows up to a 12-month certification period and requires a household to submit a report in the sixth month of a 12-month certification period or in the same month a SNAP semiannual

report is due.

~~(33)~~ (32)

**Services:** means child-care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment; education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment.

~~(34) Shelter~~

~~**for battered women and children:** means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.]~~

(33) **Shelter for**

**battered persons:** means a public or private nonprofit residential facility that serves battered persons. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered persons.

(34) **Simplified**

**reporting:** a change reporting requirement for households that receive TANF benefits.

(35) **Single-**

**parent benefit group:** means any benefit group which does not include both parents of a child included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

(36) **Sponsor:**

means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission to the United States as a permanent resident.

(37) **Sponsored**

**alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.

(38) **Stale:**

means EBT accounts which have not been accessed, no withdrawal

activity, by the household in the last 90 days from the most recent date of withdrawal.

**(39) Standard of need:** means an amount which is based on the number of individuals included in the benefit group and allows for financial standard and basic needs.

**(40) Standard work requirement hours:** means the minimum number of hours in applicable core and non-core total work activities a participant must complete.

**(41) State-funded alien eligible:** means an alien who entered the United States on or after August 22, 1996, as one of the classes of aliens described in Subsection B of 8.102.410.10 NMAC, is eligible with respect to citizenship requirements for state-funded assistance under NMW and GA without regard to how long the alien has been residing in the United States.

**(42) Supplemental nutrition assistance program (SNAP):** The Food and Nutrition Act of 2008 changed the federal name of the food stamp program to the supplemental nutrition assistance program. SNAP is synonymous with the food stamp program.

**(43) Supplemental security income (SSI):** means monthly cash payments made under the authority of:

**(a)** Title XVI of the Social Security Act, as amended, to the aged, blind and disabled;

**(b)** Section 1616(a) of the Social Security Act; or

**(c)** Section 212(a) of P.L. 93-66.

**(44) Temporary total disability:** means a physical or mental impairment, expected to last at least 30 days from date of determination, but less than one year from the date of application, that prevents gainful employment in any employment position within the individual's current employment capacity.

**(45) Two-parent benefit group:** means a benefit group which is considered to exist when both parents of any child included in the benefit group live in the home with the child and are included in the benefit group.

**(46) Term limits:** means NMW assistance (cash benefits and supportive services) is not provided to or for an adult or a minor head of household for more than 60 months during the individual's lifetime.

**(47) Unearned income:** means old age, survivors, and disability insurance payments (social security), railroad retirement benefits, veterans administration compensation or pension payments, military retirement and allotments, pensions, annuities and retirement benefits; lodge or fraternal benefits, any other public or private disability or retirement benefit or pension, shared shelter payments, individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.

**(48) Vehicle:** means a conveyance used for the transportation of individuals to or from employment, for the activities of daily living or for the transportation of goods; vehicle does not include any boat, trailer or mobile home used as the principal place of residence.

**(49) Verification:** means the use of third-party information or documentation to establish the accuracy of statements on the application, interim report and recertification.

**(50) Vocational education:** means an organized education program that is directly related to the preparation of a person for employment in a current or emerging occupation requiring training other than a baccalaureate or advance degree. Vocational education must be provided by an

educational or training organization, such as a vocational-technical school, community college, or post-secondary institution or proprietary school.

**(51) Wage subsidy program:** means a subsidized employment training opportunity through which a TANF cash assistance recipient is hired into full-time employment.  
[8.102.100.7 NMAC - N, 07/01/2001; A, 02/14/2002, A, 05/15/2003; A, 01/01/2004; A, 02/28/2007; A/E, 07/16/2007; A, 10/31/2007; A, 08/01/2009; A, 04/01/2010; A, 04/01/2012; A, 07/01/2013; A, 09/01/2017]

## 8.102.100.8 ABBREVIATIONS AND ACRONYMS

### A. Abbreviations and acronyms

**(1) AFDC:**  
aid to families with dependent children (replaced by TANF effective July 1, 1997)

**(2) BG:**  
benefit group

**(3) BIA:**  
bureau of Indian affairs

**(4) BIA-GA:** bureau of Indian affairs-general assistance

**(5) CA:** cash assistance

**(6) CE:**  
categorical eligibility or categorically eligible

**(7) CFR:**  
code of federal regulations

**(8) CS:** child support

**(9) CSED:**  
(HSD) child support enforcement division

**(10) CYFD:**  
(New Mexico) children youth & families department

**(11) DOH:**  
(New Mexico) department of health

**(12) DOL:**  
department of labor

**(13) DOT:**  
dictionary of occupational titles

**(14) E&T:**  
employment and training (food stamp work program)

**(15) EBT:**



electronic benefit transfer  
(16) EI: earned income  
(17) EW: eligibility worker (now caseworker)  
(18) EWP: education works program  
(19) FAP: financial assistance program  
(20) FAA: family assistance analyst (formally ISS)  
(21) FFY: federal fiscal year  
(22) FMV: fair market value  
(23) FNS: food and nutrition service (previously FCS)  
(24) FPL: federal poverty level  
~~[(25) FSP: food stamp program]~~  
~~(26)~~ (25) GED: general equivalency degree  
~~[(27)]~~ (26) HHS: (U.S.) health and human services  
(27) HSE: high school equivalency formerly known as GED  
(28) HSD: (New Mexico) human services department  
(29) HUD: (U.S.) housing and urban development  
(30) IDA: individual development account  
(31) INS: (U.S.) immigration and naturalization service  
(32) IPV: intentional program violation  
(33) IRP: individual responsibility plan  
(34) IRU: incapacity review unit  
(35) ISD: (HSD) income support division  
(36) ISD2: integrated services delivery for ISD  
(37) ISS: income support specialist (now caseworker)  
(38) JTPA: Job Training Partnership Act (now WIA)  
(39) LIHEAP:

low income home energy assistance program  
(40) LITAP: low income telephone assistance program  
(41) MAD: (HSD) medical assistance division  
(42) MVD: (New Mexico) motor vehicle division  
(43) NADA: national automobile dealers association  
(44) NMAC: New Mexico administrative code  
(45) NMW: New Mexico works  
(46) NOAA: notice of adverse action  
(47) POS: point of sale  
(48) QC: quality control  
(49) RR: regular reporting or regular reporters  
(50) RRP: refugee resettlement program  
(51) SAVE: systematic alien verification for entitlements  
(52) SE: self-employment  
(53) SR: [semiannual reporting] simplified reporting  
(54) SNAP: supplemental nutrition assistance program formerly known as food stamps  
~~[(54)]~~ (55) SSA: social security administration  
~~[(55)]~~ (56) SSI: supplemental security income  
~~[(56)]~~ (57) SSN: social security number  
~~[(57)]~~ (58) TANF: temporary assistance to needy families (block grant program under Title IV-A of the Social Security Act)  
~~[(58)]~~ (59) UCB: unemployment compensation benefits  
~~[(59)]~~ (60) UEI: unearned income  
~~[(60)]~~ (61) USDA: United States department of agriculture  
~~[(61)]~~ (62)

VA: Veterans administration  
~~[(62)]~~ (63) WIA: Workforce Investment Act  
~~[(63)]~~ (64) WID: work incentive deduction  
~~[(64)]~~ (65) WPA: work participation agreement  
B. [RESERVED]  
[8.102.100.8 NMAC - N, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 02/28/2007; A/E, 07/16/2007; A, 10/31/2007; A, 09/01/2017]

## HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

**This is an amendment to 8.102.120 NMAC, Sections 3, 5, 9, 10 and 11, effective 09/01/2017.**

### 8.102.120.3 STATUTORY AUTHORITY:

A. New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

B. Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, the New Mexico works program was created to replace the aid to families with dependent children program.

C. Under authority granted to the governor by the federal Social Security Act, the human services department is designated as the state agency responsible for the TANF program in New Mexico.

D. Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and Title IV-A of the federal Social Security Act, the

department is creating the New Mexico works program as one of its cash assistance programs.

**E.** In close coordination with the NMW program, the department administers the ~~[food stamp]~~ supplemental nutrition assistance program (SNAP) employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations. [8.102.120.3 NMAC - Rp 8.102.120.3 NMAC, 07/01/2001; A, 11/15/2007; A, 09/01/2017]

**8.102.120.5 EFFECTIVE DATE:** July 1, 2001, unless a later date is cited at the end of a section. [8.102.120.5 NMAC - Rp 8.102.120.5 NMAC, 07/01/2001; A, 09/01/2017]

**8.102.120.9 ELIGIBILITY REVIEWS:**

**A. Follow-up reviews:**

(1) A follow-up review shall be scheduled during a certification period whenever information becomes known to the county office indicating a possible change in a benefit group's circumstances that may affect eligibility or payment amount.

(2) Review of a specific condition may be made by home visit, office visit, third party contacts or correspondence as needed.

(3) Circumstances which may require follow-up review include, but are not limited to:

(a) ~~[in NMW, exemption from work requirements]~~ change in NMW participation work requirements;

(b) school attendance of children age [6] six or older;

(c) any other anticipated change in circumstances which will require a change of grant during a certification period.

**B. Recertification:**

(1) Cash assistance shall be approved for a fixed certification period at the end of which the assistance shall be

terminated.

(2) The recertification shall consist of a complete review of all conditions of eligibility; determination of eligibility for an additional period of time and redetermination of the amount of assistance payment. The recertification requires a redetermination of eligibility on those conditions that are subject to change. There shall be a prospective determination beginning the month following the month the certification expires.

(3) The caseworker shall ensure that CSED has been notified of all pertinent information regarding any non-custodial parent who has a child in the benefit group, including but not limited to the current address and work place of the non-custodial parent.

(4) **Conditions not subject to change:** The caseworker reviews documentation of conditions not subject to change. If the record does not contain satisfactory evidence, additional verification shall be obtained.

(5) **Work program:** The caseworker shall give information to the NMW participants about earned income incentives, assistance through the transitional child care program, medicaid transitional benefits, and work program requirements, opportunities and services. Work program participation shall be reviewed.

(6) **Need and payment determination:** The caseworker shall obtain current information about family and benefit group income, resources, and circumstances, to determine financial need and amount of payment.

(7) **Change reporting:** The caseworker shall review with the client the possible changes in circumstances which must be reported if they occur.

**C. Certification scheduling:**

(1) Each case must have eligibility and payment

reviewed at least once during the period specified for that category. Cash assistance cases, which also receive ~~[food stamp]~~ SNAP, shall be recertified at the same time the ~~[food stamp]~~ SNAP certification is completed.

(2) The certification period shall not exceed the following standards:

- (a) Regular reporting benefit groups: A benefit group not subject to ~~[semiannual]~~ simplified reporting requirements shall be certified:
- (i) every ~~[six]~~ five months or less for: [002 - NMW, 002 ] education works program;
- (ii) every 12 months for: ~~[010 - ]~~ state supplement for SSI recipients in residential care;
- (iii) eight months for: ~~[019 - RRP]~~ refugee resettlement program.

(b) ~~[Semiannual]~~ Simplified reporting benefit groups: Certification provisions that apply to a NMW benefit group subject to ~~[semiannual]~~ simplified reporting are set forth at Subsection A of 8.102.120.11 NMAC. ~~[ - ]~~ (3) ~~Except for cases assigned to semiannual reporting, the caseworker shall have full discretion to make the certification period less than the maximum time interval if changes in circumstances affecting eligibility are probable, family circumstances are questionable, when it is necessary in the interest of good caseload management, or to coincide with a food stamp certification.]~~

**D. Interview:**

(1) ~~[An face to face interview between the caseworker and the specified relative/caretaker shall take place at least once a year in connection with a recertification, with the exception of medicaid categories.]~~ All recertification interviews shall be in person at the local office or, when circumstances warrant, over the phone or at another place reasonably accessible and agreeable to both the

recipient/relative or caretaker and the caseworker. The recipient may bring any individual to the interview.

(2) The interview must be with the [client himself] recipient, unless the [client's] recipient's physical or mental condition makes the interview impossible or inadvisable. See 8.100.130 NMAC for instructions on obtaining information.

(3) To help a [client] recipient report changes that may affect the [client's] recipient's eligibility or amount of payment, the caseworker shall make available a change report form upon request, which the client may use to notify the county office of changes in circumstance.

**E. Scheduling recertification reviews:** The certification period end date shall be scheduled for the appropriate interval indicated in Subsection C of 8.102.120.9 NMAC, starting with the initial month of eligibility, or the month following the month in which previous certification expired.

**F. Exchange of information with SSA:**

(1) If information received during any eligibility review indicates that a participant in NMW or GA may be eligible for supplemental security income (SSI) benefits, (this includes children and adults who appear disabled, and needy adults over 65), the caseworker shall promptly refer the participant to the social security administration district office for application. An individual found eligible for SSI must participate in that program.

(2) During the review process, [the caseworker] ISD will sometimes learn information relevant to the eligibility of a family member who is a SSI recipient. If there is a clear indication that a SSI recipient's countable income exceeds the maximum allowable under the SSI program, the discrepancy shall be reported to the social security administration (SSA) district office. SSA shall also be notified when it appears that the resources of an

SSI recipient exceed SSI program standards.  
[8.102.120.9 NMAC - Rp 8.102.120.9 NMAC, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 7/17/2006; A, 11/15/2007; A, 09/01/2017]

**8.102.120.10 HANDLING BENEFIT GROUP AND RESIDENCE STATUS CHANGES:**

**A. Change of name or payee:** Whenever there is a change in a participant's name or the payee for cash assistance, the caseworker shall immediately make the appropriate changes.

(1) **New**

**caretaker:**

(a) If a new caretaker assumes responsibility for a dependent child in a case, the case shall be closed and a new application processed.

(b) If the new caretaker is already payee for other dependent children, the cash assistance case of the children being transferred to the new payee shall be closed, an add-on application shall be processed, and the children added to the existing benefit group.

(2) **Payee change after benefits are issued:**

(a) ~~Warrants: If there is a change of payee after warrants have already been mailed and the original payee is not available to endorse the warrant, the caseworker shall request that the warrant be returned to the county office to effect the change. The caseworker shall write "VOID" on the face of the original warrant and send it to the accounting section in central office. A replacement warrant shall be issued in the name of the new payee.~~

(b) ~~EBT: In an EBT case, the] The EBT account shall be made accessible to another family member by authorization of a new PIN under the old account.~~

(3) **Changes in name or payee are indicated when:**

(a) a payee legally changes his name and the change has been processed

through the social security administration;

(b) a legal guardian is appointed or dismissed;

(c) the parent of an incompetent adult client begins to serve as natural guardian; or

(d) there is a change of payee for an NMW grant.

**B. Change in benefit group composition:** A request for assistance for a new benefit group member shall be treated as add-on an application. An add-on application shall be processed using the timeliness and verification standards applicable to regular applications.

**C. Move to another state:** If a participant advises the county office in advance of the participant's departure from the state, the participant shall be contacted to determine whether the participant intends to:

(1) be out of the state for a temporary period with a plan to return once the purpose of the visit has been accomplished; or

(2) abandon residence in New Mexico;

(3) the caseworker shall cover the following points:

(a) whether the client wishes to continue receiving assistance out-of-state during a temporary absence;

(b) whether the client intends to apply for assistance in another state;

(c) how long the participant intends to be out-of-state;

(d) the purpose of the visit;

(e) whether a place of residence in New Mexico is being maintained in the participant's absence.

(4) If it appears on the basis of this information that New Mexico residence is being abandoned, assistance shall be terminated. If absence is temporary, cash assistance

shall be continued and the client must keep the department informed of the client's address and circumstances.

**D. Illness:** If a participant who is temporarily visiting outside New Mexico is unable to return to New Mexico because of illness, cash assistance may continue until such time as the participant is able to return. In this situation, the participant's inability to return to New Mexico because of illness must be verified by medical report.

**E. DVR training:** If plans are made in conjunction with DVR for a participant's participation in a training course in another state, cash assistance may be continued for the duration of the training course for the participant and the participant's dependents, if they accompany the participant, provided that the benefit group intends to return to New Mexico when training is completed. [8.102.120.10 NMAC - Rp 8.102.120.10 NMAC, 07/01/2001; A, 11/15/2007; A, 09/01/2017]

**8.102.120.11 [SEMIANNUAL-REPORTING:** Semiannual reporting is a periodic reporting requirement for certain benefit groups that receive NMW cash assistance. A benefit group that is assigned to semiannual reporting must file a report of changes in the sixth month of a 12-month certification period:

**A. Certification period:**

**(1) Initial application:** A benefit group that is applying for both food stamp and NMW, shall be assigned a NMW certification period that ends in the same month as the food stamp certification period:

**(2) An initial applicant for NMW that is already participating and assigned to semiannual reporting in the food stamp program:**

**(a)** if approved for NMW, shall be assigned a NMW certification period that will end the same month as the food stamp certification period; and

**(b)** must file [a semiannual] report in the

same month that one is due in the food stamp program;

**(c)** if NMW is approved in the same month a semiannual report is due in food stamp program, the requirement in Subparagraph (b), above, is waived for NMW.

**(3)** A benefit group that is approved for NMW, but does not receive food stamp shall be assigned a twelve-month certification period:

**(a)** beginning the first month of eligibility; and

**(b)** shall have a semiannual report due in the sixth month of the NMW certification period:

**(4)** A benefit group that is receiving NMW and applies for food stamp shall have NMW eligibility re-determined at the same time that the food stamp eligibility is determined:

**(a)** If NMW benefits increase, the increase shall be effective the month following the first month of approval for food stamp and NMW shall be assigned a certification period that ends in the month the semiannual reporting food stamp certification ends:

**(b)** If approved for food stamp and the NMW benefit decreases, the decrease shall be effective the month following the month the NOAA expires, and the NMW benefit group shall be assigned a certification period that ends in the same month the food stamp certification ends:

**(c)** If approved for food stamp and the NMW benefit is terminated, the termination shall be effective the month following the month the NOAA expires, and the food stamp case shall be transitioned to TFS:

**(5)** **Recertification:** A benefit group that is recertifying and is approved and assigned to semiannual reporting shall be assigned a certification period that:

**(a)** is 12 months long;

**(b)**

begins the month after the current certification ends; or

**(c)** is set to end in the same month as a food stamp case with a common member.

**B. Excluded from semiannual reporting:** The semiannual reporting requirement shall be assigned to all NMW benefit groups with the following exceptions:

**(1)** a household in which all members are migrant or seasonal farm workers;

**(2)** a household in which all members are homeless;

**(3)** a household in which all members are elderly or disabled, that receive social security or SSI and has no earned income;

**(4)** a household determined by the county director to have insufficient stability and warrants an alternative reporting requirement; an unstable household may include but is not limited to:

**(a)** a household that reports an imminent change in residence to another state;

**(b)** a household that is assigned to an alternative reporting requirement because of instability, shall be certified for no longer than three months:

**C. Participating benefit group:** A benefit group not assigned semiannual reporting that subsequently is required to be on semiannual reporting because of a reported change:

**(1)** shall be transitioned at the end of the certification period in effect when the report occurred; or

**(2)** shall be transitioned to semiannual reporting if the reported change results in application, approval, and assignment to semiannual reporting in the food stamp program:

**D. Semiannual reporting requirements:** A benefit group assigned to semiannual reporting shall be required to file a semiannual report no later than the tenth day of the sixth month of the



12-month certification period, or in compliance with the food stamp semiannual report, whichever is appropriate. The benefit group must include the following information along with necessary verification, as required at 8.100.130 NMAC:

(1) any change in benefit group composition, whether a member has moved in or out of the home along with the date, the change took place;

(2) the amount of money received from employment by each benefit group member;

(3) the amount of unearned income received by each benefit group member;

(4) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit, such as but not limited to:

(a) the account number and balance for a new checking or savings account belonging to any household member; or

(b) the amount of any new stocks or bonds or other financial instruments belonging to any household member.

(5) dependent care expenses;

(6) verification for residence, only if, there has been a change in residence since the last certification;

(7) changes in child support receipt; and

(8) changes in alien status for a benefit group member.

**E. Budgeting methodology for semiannual reporting at initial application and recertification:**

(1) Prospective budgeting shall be used for an applicant benefit group at initial application and at recertification as set forth at 8.102.500.9 NMAC.

(2) At initial application, eligibility and amount of payment for the applicant benefit group shall be determined prospectively for the each of the first

six months of the certification:

(3) At recertification, eligibility and amount of payment shall be determined prospectively for six months following last month benefit group's certification period.

**F. Budgeting methodology for [semiannual] reporting:**

(1) At processing the semiannual report, eligibility and amount of payment shall be determined prospectively for the six months following the month the semiannual report is due.

(2) In determining a benefit group's eligibility and payment amount, the income already received shall be used to prospectively anticipate income the benefit group expects to receive during the certification period according to the following schedule:

(a) **Weekly:** For income received weekly the participant benefit group must submit and [the department] shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(b) **Bi-weekly:** For income received bi-weekly the participant benefit group must submit and the department shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(c) **Semi-monthly:** For income received semi-monthly the participant benefit group must submit and the department shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(d) **Monthly:** For income received monthly the participant benefit group must submit and the department shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to

the month the report is due and the month the report is due.

(e) **Income received more frequently than weekly:** For benefit groups with income received more frequently than weekly, exact income, rather than averaged and converted income shall be used to determine benefits. For income received more frequently than weekly the participant benefit group must submit and the department shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the semiannual report and the month the report is due.

(f) If a determination is made that the use of the pay data for the methods described in (a) through (e), above, does not give the most accurate estimate of monthly earnings due to unique circumstances, the caseworker shall use whatever method gives the most accurate estimate of earnings.

(g) **Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It also includes contract income and income for a tenured teacher who may not have a contract.

**(3) Self-employment:**

(a) Requirements for determination of self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment income are set forth at Subsection B of 8.100.130.14 NMAC.

(b) A benefit group assigned semiannual reporting that has had self-employment income annualized by the department shall be required to report changes in self-employment income only if the benefit group has filed a tax return subsequent to its last

approval or recertification for NMW.

(c)

A benefit group assigned semiannual reporting that does not have the self-employment income annualized must report self-employment income on the semiannual report. The income reported on the semiannual report will be calculated in the following manner:

(i)

If a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the duration of the certification period.

(ii)

**Seasonal income:** Self-employment income that is intended to meet a benefit group's needs for only part of the year shall be averaged over the time the income is intended to cover.

(d)

A benefit group required to report semiannual self-employment income that fails to provide verification of an allowable deduction at the semiannual or during the month the semiannual report is due shall not be allowed the deduction. The caseworker shall process the report if all other mandatory verification has been provided.

(4) **Use of**

**conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(a)

income received on a weekly basis is averaged and multiplied by 4.0;

(b)

income received on a biweekly basis is averaged and multiplied by 2.0;

(c)

averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

(5) **Effective**

April 1, 2010, changes to earned and unearned income shall be calculated

using the conversion factors at Paragraph (4) of Subsection F of 8.102.120.11 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.

(a)

Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.

(b)

Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.

#### **G. Time limits for submission and processing a semiannual report:**

(1) **A**

semiannual report form shall be mailed to a benefit group in the month prior to the month the report is due.

(2) **A benefit**

group assigned to semiannual reporting shall be required to submit a semiannual report form by the tenth calendar day of the month the semiannual report is due.

(3) **The**

semiannual] report shall be reviewed for completeness within ten days of receipt.

(a) If the form is complete and all verifications are provided, a caseworker shall complete the processing of the form within 10 days of receipt.

(b)

If the form is complete and all verifications are provided except for verification of an allowable deduction, the report shall not be processed. The household shall be:

(i)

notified that verification is lacking; and

(ii)

shall be given ten days to provide verification of an allowable deduction;

(iii)

a deduction that is verified within the month the semiannual report is due shall be processed as part of the [semiannual] report;

(iv)

a deduction that is verified in the month after the semiannual report is due shall be processed as a change reported by the household;

(v)

a deduction that does not have the required verification shall not be allowed until verification of the expense is provided.

(4)

**A**

semiannual report form that is incomplete or not signed shall be returned to the benefit group for completion.

(5)

The benefit group must return the completed semiannual report form and all required verification within 10 calendar days or by the end of the month to avoid a break in benefits. A benefit group that fails to submit a semiannual report by the end of the month in which it is due, shall be issued an adequate notice of closure.

#### **H. Information**

##### **requirements for semiannual reporting:**

The semiannual report form shall specify:

(1) the date by

which a benefit group must submit the form for uninterrupted benefits;

(2) the

consequences of submitting a late or incomplete form;

(3) that

verification must be submitted with the [semiannual] report;

(4) where to

call for help in completing the form;

(5) the

consequences of providing incorrect information; and

(6) notice of

rights.

#### **I. Requirement to**

##### **report certain changes between reporting periods:**

A benefit group assigned to semiannual reporting must report in between reporting periods the following changes:

(1) within 10

days of occurrence, the benefit group must report when a social security

number is assigned to a benefit group member; or

(2) within 14 days of occurrence, a parent must report when a dependent child, age six years or older, drops out of school or has three unexcused absences from school.

**J. Non-reporting sanctions:** A benefit group assigned to semiannual reporting shall be subject to a non-reporting sanction in accordance with regulations at 8.102.620.11 NMAC for failure to provide accurate change information on the semiannual report form or for failure to report by the 10th day of the month following the month that household income exceeds eighty-five percent of federal poverty guidelines for the size of the benefit group.

**K. Action on changes reported between reporting periods for benefit groups assigned to semiannual reporting:**

(1) The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:

(a) a benefit group reports income in excess of eighty-five percent of federal poverty guidelines for size of the benefit group;

(b) a benefit group reports, or the department receives documented evidence that the benefit group has moved from the state or intends to move from the state on a specific date;

(c) a benefit group requests closure; or

(d) the department receives documented evidence that the head of benefit group has died.

(2) A newborn shall be added to the benefit group effective the month following the month the report is received, if the addition is reported to the agency by the benefit group or by the hospital for medicaid purposes.

(3) The loss of earned income shall be considered for eligibility in the second month

after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that:

(a) the loss of income was reported to the agency, and verified by the benefit group; and

(b) the loss of income was not due to voluntary quit.

(4) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the benefit group.] **SIMPLIFIED REPORTING:** Simplified reporting is a periodic reporting requirement for benefit groups that receive NMW cash assistance. A benefit group assigned to simplified reporting must file a report of changes in the sixth month of a 12-month certification period.

**A. Certification period:**

(1) **Initial application:** A benefit group that is applying for both SNAP and NMW, shall be assigned a NMW certification period that ends in the same month as the SNAP certification period with the exception of those SNAP benefit groups assigned to a 24-month certification.

(2) An initial applicant for NMW that is already participating and assigned to simplified reporting in the SNAP program:

(a) if approved for NMW, shall be assigned a NMW certification period that will end the same month as the SNAP certification period; and

(b) must file an interim report form in the same month that one is due in the SNAP program;

(c) if NMW is approved in the same month an interim report form is due in SNAP program, the requirement in Subparagraph (b), above, is waived for NMW.

(3) A benefit group that is approved for NMW, but does not receive SNAP shall be assigned a twelve-month certification period:

(a) beginning the first month of eligibility; and

(b) shall have an interim report form due in the sixth month of the NMW certification period.

(4) A benefit group that is receiving NMW and applies for SNAP shall have NMW eligibility re-determined at the same time that the SNAP eligibility is determined.

(a) If NMW benefits increase, the increase shall be effective the month following the first month of approval for SNAP and NMW shall be assigned a certification period that ends in the month the simplified reporting SNAP certification ends.

(b) If approved for SNAP and the NMW benefit decreases, the decrease shall be effective the month following the month the NOAA expires, and the NMW benefit group shall be assigned a certification period that ends in the same month the SNAP certification ends.

(c) If approved for SNAP and the NMW benefit is terminated, the termination shall be effective the month following the month the NOAA expires, and the SNAP case shall be transitioned to TFS.

(5) **Recertification:** A benefit group that is recertifying and is approved and assigned to simplified reporting shall be assigned a certification period that:

(a) is 12 months long;

(b) begins the month after the current certification ends; or

(c) is set to end in the same month as a SNAP case with a common member.

**B. Excluded from simplified reporting:** The simplified reporting requirement shall be



assigned to all NMW benefit groups except programs listed in Paragraph (2) of Subsection C of 8.102.120.9 NMAC.

**C. Simplified reporting requirements:** A benefit group assigned to simplified reporting shall be required to file an interim report form no later than the tenth day of the sixth month of the 12-month certification period, or in compliance with the SNAP simplified report, whichever is appropriate. The benefit group must include the following information along with necessary verification, as required at 8.100.130 NMAC:

(1) any change in benefit group composition, whether a member has moved in or out of the home along with the date, the change took place;

(2) the amount of money received from employment by each benefit group member;

(3) the amount of unearned income received by each benefit group member;

(4) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit, such as but not limited to:

(a) the account number and balance for a new checking or savings account belonging to any household member; or

(b) the amount of any new stocks or bonds or other financial instruments belonging to any household member.

(5) dependent care expenses;

(6) verification for residence, only if, there has been a change in residence since the last certification;

(7) changes in child support receipt; and

(8) changes in alien status for a benefit group member.

**D. Budgeting methodology for simplified reporting at initial application and recertification:**

(1) Prospective budgeting shall be used for an applicant benefit group at initial application and at recertification as set forth at 8.102.500.9 NMAC.

(2) At initial application, eligibility and amount of payment for the applicant benefit group shall be determined prospectively for the each of the first six months of the certification.

(3) At recertification, eligibility and amount of payment shall be determined prospectively for six months following last month benefit group's certification period.

**E. Budgeting methodology for simplified reporting:**

(1) At processing the interim report form, eligibility and amount of payment shall be determined prospectively for the six months following the month the interim report form is due.

(2) In determining a benefit group's eligibility and payment amount, the income already received shall be used to prospectively anticipate income the benefit group expects to receive during the certification period according to the following schedule:

(a) **Weekly:** For income received weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(b) **Bi-weekly:** For income received bi-weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(c) **Semi-monthly:** For income received semi-monthly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day

period that includes 30 days prior to the month the report is due and the month the report is due.

(d) **Monthly:** For income received monthly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(e) **Income received more frequently than weekly:** For benefit groups with income received more frequently than weekly, exact income, rather than averaged and converted income shall be used to determine benefits. For income received more frequently than weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the interim report form and the month the report is due.

(f) If a determination is made that the use of the pay data for the methods described in (a) through (e), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; the caseworker shall use whatever method gives the most accurate estimate of earnings.

(g) **Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It also includes contract income and income for a tenured teacher who may not have a contract.

(3) **Self-employment:**

(a) Requirements for determination of self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment

income are set forth at 8.100.130.25 NMAC.

**(b)**

A benefit group assigned simplified reporting that has had self-employment income annualized by ISD shall be required to report changes in self-employment income only if the benefit group has filed a tax return subsequent to its last approval or recertification for NMW.

**(c)**

A benefit group assigned simplified reporting that does not have the self-employment income annualized must report self-employment income on the interim report form. The income reported on the simplified report form will be calculated in the following manner.

**(i)**

If a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the duration of the certification period.

**(ii)**

**Seasonal income:** Self-employment income that is intended to meet a benefit group's needs for only part of the year shall be averaged over the time the income is intended to cover.

**(d)**

A benefit group required to report simplified self-employment income that fails to provide verification of an allowable deduction at the interim or during the month the interim report form is due shall not be allowed the deduction. ISD shall process the report if all other mandatory verification has been provided.

**(4) Use of**

**conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

**(a)**

income received on a weekly basis is averaged and multiplied by four;

**(b)**

income received on a biweekly basis is averaged and multiplied by two;

**(c)**

averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**F. Time limits for submission and processing an interim report form:**

**(1)**

An interim report form shall be mailed to a benefit group in the month prior to the month the report is due.

**(2)**

A benefit group assigned to simplified reporting shall be required to submit an interim report form by the tenth calendar day of the month the interim report form is due.

**(3)**

The interim report form shall be reviewed for completeness within ten days of receipt.

**(a)**

If the form is complete and all verifications are provided, ISD shall complete the processing of the form within 10 days of receipt.

**(b)**

If the form is complete and all verifications are provided except for verification of an allowable deduction, the report shall be processed without the deduction. The household shall be:

**(i)**

notified that verification is lacking; and

**(ii)**

shall be given 10 days to provide verification of an allowable deduction;

**(iii)**

a deduction that is verified within the month the interim report form is due shall be processed as part of the interim report;

**(iv)**

a deduction that is verified in the month after the interim report form is due shall be processed as a change reported by the household;

**(v)**

a deduction that does not have the required verification shall not be allowed until verification of the expense is provided.

**(4)**

An interim

report form that is incomplete or not signed shall be returned to the benefit group for completion.

**(5)**

The benefit group must return the completed interim report form and all required verification within 10 calendar days to avoid a break in benefits. A benefit group that fails to submit an interim report form by the end of the month in which it is due, shall be issued an adequate notice of closure.

**G. Information**

**requirements for simplified reporting:** The interim report form shall specify:

**(1)**

the date by which a benefit group must submit the form for uninterrupted benefits;

**(2)**

the consequences of submitting a late or incomplete form;

**(3)**

that verification must be submitted with the interim report form;

**(4)**

where to call for help in completing the form;

**(5)**

the consequences of providing incorrect information; and

**(6)**

notice of rights.

**H. Requirement to**

**report certain changes between reporting periods:** A benefit group must report changes within 10 days of the date a change becomes known to the benefit group:

**(1)**

a benefit group reports income in excess of eighty-five percent of federal poverty guidelines for size of the benefit group;

**(2)**

the benefit group must report when a social security number is assigned to a benefit group member;

**(3)**

a parent must report when a dependent child, age six years or older, drops out of school or has three unexcused absences from school within 14 days of occurrence;

**(4)**

a mandatory adult who is participating in NMW Program has moved in or out of the home;

**(5)**

a

mandatory child who has moved in or out of the home;

(6) a household member has passed away;

(7) a mandatory member has moved from New Mexico;

(8) unearned income in excess of the maximum monthly benefit for the size of the benefit group;

(9) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit;

(10) in the absence of a written report, a 13-day notice of adverse action is required if the change will result in a reduction or termination of benefits.

**I. Action on changes reported between reporting periods for benefit groups assigned to simplified reporting:**

(1) ISD shall act on all reported changes.

(2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined as:

(a) information is not questionable and,

(b) the provider of the information is the primary source of information or;

(c) the trusted data sources must be pulling their own data not from third party information; or

(d) the recipient's attestation exactly matches the information received from a third party.

(3) A newborn shall be added to the benefit group effective the month following the month the report is received.

(4) The loss of earned income shall be considered for eligibility in the second month after the loss and ongoing until the next scheduled interim report or end of certification whichever is first, provided that:

(a) the loss of income was reported to

the agency, and verified by the benefit group; and

(b) the loss of income was not due to voluntary quit.

(5) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled interim report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the benefit group.

**J. Responsibilities on reported changes outside of the interim report:** When a household reports a change, ISD shall take action to determine the household's eligibility or TANF benefit amount within 10 working days of the date the change is reported.

(1) **Decreased or termination of benefits:** For changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

(a) if the household's benefit level decreases or the household becomes ineligible as a result of the change, ISD shall issue a notice of adverse action within 10 calendar days of the date the change was reported unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies;

(b) when a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested;

(c) when a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(2) **Increased**

**benefits:** For changes that result in an increase of household benefits, ISD shall act on the change as follows:

(a) for changes which result in an increase in a household's benefits, other than changes described in Paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD;

(b) for changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, ISD shall make the change effective not later than the first allotment issued 10 calendar days after the date the change was reported;

(i) in no event shall these changes take effect any later than the month following the month in which the change is reported;

(ii) if the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th calendar day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(3) **No change in TANF benefit amount:** When a reported change has no effect on the TANF benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(4) **Providing verification:** The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (2)(a) and (2)(b) above. If the household

fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its SNAP benefit amount shall revert to the original benefit amount.

**K. Resolving unclear information:**

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.102.120.11 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

**(2) Unclear information resulting from certain data matches:**

(a) if the department receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the

consequences of failing to respond to the notice:

(b) if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

**L. Failure to report changes:** If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

(1) **Decreased benefit amount:** After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued TANF benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced.

(2) **Increased benefit amount:** When a household fails to timely report a change which will result in an increased TANF benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 calendar days after the date the change was reported.

**M. Non-reporting sanctions:** A benefit group assigned to simplified reporting shall be subject to a non-reporting sanction in accordance with regulations at 8.102.620.11 NMAC for failure to provide accurate change information on the interim report form or for failure to report by the tenth calendar

day of the month following the month that household income exceeds eighty-five percent of federal poverty guidelines for the size of the benefit group.

[8.102.120.11 NMAC - N, 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 11/14/2008; A, 04/01/2010; A, 09/01/2017]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.102.620 NMAC, Sections 10, 11, 12 and 14 effective 09/01/2017.**

**8.102.620.10 CHILD SUPPORT  
AND NMW NON-COOPERATION  
PAYMENT SANCTIONS:**

**A. General:**

(1) The benefit group shall be subject to a non-cooperation payment sanction under either or both of the following circumstances:

(a) failure by a benefit group member to meet NMW requirements; or

(b) failure by the adult responsible for children included in a benefit group to meet child support enforcement division (CSED) cooperation requirements or both;

(c) good cause will be evaluated based on the circumstances of each instance of non-cooperation.

**(2) Occurrence of non-cooperation:**

(a) **Child support:**

(i) A benefit group shall be subject to a payment sanction for failure to comply with CSED cooperation requirements, even if the adult required to cooperate with child support requirements is not included in the benefit group.

(ii) Each benefit group member that fails to cooperate with the NMW requirement is subject to a sanction and shall affect the benefit group.



<p>(iii) An occurrence of non-cooperation shall be applied when a sanction progresses to the next sanction level as a result of the noncompliance continuing for three consecutive months without the sanctioned participant reestablishing compliance. Progression to the next sanction level shall be effective in the fourth month.</p>	<p>as a result of the noncompliance continuing for three consecutive months without the sanctioned participant reestablishing compliance. Progression to the next sanction level shall be effective in the fourth month.</p>	<p>a participant fails to comply with NMW or CSED requirements as a separate occurrence.</p>
<p>(iv) A first or second level sanction is considered to be cured upon full cooperation by the sanctioned participant or a sanction shall be reversed based on a hearing decision when the sanction imposed is determined to be invalid.</p>	<p>(3) <b>Cumulative sanctions:</b></p> <p>(a) Non-cooperation sanctions are cumulative within the benefit group and shall occur when:</p>	<p>(b) A sanction that is not cured for three consecutive months shall progress until compliance is established by the participant.</p>
<p>(b) <b>NMW:</b></p> <p>(i) A benefit group is subject to a payment sanction when a participant in the benefit group fails to cooperate with the NMW requirements absent a finding of good cause.</p>	<p>(i) the participant fails to comply with the NMW and child support enforcement requirements;</p>	<p>(c) A participant's compliance cannot reverse the sanction level attributed to the benefit group. Any subsequent sanction is imposed at the next higher level, unless reversed by a hearing decision.</p>
<p>(ii) In a two-parent benefit group, each mandatory benefit group member that fails to cooperate with the NMW requirements is subject to a sanction that affects the benefit group's sanction level and payment.</p>	<p>(ii) more than one participant in the benefit group have failed to comply with either the NMW [and/or] <u>and</u> child support enforcement requirement.</p>	<p><b>B. The conciliation process:</b></p> <p>(1) <b>When conciliation is available:</b></p>
<p>(iii) A participant shall not be sanctioned for more than one NMW requirement element at one time. A participant may be sanctioned for the same or a different NMW requirement element only after the original sanction element is cured or reversed. A first or second level sanction may be cured upon full cooperation by the sanction participant and a sanction shall be reversed based on a hearing decision when the sanction imposed is determined to be invalid.</p>	<p>(b) Cumulative sanctions, whether or not cured, shall remain the property of that benefit group participant who caused the sanction.</p>	<p>Conciliation shall be available to a participant or applicant once during an occurrence of assistance. There must be a period of at least 12 months between occurrences of cash assistance in order for a conciliation to be available again to the benefit group. NMW conciliation and child support conciliation are independent and are counted separately from each other.</p>
<p>(iv) A participant with limited participation status may be sanctioned for failure to meet the work participation requirement rates as identified on the approved work participation agreement.</p>	<p>(i) A participant with a sanction who leaves a benefit group relieves the benefit group of that participant's sanction status.</p>	<p>(2) <b>Determining that noncompliance has occurred:</b></p>
<p>(v) An occurrence of non-cooperation shall be applied when a sanction progresses to the next sanction level</p>	<p>(ii) A participant with a sanction who joins another benefit group subjects the new benefit group to any sanction or sanction level that has not been cured prior to joining the benefit group.</p>	<p>(a) The determination of noncompliance with child support shall be made by CSED. The conciliation and sanctioning process for child support noncompliance is initiated upon receipt of notice from CSED that the participant or applicant has failed to cooperate. Under 8.102.420 NMAC, the non-cooperative participant or applicant shall be individually disqualified from participation in the benefit group.</p>
	<p>(c) The benefit group's cumulative sanctions and benefit level shall be reevaluated when a sanction is cured or reversed.</p>	<p>(b) The determination of noncompliance with NMW requirements shall be made by the caseworker. A finding of noncompliance shall be made if:</p>
	<p>(4) <b>Progressive sanctions:</b></p>	<p>(i) the participant has not completed an assessment;</p>
	<p>(a) Non-cooperation sanctions are progressive to both the participant and to the benefit group and shall progress to the next level for the benefit group in which the sanctioned participant resides when:</p>	<p>(ii) the participant fails or refuses to complete an IRP;</p>
	<p>(i) a participant fails to establish compliance in three-month increments; or</p> <p>(ii)</p>	<p>(iii)</p>

the participant fails or refuses to submit an approvable WPA;

(iv)

the participant fails to submit timely documentation showing completion of required work hours;

(v)

the participant's monthly attendance report shows fewer than the minimum required hours of participation and no other allowable hours of activity can be reasonably attributed by the caseworker towards the monthly participation requirement.

### (3) Initiating

**conciliation:** Within 10 days of determining that noncompliance exists, the caseworker shall take action to initiate a conciliation, if the participant's conciliation has not been used. A conciliation is initiated by the department or its designee issuing a conciliation notice. CSED shall determine noncompliance and notify the caseworker who shall initiate the conciliation process.

(4)

**Conciliation period:** Conciliation gives a participant a 30-calendar day period to correct the current non-compliance for either a NMW participation or CSED requirement.

(a)

The conciliation process is established by the department, to address the noncompliance, identify good cause for noncompliance or barriers to compliance and shall occur only once prior to the imposition of the sanction.

(i)

The participant shall have ten working days from the date a conciliation notice is mailed to contact the department to initiate the conciliation process. A participant who fails to initiate the conciliation process shall have a notice of adverse action mailed to him after the 10th working day following the date on which the conciliation notice is mailed.

(ii)

Participants who begin but do not complete the conciliation process shall be mailed a notice of adverse action 30 days from the date the original conciliation was initiated. The benefit group shall be subject to sanction in the month following the

month the notice of adverse action expires.

(b)

### Non-cooperation with CSED

**requirements:** When the participant has initiated the conciliation process, it is the participant's responsibility to contact CSED and to comply with requirements or to request a waiver from CSED due to good cause. If the caseworker does not receive confirmation from CSED within 30 days of issuing the conciliation notice that the participant is cooperating or has requested a waiver for good cause in accordance with 8.50.105.14 NMAC; the conciliation process shall be considered to have failed the benefit group shall be subject to payment sanctioning.

(c)

The caseworker shall make the determination whether arrangements have been made to meet NMW requirements or whether there is good cause for waiving the cooperation requirements. If arrangements to meet the requirement or to waive it have not been made by the 30th day following issuance of the conciliation notice, the conciliation shall be considered to have failed and the participant is subject to sanctioning.

### C. Sanctioning:

(1) Within

10 days of determining that a participant has failed to meet a NMW requirement, department or its designee shall issue notice of adverse action that the payment shall be reduced. The payment reduction shall take place with the first payment following expiration of the notice of adverse action.

(2) Notice of

adverse action shall apply to all NMW and child support noncompliance sanctions, including those relating to the conciliation process.

(3) A

participant who corrects the failure of compliance with NMW or child support enforcement requirements during the notice of adverse action 13-day time period shall not have the sanction imposed against the benefit group or payment amount. The sanction shall not count as a

cumulative or progressive sanction, since the reason for the sanction was corrected during the time period of the notice of adverse action and prior to a benefit reduction being imposed. A participant who has failed to meet work participation hours cannot correct the sanction during the notice of adverse action time period.

(4)

Failure to comply during the notice of adverse action 13-day time period shall cause the sanction to become effective for a minimum of one month. If the participant later complies with the NMW compliance requirements, as determined by the department, the sanction may be removed, so long as the participant has received at least one month of reduced benefit due to sanction.

(a)

A child support enforcement sanction shall be removed after CSED notifies the caseworker that the participant is in compliance with child support enforcement requirements.

(b)

A NMW sanction shall be removed after the caseworker receives verification that the participant has completed an assessment; or has completed an IRP; or has completed a WPA that indicates the appropriate number of monthly hours in work activities; or has met NMW participation hours for at least 30 days; or has good cause to waive work participation requirements.

### D. Sanction levels:

(1) First-level

**sanction:**

(a)

The first level sanction for failure to comply shall result in a sanction of twenty-five percent of the standard of need. The benefit group shall be given notice of the imposition of the sanction.

(b)

A first level sanction that is not cured for three consecutive months shall progress to a second level sanction.

(2) Second-

**level sanction:**

(a)

The second level of sanction for failure to comply shall result in a decrease of fifty percent of the

standard of need. The second level shall be initiated by:

(i) failure to comply with NMW participation or child support enforcement requirements for more than three months; or

(ii) a second occurrence of noncompliance with a NMW or CSED requirement by a participant; or

(iii) failure of a participant to comply with both CSED and NMW participation requirements simultaneously. The group shall be given concurrent notice of imposition of the second-level sanction.

(b) A second level sanction that is not cured for three consecutive months shall progress to the third level as described below.

(3) **Third-level sanction:**

(a) The third sanction level is case closure for a period of not less than six months. The group shall be given notice of adverse action prior to imposition of the sanction.

(b) Once a participant is sanctioned at the third level, any subsequent occurrence of failure to comply with NMW or CSED requirements shall immediately result in a third level sanction, and case ineligibility for six months.

The TANF grant will be counted as unearned income for SNAP benefits for the six month period of ineligibility in accordance with 8.139.520 NMAC.

(b) TANF applications received after a six month closure period will be reviewed for eligibility.

(i) Based on eligibility the TANF will be approved and all mandatory members will be required to meet the NMW compliance requirements set forth in 8.102.460 NMAC.

(ii) If ISD determines the applicant is still non-compliant with CSED,

the sanction will remain and the application will be denied.

**E. Sanctions by other states or other programs:**

Participants in sanction status for failure to participate in other programs, such as the food stamp E&T program, or another state's or tribal TANF program, shall not carry that sanction status into NMW.

**F. Sanctions with respect to voluntary participants:**

A voluntary participant is not subject to sanction for failure to participate, but shall be removed from the NMW and lose eligibility for support services

**G. Good cause:**

(1) Good cause applies to timely completion of assessment, IRP, WPA, work participation rates, and cooperation with the child support enforcement division.

(2) Good cause for failure to meet the NMW requirements.

(a) Good cause may be considered to exist for no more than 30 days in the event of:

(i) family death;

(ii) hospitalization;

(iii) major injury to the participant or a benefit group member for whom the participant has been the primary caretaker;

(iv) reported domestic violence;

(v) catastrophic event; or

(vi) it is shown the department did not provide the participant reasonable assistance to complete the assessment, IRP, or WPA.

(b) The participant must meet with the NMW service provider prior to the end of the 30-day period to establish a WPA for the full participation standard beginning on day 31 or must request a limited work participation status prior to the end of the 30-day period. The participant may be subject to sanction for failure to

complete a WPA if a new WPA has not been established by day 31.

(i) A participant with good cause for failure to meet the NMW requirements, who expects the cause of failure to continue for more than 30 days, must contact the department to review the participant's circumstances.

(ii) Under no conditions shall good cause be granted for more than 30 days during any given reporting period.

(3) Good cause shall be considered when the department has failed to submit a notice in accordance with the requirements of adverse action notices, to the participant or provide available support services that would adversely affect the participant's ability to timely meet work participation requirements.

(4) **Good cause for refusal to cooperate with the child support enforcement requirements:** In some cases it may be determined by the CSED that the TANF/NMW applicant's/recipient's refusal to cooperate is with good cause in accordance with 8.50.105.14 NMAC. Any person requesting a good cause exemption to a TANF/NMW requirement to cooperate must complete a request for a good cause exemption on a form provided by the CSED and provide any documentation requested by CSED. The request for a good cause exemption will be reviewed by the CSED and the requestor will be informed of the decision in writing. The requestor's failure or refusal to complete the form or provide the requested documentation will result in an automatic denial of the request. The department may offer assistance to complete the form or obtain the necessary documentation, as appropriate.

(5) It is the applicant's/recipient's responsibility to inform the department if they are unable to meet the NMW compliance requirements or CSED cooperation requirements.

[8.102.620.10 NMAC - Rp



8.102.620.10 NMAC, 07/01/2001; A, 02/14/2002; A, 11/15/2007; A, 04/01/2012; A, 07/01/2013; A, 09/01/2017]

### **8.102.620.11 NON-REPORTING SANCTIONS:**

**A. General:** The eligibility determination and payment calculation process relies upon applicants and participants to provide accurate and timely reports of information affecting their eligibility and payment. Payment sanctions for non-reporting shall be established to encourage timely and accurate reporting and to offset benefits resulting from the reporting of inaccurate or misleading information, the untimely reporting of changes, or the failure to report any required information.

#### **B. Non-reporting sanctions:**

**(1) Length of sanction:** Each non-reporting sanction shall run for a period of four months beginning with the first month in which failure to report occurred. An additional month shall be added for each additional month of non-reporting until the payment is corrected.

**(2) Definition of an occurrence of non-reporting:** An occurrence of non-reporting exists when an applicant or participant who fails to report information or reports incorrect information which results in an overpayment of cash assistance benefits for which the participant is at fault.

#### **(3) Amount of sanction:**

**(a)** Reporting sanctions shall be calculated at twenty-five percent of standard of need for the size of the benefit group being sanctioned.

**(b)** Reporting sanctions are not progressive. If there is another occurrence of non-reporting prior to the end of a non-reporting sanction period, the next and any subsequent non-reporting sanctions shall be consecutive and at the twenty-five percent level.

**(c)** Reporting sanctions, child support sanctions and work program sanctions shall be integrated into a single calculation to determine the final sanction amount.

**(d)** If a case closes during a reporting sanction period for reasons other than sanctions, the non-reporting sanction shall be suspended and resumed at the same duration the next time the case is opened.

**(4) Procedures:** The following steps shall be taken in implementing a payment sanction.

**(a)** The caseworker shall document and establish an overpayment claim using the department overpayment claims procedures. The caseworker shall also determine whether the participant was at fault for the overpayment.

**(b)** The county director or a designated supervisor shall review the overpayment and determine the accuracy of the overpayment determination and appropriateness of the determination the participant was at fault for the overpayment. Upon determining that a non-reporting sanction is appropriate, the county director, or designated supervisor shall issue a notice of intent to sanction to be issued to the participant. Failure by the participant to contact the person issuing the notice within 10 working days allowed shall constitute waiver of conciliation rights.

**(c)** If the participant requests conciliation within the 10 working days of issuance of the notice, the county director or designated supervisor shall schedule a conciliation conference.

**(d)** The conciliation conference is conducted by the county director or designated supervisor.

**(i)** The caseworker shall describe the reporting error, how the amount of the overpayment is determined and the reasons for finding the participant at fault for the overpayment.

**(ii)** The participant shall have the opportunity to discuss the overpayment determination, the finding of fault and to show good cause why the sanction should not be imposed.

**(iii)** Based upon this determination, the county director or designated supervisor shall determine whether a sanction should be imposed.

**(iv)** The participant may represent himself or be represented by someone else. If the participant wishes to be represented by another individual, the participant must designate that individual in writing.

**(e)** Following the conference, the county director shall issue written notice stating whether or not the sanction is to be imposed, and the worker shall affect the sanction causing issuance of a notice of adverse action. The payment reduction takes effect in the month following expiration of the notice of adverse action.

**(f)** Participants who disagree with the sanction determination shall have fair hearing rights and access to legal adjudication through the fair hearing process.

~~[C. Semiannual reporting: A benefit group subject to semiannual reporting shall be subject to non-reporting sanctions as specified in Subsection L of 8.102.120.11 NMAC.]~~

[8.102.620.11 NMAC - Rp 8.102.620.11 NMAC, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 07/01/2013; A, 09/01/2017]

### **8.102.620.12 RECOUPMENT:**

Participants and applicants with an outstanding claim for overpayment of cash assistance benefits shall be required to repay the claim.

Claim and recoupment situations and procedures are detailed [at] in [8.102.640.12 NMAC] 8.100.640 NMAC.

[8.102.620.12 NMAC - Rp 8.102.620.12 NMAC, 07/01/2001; A,

11/15/2007; A, 09/01/2017]

**8.102.620.14 SUPPORTIVE SERVICES:**

**A.** An explanation of the supportive services available through the NMW work program, provided funding is available, shall be given to NMW participants during orientation. Participants who need supportive services to participate in the program are eligible for such services.

**B.** NMW work program participants are eligible to receive an initial supportive services payment in accordance with [Subsection B of] 8.102.620.15 NMAC. The support services payment may be used by the participant to cover travel, child care costs incurred or both.

**C. Ongoing supportive services:**

(1) Necessary ongoing supportive services are identified on the WPA, which identifies the services needed and the start and end dates for the services.

(2) If additional supportive services are needed after the initial assessment, the WPA shall be modified to reflect the changes.

[8.102.620.14 NMAC - Rp  
8.102.620.14 NMAC, 07/01/2001; A,  
11/15/2007; A, 09/01/2017]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.106.100 NMAC, Sections 7 and 8, effective 09/01/2017.**

This is a short-form amendment to 8.106.100 NMAC, Section 7, effective 09-01-2017. Subsection A was not published as there were no changes. Subsection B, Paragraphs 1-28 and 32-46 were not published as there were no changes.

**8.106.100.7 DEFINITIONS:**

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[~~\_\_\_\_\_ (29) \_\_\_\_\_~~]

**Semiannual reporting:** means a requirement for a benefit group to file a report of information in the sixth month of a 12-month certification period to determine if eligibility for benefits can continue.

[~~\_\_\_\_\_ (30) \_\_\_\_\_~~]

**Set term GA:** The certification period shall be for a set length of time dependent upon conditions, beginning from the month of approval and is not subject to review.

[~~\_\_\_\_\_ (31) \_\_\_\_\_ Shelter for battered women and children:~~ means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.]

[~~\_\_\_\_\_ (30) \_\_\_\_\_ Shelter for~~]

**battered persons:** means a public or private nonprofit residential facility that serves battered persons. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered persons.

[~~\_\_\_\_\_ (31) \_\_\_\_\_ Simplified~~]

**reporting:** a reporting requirement for households that receive GA benefits in accordance with 8.106.431 NMAC.

\*\*\*

[8.106.100.7 NMAC - Rp,  
8.106.100.7 NMAC, 12/01/2009;  
A, 04/01/2010; A, 07/01/2013; A,  
09/01/2017]

**8.106.100.8 ABBREVIATIONS AND ACRONYMS:****A. Abbreviations and acronyms:**

(1) **ARSCH:**  
adult residential shelter care home

(2) **BG:**  
benefit group

(3) **BIA:**  
bureau of Indian affairs

(4) **BIA-GA:** bureau of Indian affairs-general assistance

(5) **CA:** cash assistance

(6) **CE:**

categorical eligibility or categorically eligible

(7) **CFR:**

code of federal regulations

(8) **CS:** child

support

(9) **CSED:**

(HSD) child support enforcement division

(10) **CYFD:**

(New Mexico) children, youth & families department

(11) **DOH:**

(New Mexico) department of health

(12) **DVR:**

division of vocational rehabilitation

(13) **DOT:**

dictionary of occupational titles

(14) **E&T:**

employment and training (food stamp work program)

(15) **EBT:**

electronic benefit transfer

(16) **EI:** earned

income

(17) **EWP:**

education works program

(18) **FAP:**

financial assistance program

(19) **FFY:**

federal fiscal year

(20) **FMV:** fair

market value

(21) **FPL:**

federal poverty level

(22) **GA:**

general assistance

(23) **GED:**

general equivalency degree

(24) **HHS:**

(U.S.) health and human services

(25) **HSD:**

(New Mexico) human services department

(26)

**HUD:** (U.S.) housing and urban development

(27) **IDA:**

individual development account

(28) **IPV:**

intentional program violation

(29) **IRP:**

individual responsibility plan

(30) **IRU:**

incapacity review unit

(31) **ISD:**

(HSD) income support division

(32) **ISD2:**  
integrated services delivery for  
income support division (ISD)

(33) **MAD:**  
(HSD) medical assistance division

(34) **MVD:**  
(New Mexico) motor vehicle division

(35) **NADA:**  
national automobile dealers  
association

(36) **NMAC:**  
New Mexico administrative code

(37) **NMDWS:**  
New Mexico department of workforce  
solutions

(38) **NMW:**  
New Mexico works

(39) **NOAA:**  
notice of adverse action

(40) **POS:**  
point of sale

(41) **PED:**  
(New Mexico) public education  
department

(42) **QC:**  
quality control

(43) **RR:**  
regular reporting

(44) **RRP:**  
refugee resettlement program

(45) **SAVE:**  
systematic alien verification for  
entitlements

(46) **SE:** self-  
employment

(47) **SR:**  
[~~semiannual~~] simplified reporting

(48) **SSA:**  
social security administration

(49) **SSI:**  
supplemental security income

(50) **SSN:**  
social security number

(51) **TANF:**  
temporary assistance to needy  
families (block grant program under  
title IV-A of the Social Security Act)

(52) **UCB:**  
unemployment compensation benefits

(53) **UEI:**  
unearned income

(54) **USCIS:**  
United States immigration and  
naturalization services

(55) **USDA:**  
United States department of  
agriculture

(56) **VA:**

veterans administration

(57) **WIA:**  
Workforce Investment Act

(58) **WID:**  
work incentive deduction

(59) **WPA:**  
work participation agreement

**B. Medical**  
**abbreviations and acronyms:**

(1) **CNP:**  
certified nurse practitioner

(2) **MD:**  
medical doctor

(3) **NP:** nurse  
practitioner

(4) **PA:**  
physician assistant

(5) **PN:**  
practical nurse  
[8.106.100.8 NMAC - Rp,  
8.106.100.8 NMAC, 12/01/2009; A,  
09/01/2017]

### HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

**This is an amendment to 8.106.431  
NMAC, Section 13, effective  
09/01/2017.**

**8.106.431.13 CERTIFICATION  
PERIODS:** The certification period  
will be one year with [~~semiannual~~]  
simplified reporting requirements.  
[8.106.431.13 NMAC - N,  
12/01/2013; A, 09/01/2017]

### HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

**This is an amendment to 8.139.100  
NMAC, Sections 5, 7 and 8,  
effective 09/01/2017.**

**8.139.100.5 EFFECTIVE  
DATE:** February 1, 1995, unless  
a later date is cited at the end of a  
section.  
[02/01/95; 8.139.100.5 NMAC - Rn,  
8 NMAC 3.FSP.000.5, 05/15/2001; A,  
09/01/2017]

**8.139.100.7 DEFINITIONS:  
A. Definitions A-L:**

(1) **Adequate  
notice:** means a written notice sent  
by mail or electronically that includes  
a statement of the action HSD has  
taken or intends to take, reason for  
the action, household right to a fair  
hearing, name of the individual to  
contact for additional information,  
the availability of continued benefits  
liability of the household for any  
over-issuances received if hearing  
decision is adverse to the household.  
An adequate notice may be received  
prior to an action to reduce benefits,  
or at the time reduced benefits  
will be received, or if benefits are  
terminated, at the time benefits  
would have been received if they had  
not been terminated. In all cases,  
participants have 13 days from the  
mailing or electronic distribution  
date of the notice to request that  
benefits be restored to their previous  
level pending the outcome of an  
administrative hearing.

(2) **Adjusted  
net income:** means the household's  
gross monthly income less the  
standard deduction, earned income  
deduction, dependent care deduction  
and the shelter deduction. (Medical  
expenses are allowed for certain  
eligible members as a deduction from  
their gross income).

(3) **Application:** means a request, on the  
appropriate ISD form, submitted in a  
written or electronic format with the  
signature of the applicant or on the  
applicant's behalf by an authorized  
representative, for assistance.

[~~\_\_\_\_\_~~ (4) **Annual-  
reporting:** is a reporting requirement  
where the SNAP household is placed  
on a 24-month certification period  
and requires the household to submit  
a report in the twelfth month of the  
certification period.

(5) (4) **Attendant:** means an individual  
needed in the home for medical,  
housekeeping, or child care reasons.

(6) (5) **Authorized representative:** means  
an individual designated by a  
household or responsible member to  
act on its behalf in applying for SNAP  
benefits, obtaining SNAP benefits,

or using SNAP benefits to purchase food for the household. This can include a public or private, nonprofit organization or institution providing assistance, such as a treatment or rehabilitation center or shelter which acts on behalf of the resident applicant.

**~~(7)~~ (6) Benefit**

**month:** means the month for which SNAP benefits have been issued. This term is synonymous with issuance month defined below.

**~~(8)~~ (7) Beginning**

**month:** means the first month for which a household is certified after a lapse in certification of at least one calendar month. Beginning month and initial month are used interchangeably. A household is budgeted prospectively in a beginning month.

**~~(9)~~ (8) Boarder:**

means an individual to whom a household furnishes lodging and meals for reasonable compensation. Such a person is not considered a member of the household for determining the SNAP benefit amount.

**~~(10)~~ (9)**

**Boarding house:** means a commercial establishment, which offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house is not used to establish if a boarding house is a commercial enterprise.

**~~(11)~~ (10)**

**Budget month:** means the calendar month for which income and other circumstances of the household are determined in order to calculate the SNAP benefit amount. During the beginning month of application, prospective budgeting shall be used and therefore, the budget month and the issuance month are the same.

**~~(12)~~ (11)**

**Capital gains:** means proceeds from the sale of capital goods or equipment.

**~~(13)~~ (12)**

**Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions:

(a)

**Financial CE:** Any SNAP household in which all members receive Title IV-A assistance (TANF), general assistance (GA), or supplemental security income (SSI) benefits is considered to be categorically eligible for SNAP benefits.

(b)

**Broad-based CE:** Any SNAP household, in good standing, in which at least one member is receiving a non-cash TANF/MOE funded benefit or service and household income is below one hundred sixty-five percent FPG.

**~~(14)~~ (13)**

**Cash assistance (CA) households:**

(also referred to as financial assistance) means households composed entirely of persons who receive CA payments. Cash assistance (CA) means any of the following programs authorized by the Social Security Act of 1935, as amended: old age assistance; temporary assistance to needy families (TANF); aid to the blind; aid to the permanently and totally disabled; and aid to the aged, blind or disabled. It also means general assistance (GA), cash payments financed by state or local funds made to adults with no children who have been determined disabled, or to children who live with an adult who is not related. CA households composed entirely of TANF, GA or SSI recipients are categorically eligible for SNAP.

**~~(15)~~ (14)**

**Certification:** means the authorization of eligibility of a household and issuance of SNAP benefits.

**~~(16)~~ (15)**

**Certification period:** means the period assigned for which a household is eligible to receive SNAP benefits. The certification period shall conform to calendar months and includes the requirement for the completion of an interim report form in accordance with Subsection B of 8.139.120.9 NMAC. ~~[to be completed in the sixth month for semi-annual reporting households and the twelfth month for annual reporting households.]~~

**~~(17)~~ (16)**

**Collateral contact:** means an individual or agency designated by the household to provide information concerning eligibility.

**~~(18)~~ (17)**

**Communal diner:** means an individual 60 years of age or ~~[over]~~ older who is not a resident of an institution or a boarding house, who is living alone or with a spouse, and elects to use SNAP benefits to purchase meals prepared for the elderly at a communal dining facility which has been authorized by USDA/FNS to accept SNAP benefits.

**~~(19)~~ (18)**

**Communal dining facility:** means a public or nonprofit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for SSI recipients, and their spouses; a public or private nonprofit establishment (eating or otherwise) that feeds elderly persons or SSI recipients and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate state or local agency to offer meals at concession prices to elderly persons or SSI recipients and their spouses. Such establishments include a facility such as a senior citizen's center, an apartment building occupied primarily by elderly persons, or any public or private nonprofit school (tax exempt) which prepares and serves meals for elderly persons.

**~~(20)~~ (19)**

**Conversion factor:** means the calculation used to convert income that is received on a weekly or biweekly basis to an anticipated monthly amount.

**~~(21)~~ (20)**

**Date of application:** means the date an application is received by the income support division offices during regular business hours. Applications that are dropped off or submitted electronically after regular business hours will be considered received as of the next business day.

**~~(22)~~ (21)**

**Date of admission:** means the date established by the United States



citizenship and immigration services as the date an alien (or sponsored alien) was admitted for permanent residence.

~~[(23)]~~ (22)

**Date of entry:** means the date established by the United States citizenship and immigration services as the date an alien (or sponsored alien) was admitted for permanent residence.

~~[(24)]~~ (23)

**Disability:** means the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment.

~~[(25)]~~ (24)

**Disabled member:** see elderly or disabled member.

~~[(26)]~~ (25)

**Documentation:** means a written statement entered in the paper or electronic case record regarding the type of verification used and a summary of the information obtained to determine eligibility.

~~[(27)]~~ (26)

**Drug addiction or alcoholic treatment and rehabilitation**

**program:** means any drug addiction treatment or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center under part B of title XIX of the Public Health Service Act (42 U.S.C. 3004 et seq.)

~~[(28)]~~ (27)

**Elderly or disabled member:**

(a)

**Elderly:** means an individual 60 years or older.

(b)

**Disabled:** means a person who meets any of the following standards:

(i)

receives supplemental security income (SSI) under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;

(ii)

receives federally or state administered supplemental benefits under section 1616a of the Social

Security Act, provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;

(iii)

receives federally or state administered supplemental benefits under section 211(a) of Pub. L. 93-66, supplemental security income benefits for essential persons;

(iv)

receives disability retirement benefits from a government agency (e.g. civil service, ERA, and PERA) because of a disability considered permanent under section 221(i) of the Social Security Act;

(v)

is a veteran with a service-connected or non-service connected disability rated by the veterans administration (VA) as total or paid as total by the VA under title 38 of the United States Code;

(vi)

is a veteran considered by the VA to be in need of regular aid and attendance or permanently homebound under title 38 of the United States code;

(vii)

is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently homebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States code;

(viii)

is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for service-connected death or pension benefits for a non-service-connected death under title 38 of the United States code and has a disability considered permanent under section 221(i) of the Social Security Act ("entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated, or have been approved for such payments, but are not yet receiving them); or

(ix)

receives an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive medicare by the railroad retirement board, or section 2(a)(i)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act;

(x)

is a recipient of interim assistance benefits pending the receipt of supplemental security income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based state general assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the state agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).

~~[(29)]~~ (28)

**Eligible foods:** means:

(a)

any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot-food products prepared for immediate consumption;

(b)

seeds and plants to grow foods for the personal consumption of eligible households;

(c)

meals prepared and delivered by an authorized meal delivery service to households eligible to use SNAP benefits to purchase delivered meals, or meals served by an authorized communal dining facility for the elderly, for SSI households, or both, to households eligible to use SNAP benefits for communal dining;

(d)

meals prepared and served by a drug addict or alcoholic treatment and rehabilitation center to eligible households;

(e)

meals prepared and served by a

group living arrangement facility to residents who are blind or disabled as found in the definition of “elderly or disabled member” contained in this section;

(f)

meals prepared and served by a shelter for battered women and children to its eligible residents; and

(g)

in the case of homeless SNAP households, meals prepared and served by an authorized public or private nonprofit establishment (e.g. soup kitchen, temporary shelter) approved by HSD that feeds homeless persons.

~~(30)~~ (29)

**Encumbrance:** means debt owed on property.

~~(31)~~ (30)

**Equity value:** means the fair market value of property, less any encumbrances owed on the property.

~~(32)~~ (31)

**Excluded household members:** means individuals residing within a household who are excluded when determining household size, the SNAP benefit amount or the appropriate maximum food stamp allotment (MFS). These include ineligible aliens, individuals disqualified for failure to provide an SSN or to comply with the work requirements, and those disqualified for intentional program violation. The resources and income (counted in whole or in part) of these individuals shall be considered available to the remaining household members.

~~(33)~~ (32)

**Expedited services:** means the process by which households reporting little or no income or resources shall be provided an opportunity to participate in the FSP, no later than the seventh calendar day following the date the application was filed.

~~(34)~~ (33)

**Expungement:** means the permanent deletion of SNAP benefits from an EBT account that is stale.

~~(35)~~ (34)

**Fair hearing:** an administrative procedure during which a claimant or the claimant’s representative may

present a grievance to show why he/she believes an action or proposed action by HSD is incorrect or inaccurate.

~~(36)~~ (35)

**Fair market value (FMV):** means the amount an item can be expected to sell for on the open market.

~~(37)~~ (36)

**FNS:** means the food and nutrition service of the United States department of agriculture (USDA).

~~(38)~~ (37)

**Food Stamp Act:** the Food and Nutrition Act of 2008, and subsequent amendments.

~~(39)~~ (38)

**Fraud:** intentionally making a misrepresentation of, or failing to disclose, a material fact: with the knowledge that such a fact is material (necessary to determine initial/ongoing eligibility or benefit entitlement); and with the knowledge that the information is false; and with the intent that the information be acted upon (deceive/cheat); with reasonable reliance on the person who hears the information to accept it as the truth.

~~(40)~~ (39)

**Full time employment:** means working 30 hours or more per week, or earning income equivalent to the federal minimum wage multiplied by 30 hours.

~~(41)~~ (40)

**General assistance (GA) households:** means a household in which all members receive cash assistance financed by state or local funds.

~~(42)~~ (41)

**Gross income:** means the total amount of income that a household is entitled to receive before any voluntary or involuntary deductions are made, such as, but not limited to, federal and state taxes, FICA, garnishments, insurance premiums (including medicare), and monies due and owing the household, but diverted by the provider. Gross income does not include specific income exclusions, such as, but not limited to, the cost of producing self-employment income, and income excluded by federal law.

~~(43)~~ (42)

**Group living arrangements:** means a residential setting that serves no more than sixteen residents that is certified by DOH under regulations issued under section 1616(e) of the Social Security Act, or under standards determined by the secretary to be comparable to standards implemented by appropriate state agencies under section 1616(e) of the Social Security Act. To be eligible for SNAP benefits, a resident shall be living in a public or private non-profit group living arrangement and must be blind or disabled as defined in the definition of “elderly or disabled member” set forth at Items (i) through (x) of Subparagraph (b) of Paragraph (25) of Subsection A of 8.139.100.7 NMAC.

~~(44)~~ (43)

**Head of household:** the household is the basic assistance unit for the SNAP program. The household has the right to select the head of household in accordance with CFR 273.1 (d).

~~(45)~~ (44)

**Homeless individual:** means an individual who lacks a fixed and regular nighttime residence, or an individual whose primary nighttime residence is:

(a)

a supervised shelter providing temporary accommodations (such as a welfare hotel or congregate shelter);

(b)

a halfway house or similar institution providing temporary residence for individuals intended to be institutionalized;

(c)

a temporary accommodation for no more than 90 days in the residence of another individual, beginning on the date the individual moves into the temporary residence; or

(d)

a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (e.g. a hallway, a bus station, a lobby or similar places).

~~(46)~~ (45)

**Homeless meal provider:** means a public or private nonprofit establishment, (e.g., soup kitchen,

temporary shelter), approved by an appropriate state agency, that feeds homeless persons.

~~[(47)]~~ **(46)**

**Immigrant:** means a lawfully admitted alien who entered the U.S. with the expressed intention of establishing permanent residence as defined in the federal act.

~~[(48)]~~ **(47)**

**Ineligible alien:** means an individual who does not meet the eligible alien requirements or who is not admitted for permanent residence.

~~[(49)]~~ **(48)**

**Income:** means all monies received by the household from any source, excluding only the items specified by law or regulation. Income is also defined as any monetary gain or benefit to the household.

~~[(50)]~~ **(49)**

**Income and eligibility verification system:** means a system of information acquisition and exchange for purposes of income and eligibility verification which meets the requirements of section 1137 of the Social Security Act, referred to as IEVS.

~~[(51)]~~ **(50)**

**Initial month:** means the first month for which a first-time household is certified for participation in SNAP. An initial month is also a month in which a household is certified following a break in participation of one calendar month or longer. For migrant or seasonal farm worker households, an initial month shall only be considered if there has been an interruption in certification of at least one calendar month.

~~[(52)]~~ **(51)**

**Inquiry:** means a request for information about eligibility requirements for a cash, medical, or food assistance program that is not an application (although the inquiry may be followed by an application).

~~[(53)]~~ **(52)**

**Institution of higher education:** means certain college-level institutions, such as vocational schools, trade schools, and career colleges that award academic degrees or professional certifications.

~~[(54)]~~ **(53)**

**Institution of post-secondary education:** means any public or private educational institution that normally requires a high school diploma or equivalency certificate for enrollment, or that admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located regardless of the high school prerequisite, provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or provides a program of training to prepare students for gainful employment.

~~[(55)]~~ **(54)**

**Irrevocable trust:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

~~[(56)]~~ **(55)**

**Issuance month:** means the calendar month for which SNAP is issued. In prospective budgeting, the budget and issuance months are the same. In retrospective budgeting, the issuance month follows the budget month.

~~[(57)]~~ **(56)**

**Low-income household:** means a household whose annual income does not exceed one hundred and twenty-five percent of the office of management and budget poverty guideline.

## **B. Definitions M-Z:**

**(1)**

**Maintenance of effort (MOE):** means the amount of general funds the state agency must expend annually on the four purposes of temporary assistance for needy families (TANF) to meet a minimum expenditure requirement based on a state's historical assistance to families with dependent children (AFDC) expenditures.

**(2) Maximum**

**food stamp allotment (MFSA):** means the cost of the diet required to feed a family of four persons consisting of a man and a woman 20 through 50, a child six through eight, and a child nine through 11 years of age. The cost of such a diet shall be the basis for uniform SNAP

benefit amounts for all households, regardless of their actual composition. In order to develop maximum SNAP benefit amounts, the USDA makes adjustments for household size taking into account the economies of scale and other adjustments as required by law. The MFSA is used to determine if a boarder is paying reasonable compensation for services. The maximum SNAP allotment (MFSA) was previously named the thrifty food plan (TFP).

**(3)**

**Meal delivery service:** means a political subdivision, a private nonprofit organization, or a private establishment with which a state or local agency has contracted for the preparation and delivery of meals at concession prices to elderly persons, and their spouses, and to the physically or mentally handicapped, and to persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

**(4) Medicaid:**

medical assistance under title XIX of the Social Security Act, as amended.

**(5) Migrant/**

**migrant household:** means an individual who travels away from home on a regular basis with a group of laborers to seek employment in an agriculturally related activity. A migrant household is a group that travels for this purpose.

**(6) Mixed**

**households:** means those households in which some but not all of the members receive cash assistance benefits.

**(7) Net**

**monthly income:** means gross nonexempt income minus the allowable deductions. It is the income figure used to determine eligibility and SNAP benefit amount.

**(8) Non-**

**cash assistance (NCA) households:** means any household, which does not meet the definition of a cash assistance household, including households composed of both cash assistance and NCA members (mixed household). Same [as] applies to non-financial households (NFA).



**(9) Non-cash TANF/MOE benefit or service:** means non-cash TANF/MOE benefit or services include programs or services that do not provide cash to recipients, but are funded by the TANF program, either by the federal TANF block grant or the state MOE share. These services may include transportation, childcare, counseling programs, parenting programs, pamphlets or referrals to other TANF/MOE-funded services.

**(10) Non-financial assistance (NFA) households:** means any household, which does not meet the definition of a financial assistance household, including households composed of both cash assistance and NFA members (mixed household). NFA has the same meaning as non-cash households (NCA).

**(11) Nonhousehold members:** means persons residing with a household who are specifically excluded by regulation from being included in the household certification, and whose income and resources are excluded. Nonhousehold members include roomers, boarders, attendants, and ineligible students. Included in this classification are institutionalized household members such as children attending school away from home and members who are hospitalized or in a nursing home.

**(12) Notice:** means written correspondence that is generated by any method including handwritten, typed or electronic, delivered to the client or an authorized representative by hand, U.S. mail, professional delivery or by any electronic means. The term "written notice" and "notice" are used interchangeably.

**(13) Notice of adverse action (NOAA):** means a notice informing the household that an action is being taken by the department that adversely affects eligibility or the amount of benefits a household receives, including withholding, suspending, reducing or terminating benefits. The NOAA shall be issued to the household

before taking the adverse action. Benefits will not be reduced until 13 days from the date on the adverse action. If the 13th day falls on a weekend or holiday, the next working day is counted as the last day of the 13-day adverse action period.

**(14) Over-issuance:** means the amount by which SNAP benefits issued to a household exceed the amount the household was eligible to receive.

**(15) Period of intended use:** means the month in which the benefits are issued if issued before the 20th of the month. For benefits issued after the 20th of the month, the period of intended use is the rest of the month and the following month.

**(16) Principal wage earner:** means the household member with the greatest amount of earned income in the two months preceding a determination that a program rule has been violated. This applies only if the employment involves 20 hours or more a week or pays wages equivalent to the federal minimum wage multiplied by 20 hours. In making this evaluation, the entire household membership shall be considered, even those who are excluded or disqualified but whose income must be counted for eligibility and benefit amount determination. For purposes of determining noncompliance with the SNAP work requirements, including employment and training components, voluntary quit, and work-fare, the head of household is the principal wage earner unless the household has selected an adult parent of children (of any age) or an adult with parental control over children (under age 18) as the designated head of household as agreed upon by all adult members of the household. A person of any age shall not be considered the principal wage earner if the person is living with a parent or person fulfilling the role of parent or the parent or parent-substitute is:

**(a)** registered for employment;

**(b)** exempt because of Title IV

compliance;

**(c)** in receipt of UCB or is registered as part of the UCB process; or

**(d)** employed or self-employed a minimum of 30 hours a week or receiving income at the federal minimum hourly rate multiplied by 30 hours.

**(17) Prospective budgeting:** means the computation of a household's eligibility and benefit amount based on a reasonable estimate of income and circumstances that will exist in the current month and future months.

**(18) Quality control (QC):** means the federal mandate, as part of the performance reporting system whereby each state agency is required to review a sample of active cases for eligibility and benefit issuance, and to review a sample of negative cases for correct application of policy. The objectives are to determine a state's compliance with the Food Stamp Act and CFR regulations, and to establish the basis for a state's error rate, corrective action to avoid future errors, and liability for errors in excess of national standards, or eligibility for enhanced federal funding if the error rate is below national standards.

**(19) Real property:** means land, buildings, and whatever is built on or affixed to the land.

**(20) Recipient:** means a person receiving SNAP benefits. Recipient is the same as participant.

**(21) Refugee:** means a lawfully admitted individual granted conditional entry into the U.S.

**(22) Reasonable compensation:** means a boarder payment amount that equals or exceeds the MFSA for the number of boarders.

**(23) Regular reporting:** means a reporting requirement in which a household is not required to meet semiannual reporting requirements, but must report a financial or non-financial change within 10 days of the date

the change becomes known to the household.

~~(a)~~

~~A financial change becomes known to the household when the household receives the first payment attributed to an income or resource change, or when the first payment is made for an allowable expense.~~

~~(b)~~

~~A non-financial change, including but not limited to, a change in household composition or a change in address, becomes known to the household on the date the change takes place.]~~

~~[(24)] (23)~~

**Retail food store:** means:

(a)

an establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume, as determined by visual inspection, sales records, purchase records, or other inventory or accounting record keeping methods that are customary or reasonable in the retail food industry, is more than fifty percent staple food items for home preparation and consumption;

(b)

public or private communal dining facilities and meal delivery services; private nonprofit drug addict or alcoholic treatment and rehabilitation programs; publicly operated community mental health centers which conduct residential programs for drug addicts or alcoholics;

(c)

public or private nonprofit group living arrangements, or public or private nonprofit shelters for battered women and children, or public or private nonprofit establishments, approved by HSD, or a local agency, that feed homeless persons;

(d)

any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; a farmer's market.

~~[(25)] (24)~~

**Retrospective budgeting:** means the computation of a household's benefits for an issuance month based on actual income and circumstances that existed in the previous month, the "budget"

month.

~~[(26)] (25)~~

**Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income and who does not have the usual withholding deducted from this income. Self-employed individuals are not eligible to draw UCB by virtue of their job efforts.

~~[(27)]~~

**Semiannual reporting:** means a reporting requirement that allows a 12-month certification period and requires a household to submit a report in the sixth month of the certification period. The household is required to report changes during the certification period in accordance with regulation at 8.139.120 NMAC.

~~(28) Simplified~~

**reporting:** means an alternative change reporting requirement for households that receive SNAP benefits.]

~~[(29) Shelter~~

**for battered women and children:** means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.]

~~(26) Shelter for~~

**battered persons:** means a public or private nonprofit residential facility that serves battered persons. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered persons.

~~(27) Simplified~~

**reporting:** is the reporting requirement for households that receive SNAP benefits.

~~[(30)] (28)~~

**Sponsor:** means a person who executed an affidavit(s) of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission to the United States as a permanent resident.

~~[(31)] (29)~~

**Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an

immigrant, as defined in Subsection 101(a)(15) and Subsection 101(a)(2) of the Immigration and Nationality Act.

~~[(32)] (30)~~

**Spouse:** means either of two individuals who:

(a)

would be defined as married to each other under applicable state law; or

(b)

are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

~~[(33)] (31)~~

**Stale:** means EBT accounts which have not been accessed or had any withdrawal activity by the household for 90 days from the most recent date of withdrawal.

~~[(34)] (32)~~

**Standard utility allowance (SUA):** means an average utility amount used year round that includes the actual expense of heating and cooling fuel, electricity (apart from heating or cooling), the basic service fee for one telephone, water, sewerage, and garbage and trash collection. This amount is adjusted annually to reflect changes in expenses. A cooling expense is a verifiable utility expense relating to the operation of air conditioning.

~~[(35)] (33)~~

**State wage information collection agency:** means for New Mexico the department of workforce solutions, employment security division (ESD) which administers the state employment compensation law and provides a quarterly report of employment related income and eligibility data.

~~[(36)] (34)~~

**Striker:** means anyone involved in a strike or concerted work stoppage by employees (including stoppage due to the expiration of a collective bargaining agreement) and any concerted slow down or other concerted interruption of operations by employees.

~~[(37)] (35)~~

**Student:** means an individual attending at least half time, as defined

by the institution any kindergarten, preschool, grade school, high school, vocational school, technical school, training program, college, or university.

~~[(38)]~~ (36)

**Supplemental nutrition assistance program (SNAP):** The Food and Nutrition Act of 2008 changed the federal name of the food stamp program to the supplemental nutrition assistance program. SNAP is synonymous with the food stamp program.

~~[(39)]~~ (37)

**Supplemental nutrition assistance program trafficking:** means:

(a)

The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via electronic benefit transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(b)

The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;

(c)

Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(d)

Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(e)

Intentionally purchasing products originally purchased with SNAP

benefits in exchange for cash or consideration other than eligible food.

~~[(40)]~~ (38)

**Supplemental security income (SSI):** means monthly cash payments made under the authority of:

(a)

Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; or

(b)

section 1616(a) of the Social Security Act; or

(c)

section 212(a) of P.L. 93-66.

~~[(41)]~~ (39)

**SSI household:** means a household in which all members are applicants or recipients of SSI. An SSI household may also apply for SNAP through a social security office. The application must be forwarded to the appropriate SNAP (ISD) office for processing. SSI households are categorically eligible.

~~[(42)]~~ (40)

**Supplementary unemployment benefits (SUB):** part of the guaranteed annual wage provisions in the auto industry whereby the company supplements state UCB to insure that laid off workers receive a guaranteed amount of income during the layoff period.

~~[(43)]~~ (41)

**Thrifty food plan (TFP):** see maximum ~~[food stamp]~~ SNAP allotment.

(42)

**Transitional food stamps:** an extension of SNAP benefits up to five months to certain households whose cash assistance benefits have been terminated.

~~[(44)]~~ (43)

**Transitional housing:** means housing for which the purpose is to facilitate the movement of homeless individuals and families to permanent housing within 24 months, or such longer period as is determined necessary. All types of housing meant to be transitional should be considered as such for the purpose of determining exclusion. The definition does not exclude specific types of housing and does not require the presence of cooking facilities in a dwelling.

~~(44)~~ **Unclear**

**information:** Unclear information is information that is not verified, or information that is verified but ISD needs additional information to act on the change.

(45) **Vehicles:**

means a mode of transportation for the conveyance of passengers to or from employment, daily living, or for the transportation of goods. Boats, trailers and mobile homes shall not be considered vehicles, for purposes of SNAP.

(46)

**Verification:** means the use of third-party information or documentation to establish the accuracy of statements on the application.

[8.139.100.7 NMAC - Rn, 8.139.650.7 NMAC & A, 02/14/2002; A, 01/01/2004; A, 02/28/2007; A/E, 10/15/2008; A, 04/01/2010; A, 07/15/2013; A, 09/01/2017]

## 8.139.100.8 ABBREVIATIONS & ACRONYMS:

### A. Abbreviations and

#### acronyms:

(1) **ABAWD:**

able bodied adults without dependents

(2) **AFDC:**

aid to families with dependent children (replaced by TANF effective July 1, 1997)

~~[(3)]~~ **AR:**

annual reporting

~~[(4)]~~ (3) **BIA-**

**GA:** bureau of Indian affairs-general assistance

~~[(5)]~~ (4) **CA:**

cash assistance (same as financial assistance)

~~[(6)]~~ (5) **CE:**

categorical eligibility or categorically eligible

~~[(7)]~~ (6) **CFR:**

code of federal regulations

~~[(8)]~~ (7) **CPI-U:**

consumer price index for urban consumers

~~[(9)]~~ (8) **CS:** child

support

~~[(10)]~~ (9)

**CSFD:** (HSD) child support enforcement division

~~[(11)]~~ (10)

**CYFD:** (New Mexico) children

youth & families department

~~(12)~~ (11)

**DOH:** (New Mexico) department of health

~~(13)~~ (12)

**DOJ:** (United States) department of justice

~~(14)~~ (13)

**DOL:** (New Mexico) department of labor

~~(15)~~ (14)

**DOT:** dictionary of occupational titles

~~(16)~~ (15)

**DRIPS:** disqualified recipient information processing system

~~(17)~~ (16)

**E&T:** employment and training

~~(18)~~ (17)

**EBT:** electronic benefit transfer

~~(19)~~ (18)

**EC:** employment counselor

~~(20)~~ (19)

**EI:** earned income

~~(21)~~ (20)

**EW:** eligibility worker (now FAA or caseworker)

~~(22)~~ (21)

**FA:** financial assistance (same as cash assistance)

~~(23)~~ (22)

**FAA:** family assistance analyst (caseworker)

~~(24)~~ (23)

**FCS:** food and consumer services of the USDA, now FNS

~~(25)~~ (24)

**FFY:** federal fiscal year

~~(26)~~ (25)

**FMV:** fair market value

~~(27)~~ (26)

**FNS:** food and nutrition service

~~(28)~~ (27)

**FSP:** food stamp program

~~(29)~~ (28)

**GA:** general assistance

~~(30)~~ (29)

**GED:** general equivalency degree

~~(31)~~ (30)

**HHS:** (U.S.) health and human services

~~(32)~~ (31)

**HSD:** (New Mexico) human services department

~~(33)~~ (32)

**HUD:** (U.S.) housing and urban development

~~(34)~~ (33)

**IEVS:** income and eligibility verification system

~~(35)~~ (34)

**IPV:** intentional program violation

~~(36)~~ (35)

**ISD:** (HSD) income support division

~~(37)~~ (36)

**ISD2:** integrated services delivery for ISD

~~(38)~~ (37)

**ISS:** income support specialist (now FAA or caseworker)

~~(39)~~ (38)

**JOBS:** jobs opportunities and basic skills (a work program under AFDC)

~~(40)~~ (39)

**JTPA:** Job Training Partnership Act (now WIA)

~~(41)~~ (40)

**LIHEAP:** low income home energy assistance program

~~(42)~~ (41)

**LITAP:** low income telephone assistance program

~~(43)~~ (42)

**MFSA:** maximum food stamp allotment (benefit amount)

~~(44)~~ (43)

**MRRB:** monthly reporting and retrospective budgeting

~~(45)~~ (44)

**MVD:** (New Mexico) motor vehicle division

~~(46)~~ (45)

**NADA:** national automobile dealers association

~~(47)~~ (46)

**NFA:** nonfinancial assistance (same as non-cash assistance (NCA)

~~(48)~~ (47)

**NMW:** New Mexico works

~~(49)~~ (48)

**QC:** quality control

~~(50)~~ (49)

**RR:** regular reporting or regular reporters

~~(51)~~ (50)

**RSVP:** retired seniors volunteer program

~~(52)~~ (51)

**SAVE:** systematic alien verification for entitlements

~~(53)~~ (52)

**SNAP:** supplemental nutrition assistance program

~~(54)~~ (53)

**SR:** [~~semiannual~~] simplified reporting

~~(55)~~ (54)

**SSA:** social security administration

~~(56)~~ (55)

**SSI:** supplemental security income

~~(57)~~ (56)

**SSN:** social security number

~~(58)~~ (57)

**SUA:** standard utility allowance

~~(59)~~ (58)

**SWICA:** state wage information collection agency

~~(60)~~ (59)

**TANF:** temporary assistance to needy families (block grant program under Title IV-A of the Social Security Act)

~~(61)~~ (60)

**TAPP:** tribal assistance project program (Navajo)

~~(62)~~ (61)

**TFP:** thrifty food plan (now the maximum [~~food stamp~~] SNAP allotment)

(62)

**TFS:** transitional food stamp (benefit amount)

~~(63)~~ (63)

**UCB:** unemployment compensation benefits

~~(64)~~ (64)

**USCIS:** United States citizenship and immigration services

~~(65)~~ (65)

**USDA:** U. S. department of agriculture

~~(66)~~ (66)

**VA:** veterans administration

~~(67)~~ (67)

**WIA:** Workforce Investment Act (formally JTPA)

**B. [RESERVED]**

[8.139.100.8 NMAC - Rn,  
8.139.650.8 NMAC & A, 02/14/2002;  
A, 01/01/2004; A, 02/28/2007;  
A/E, 10/15/2008; A, 07/15/2013; A,  
09/01/2017]

## HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

**This is an amendment to 8.139.110 NMAC, Sections 5 and 11, effective 09/01/2017.**

**8.139.110.5 EFFECTIVE  
DATE:** February 1, 1995, unless



a later date is cited at the end of a section.

[02/01/95; 8.139.110.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 09/01/2017]

### 8.139.110.11 INTERVIEWS

**A. Purpose and scope of interview:** The interview is an official and confidential discussion of household circumstances with the applicant. It is intended to provide the applicant with program information, and the worker with the facts needed to make a reasonable eligibility determination. The interview is not simply to review the information on the application, but also to explore and clarify any unclear and incomplete information. The scope of the interview shall not extend beyond examination of the applicant's circumstances that directly relate to determining eligibility and benefit amounts. The interview shall be held prior to disposition of the application.

**B. Joint cash assistance/SNAP interview:** At initial application for cash assistance (CA), a single interview shall be conducted concurrently for both cash assistance and SNAP benefits if the client wishes to apply for both programs. Federal SNAP regulations specifically provide that applicants for both programs shall not be required to see a different ISD worker or be otherwise subjected to two interviews in order to obtain the benefits of both programs. Following the single interview, the application may be processed by separate workers to determine eligibility for SNAP benefits and cash assistance. In an expedited SNAP certification situation, a second interview is permitted if an immediate interview for cash assistance cannot be arranged.

**C. Individuals interviewed:** Applicants, including those who submit applications by mail, shall be interviewed in person at the local ISD office. When circumstances warrant, the household shall be interviewed by telephone, or at another place reasonably

accessible and agreeable to both the applicant and ISD. The applicant may bring any person he chooses to the interview.

#### **D. Out of office interviews:**

(1) ~~[An]~~ A SNAP applicant shall not be required to have an initial office interview if the applicant is unable to appoint an authorized representative and the household has no member(s) able to come to ISD because the member(s) is elderly or disabled, as defined.

(2) The initial office interview can also be waived if requested by any household that is unable to appoint an authorized representative who is willing and able to perform this function, and who lives in a location not served by a certification office.

(3) **Hardship conditions:** The office interview for SNAP households shall be waived when the applicant meets one of the following conditions:

- (a) ~~[over]~~ older than the age of 60;
- (b) disabled;
- (c) employed 20 or more hours per week;
- (d) has a dependent child ~~[under]~~ younger than the age of six;
- (e) has transportation difficulties;
- (f) illness;
- (g) care of a household member;
- (h) resides in a rural area;
- (i) prolonged severe weather;
- (j) other hardship identified as situations warrant; as authorized by the county director.

(4) A face-to-face interview must be granted to any recipient who requests one.

**E. Face-to-face/telephone interviews:** A household must have a face-to-face interview at initial certification and at least once every 12 months thereafter.

(1) A household certified for longer than 12 months is excluded.

(2) At recertification, a household is considered to have met the face-to-face requirement when alternative recertification interviews are conducted by telephone.

(3) No household shall have the face-to-face interview waived for two consecutive recertifications.

(4) The requirement for a face-to-face interview may be waived on a case-by-case basis because of household hardship conditions.

**F. Applicant information:** During the application interview all reasonable steps shall be taken to make the applicant feel at ease and protect the applicant's right to privacy.

(1) All applicants shall be provided with the following information at initial certification and recertification:

- (a) ISD's nondiscrimination policy and procedures;
- (b) complaint and fair hearing procedures and clients' rights;
- (c) program procedures, including the use of IEVS, SDX, BENDEX information, and CSED and MVD interfaces;
- (d) application processing standards, including time limits;
- (e) procedures in cases of over-issuance or under-issuance;
- (f) requirement for cooperation with quality control reviewers (QC), including penalties for non-cooperation;
- (g) work requirements and penalties for non-cooperation, including voluntary quit and associated penalties;
- (h) responsibility to contact the local ISD office to reschedule missed appointments; and

(i)  
exemption from gross receipts tax collection by the retailer on eligible food purchased with SNAP benefits.

(j)  
For households applying for cash assistance programs and SNAP, ISD must explain that limits and other requirements that apply to the receipt of cash benefits do not apply to the receipt of SNAP benefits.

(k)  
ISD has a responsibility to help applicants obtain verification if the applicant indicates that the verification may be difficult for the applicant to obtain and offer to assist with obtaining verification if it appears the household will not be able to obtain it.

(l)  
ISD will provide an explanation of information that still needs to be verified and how to verify in accordance with 8.100.130.9 NMAC and 8.100.130.10 NMAC.

(m)  
Review all information that ISD has on file and will not require further verification of eligibility factors already established that are not subject to change.

(n)  
ISD will review all household information received from data scans with the household during the interview and will not require further verification unless it is questionable or outdated.

(o)  
~~Certified change reporting requirements for households assigned to certified change reporting including the following:~~

(i)  
~~A written and oral explanation of how certified change reporting works as defined at 8.139.120.12 NMAC;~~

(ii)  
~~A written and oral explanation of the reporting requirements which includes: what needs to be reported and verified; how to obtain assistance; timeframe for reporting changes; and the consequences of failing to report. Certified change reporting requirements are found at 8.139.120.12 NMAC.]~~

~~(p)~~ (o)  
Simplified reporting requirements for those households assigned ~~or transferred~~ to simplified reporting including the following:

(i)  
a written and oral explanation of how simplified reporting works as defined at 8.139.120.9 NMAC; and

(ii)  
a written and oral explanation of the reporting requirements which includes: what needs to be reported and verified; when the report is due; how to obtain assistance; and the consequences of failing to file a report. Simplified reporting requirements are found at 8.139.120.9 NMAC.

(2) Fair  
hearing information:

(a)  
**Notification of right to request hearing:** At the time of application each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or representative, such as a legal counsel, relative, friend or other individual.

(b)  
**Periodic notification:** At any time a household informs the local office that it disagrees with an HSD action, the household shall be reminded of the right to request a fair hearing.

(c)  
**Forwarding hearing request:** A request for a hearing made either orally or in writing by a household or representative shall be forwarded to the fair hearings bureau. If it is unclear from a request what action a household or representative wishes to appeal, a clarification may be requested by HSD. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

(d)  
**Providing a hearing:** The fair hearing process shall be available to any household which feels an action taken by HSD is incorrect, and which affects participation of the household in the SNAP.

(e)  
**Other representation:** If there is an individual or organization available that provides free legal representation, the household shall be informed of the availability of that source.

(3) Agency  
**conference information:** A household shall be informed of the availability of an agency conference to resolve a dispute. HSD shall schedule an agency conference for a household when a dispute arises.

(a)  
**Denial of expedited service:** An agency conference shall be offered to a household which wishes to contest a denial of expedited service. An agency conference for such a household shall be scheduled within two working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

(b)  
**Adverse actions:** ISD may also offer an agency conference to a household adversely affected by an ISD action.

(c)  
**Use of agency conference:** ISD shall inform a household that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

G. Scheduling  
**interviews:** ISD will schedule an interview to be held within 10 working days of the date the application was received that is, to the extent possible, convenient for both the applicant and ISD. The application received date is the first day the application is received within regular business hours. ISD will provide the applicant with a written appointment letter that will include: the date, time and place of the appointment, the name and telephone number of the local county office, the consequences of missing an appointment, how to reschedule an appointment, the possibility of a telephone interview, and that the spouse, any other responsible person in the household, or an authorized representative may attend the interview with the applicant or in the

applicant's place.

#### H. Missed interviews:

ISD shall notify a household that it missed its first interview appointment and that the household is responsible for rescheduling a missed interview. ISD shall send the household a notice of missed interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the ISD shall schedule a second interview. The household is responsible for rescheduling a missed interview. If the household requests a second interview ISD within the 30-day application-processing period, ISD shall schedule a second interview. When the applicant contacts the local ISD office, either orally or in writing, ISD shall reschedule the interview as soon as possible within the 30-day processing period, without requiring the applicant to provide good cause for failing to appear. If the household is determined eligible, benefits will be pro-rated from the date of application. If the applicant does not contact the office or does not appear for the rescheduled interview, the application shall be denied on the 30th day (or the next work day) after the application was filed (see Section 8.139.110.12 NMAC).

[02/01/95, 06/01/95, 10/01/95, 06/01/99; 8.139.110.11 NMAC - Rn, 8 NMAC 3.FSP.113, 05/01/2001; A, 02/14/2002; A, 01/01/2004; A, 08/01/2008; A, 03/01/2017; A, 09/01/2017]

### HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.139.120 NMAC, Sections 5, 9, 10, 11 and 12, effective 09/01/2017.

#### 8.139.120.5 EFFECTIVE

**DATE:** February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.120.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 09/01/2017]

**8.139.120.9 SIMPLIFIED REPORTING:** [Simplified reporting includes two types of reporting requirements for households that receive food stamp benefits semiannual and annual reporting:

#### **A. Household responsibilities at application:**

**(1)** An applicant must report all changes affecting eligibility and food stamp benefit amount that may have occurred since the date the application was filed and before the date of the certification interview:

**(2)** Changes occurring after the interview must be reported by the household subject to simplified reporting requirements contained in this section:

#### **B. Households excluded from simplified reporting:**

The following household are excluded from simplified reporting, shall be certified for no longer than three months and are subject to the reporting requirements at 8.139.120.12 NMAC:

**(1)** A household determined by the county director to have insufficient stability and warrants an alternative reporting requirement:

**(2)** A household that reports an imminent change in residence to another state:

#### **C. Certification periods for households assigned to simplified reporting:**

**(1)** The following households shall be assigned a semiannual 12-month reporting period with an interim report due at 6 months:

**(a)** a household in which all members are ABAWDs;

**(b)** a household in which all members are elderly or disabled with earned income;

**(c)** a household in which all members are migrant or seasonal farm workers:

**(2)** A household in which all members are elderly or disabled as defined at 8.139.100.7 NMAC or are determined

to be categorically eligible as defined at Subsection A of 8.139.420.8 NMAC shall be assigned a 24-month reporting period with an interim report due at 12 months:

**(3)** A household may report an increase in medical expenses for a household member eligible to claim a medical deduction. Food stamp benefits will be adjusted in the month following the month in which the change is reported and verified by the caseworker:

**(4)** The household's food stamp benefit amount will be adjusted in accordance with the mass change requirements as set forth in 8.139.120.13 NMAC:

**D. Applicant household:** A household that is approved for food stamp benefits on or after October 1, 2008 shall be assigned a certification period in accordance with the household's circumstances as stated at Subsection C of 8.139.120.9 NMAC, retroactive to the month of application:

**E. Participating household:** If a household reports a change that makes them ineligible for simplified reporting, they shall be assigned an alternative reporting period when they file an interim report or recertify, whichever comes first:

**F. Reporting changes for simplified reporting households:** A household assigned to simplified reporting must report, during its certification period, when the household's income reaches or exceeds the food stamp program monthly gross income limit for the size of the household. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.] All households will be assigned to simplified reporting (SR). Households must submit an interim report once every six or twelve months, depending on their certification period. Households assigned to a 12-month certification period have an interim report form due at six months. Households assigned to a 24-month certification period have an interim report form

due at 12 months.

**A. Household**

**Certification Periods:** A household that is approved for SNAP benefits shall be assigned the longest certification period possible in accordance with the household's circumstances. Households wherein all adult members are elderly or disabled, with no earned income, will be assigned a 24-month certification period. All other households will be assigned a 12-month certification period.

**B. Household**

**responsibility to turn in interim report form:**

**(1) A**

household assigned to a 12-month certification period shall be required to file an interim report form no later than the tenth day of the sixth month of the certification period in order to receive uninterrupted benefits.

**(2) A**

household assigned to a 24-month certification period shall be required to file an interim report form no later than the tenth day of the twelfth month of the certification period in order to receive uninterrupted benefits.

**C. Information that**

**ISD is responsible to provide to households regarding simplified reporting:**

At the initial certification and at recertification, ISD shall provide the household with the following:

**(1) A**

written and oral explanation of how simplified reporting works;

**(2) A written**

and oral explanation of the reporting requirements including:

**(a)**

what needs to be reported and verified;

**(b)**

when the interim report form is due;

**(c)**

how to obtain assistance; and

**(d)**

the consequences of failing to file an interim report form.

**(3) Special**

assistance in completing and filing interim reports to households whose

adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required report; and

**(4) A toll-free**

number which the household may call to ask questions or to obtain help in completing the interim report.

**D. Information**

**requirements for the interim report**

**form:** The interim report form will be written in clear, simple language, include information on the availability of a bilingual version of the document described in 7 CFR 272.4(b), and shall specify:

**(1) the**

deadline date to submit the form to ISD to ensure uninterrupted benefits if the household is determined eligible;

**(2) the**

consequences of submitting a late or incomplete form including whether ISD shall delay benefits if the form is not received by the due date;

**(3) verification**

the household must submit with the form;

**(4) a statement**

to be signed by a member of the household indicating his or her understanding that the information provided may result in a reduction or termination of benefits;

**(5) where to**

call for help in completing the form;

**(6) a**

statement explaining that ISD will not change certain deductions until the household's next recertification and identify those deductions if ISD has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c) of section 7 CFR 273.12;

**(7) a brief**

explanation of fraud penalties; and

**(8) how**

the agency may use social security numbers.

**E. The following**

**information, along with required verification, must be returned to ISD with the interim report form:**

**(1) a change**

of more than one hundred dollars

(\$100) in the amount of unearned income, except changes relating to public assistance (PA) or general assistance (GA) programs when jointly processed with SNAP cases;

**(2) a change**

in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

**(3) changes in**

either:

**(a)**

the wage rate or salary or a change in full-time or part-time employment status as defined in Subsection C of 8.102.461.11 NMAC, provided the household is certified for no more than six months; or

**(b) a**

change in the amount earned of more than one hundred dollars (\$100) a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.

**(4) all changes**

in household composition, such as the addition or loss of a household member;

**(5) changes**

in residence and the resulting shelter costs;

**(6) the**

acquisition of a licensed vehicle, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

**(7) when cash**

on hand, stocks, bonds and money in a bank account or savings institution reach or exceed the resource limit set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC;

**(8) changes**

in the legal obligation to pay child support; and

**(9) for able-**

bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged monthly, as defined in 7 CFR 273.24(a)(1)(i).



**F. ISD's  
responsibility with interim report  
forms:**

**(1) Interim  
report form is not received:** If  
a household fails to file a report  
by the specific filing date, defined  
in Subsection B of 8.139.120.9  
NMAC, ISD will send a notice to the  
household advising of the missing  
report no later than 10 calendar days  
from the date the report should have  
been submitted. If the household  
does not respond to the notice, the  
household's participation shall be  
terminated.

**(2)  
Incomplete interim report form is  
received:**

**(a)**  
An interim report form that is not  
signed shall be returned to the  
household for a signature. The  
household:  
**(i)**  
shall be notified that the form is  
incomplete;  
**(ii)**  
what needs to be completed to  
complete the interim report form; and  
**(iii)**  
shall be given 10 calendar days to  
provide the signed interim report form  
to be reviewed for completeness.

**(b)**  
An interim report form that is  
incomplete because required  
verification is not provided shall not  
be returned to the household. The  
household:

**(i)**  
shall be notified that the form is  
incomplete;  
**(ii)**  
what information must be provided to  
complete the interim report form; and  
**(iii)**  
shall be given 10 calendar days to  
provide the verification to process the  
interim report form.

**(3) Complete  
interim report form is received:**

**(a)**  
A form that is complete and all  
verifications are provided, shall be  
processed within 10 calendar days of  
receipt.

**(b)**

A form that is complete, and all  
verifications are provided except for  
verification of an allowable deduction,  
shall be processed, unless the  
verification is otherwise questionable,  
in accordance with 8.100.130.12  
NMAC. The household:

**(i)**  
shall be notified that verification is  
questionable; and  
**(ii)**  
shall be given 10 calendar days to  
provide the verification to process the  
allowable deduction.

**(c)**  
A deduction that is verified within  
the month the interim report form is  
due shall be processed as part of the  
interim report form.

**(d)**  
A deduction that is verified in the  
month after the interim report form  
is due shall be processed as a change  
reported by the household.

**(e)**  
If the household files a timely and  
complete report resulting in reduction  
or termination of benefits, ISD shall  
send a notice of case action. The  
notice must be issued so that the  
household will receive it no later than  
the time that its benefits are normally  
received. If the household fails to  
provide sufficient information or  
verification regarding a deductible  
expense, ISD will not terminate the  
household, but will instead determine  
the household's benefits excluding  
the deduction from the benefit  
calculation.

**G. Changes that must  
be reported at any time during  
certification period:** Households  
must report changes no later than 10  
days from the end of the calendar  
month in which the change occurred,  
provided that the household has at  
least 10 calendar days within which  
to report the change. If there are  
not 10 days remaining in the month,  
the household must report within  
10 days from the date the work  
hours fall below 20 hours per week,  
averaged monthly or when income  
exceeding the gross federal poverty  
limit as mentioned below is first  
received. The interim report form  
is the sole reporting requirement for

any information that is required to  
be reported on the form, except that  
a household must report at any time  
during the certification period:

**(1)** The  
household must report when its  
monthly gross income exceeds one  
hundred thirty percent of poverty  
level. A categorically eligible  
household defined in accordance  
with 8.139.420.8 NMAC, must  
report when its monthly gross  
income exceeds one hundred sixty-  
five percent of poverty level. The  
household shall use the monthly gross  
income limit for the household size  
that existed at the time of certification  
or recertification regardless of any  
subsequent changes to its household  
size; and

**(2)** Able-  
bodied adults subject to the time limit  
in accordance with 7 CFR 273.24  
shall report whenever their work  
hours fall below 20 hours per week,  
averaged monthly.

**H. Action on changes  
reported outside of the interim  
report form:** In addition to changes

that must be reported in accordance  
with Subsection G of 8.139.120.9  
NMAC, ISD must act on changes  
in between interim report forms, if  
it would increase the household's  
benefits. ISD shall not act on changes  
that would result in a decrease in the  
household's benefits unless:

**(1)** The  
household has voluntarily requested  
that its case be closed;

**(2)** ISD has  
information about the household's  
circumstances considered verified  
upon receipt. Verified upon receipt is  
defined:

**(a)**  
information is not questionable; and  
**(b)**  
the provider of the information is the  
primary source of information; or  
**(c)**  
the recipient's attestation exactly  
matches the information received  
from a third party.

**(3)** A  
household member has been identified  
as a fleeing felon or probation violator  
in accordance with 7 CFR 273.11(n);

(4) There has been a change in the household's cash grant, or where cash and SNAP cases are jointly processed in accordance with 7 CFR 273.2(j)(2).

**I. Responsibilities on reported changes outside of the interim report form:**

When a household reports a change, ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 working days of the date the change is reported.

(1) During the certification period, action shall not be taken on changes to medical expenses of households eligible for the medical expense deduction which ISD learns of from a source other than the household and which, in order to take action, requires ISD to contact the household for verification. ISD shall act only on those changes in medical expenses that it learns about from a source other than the household, if those changes are verified upon receipt and do not necessitate contact with the household.

(2) **Decreased or termination of benefits:** For reported and verified changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

(a) Issue a notice of adverse action within 10 calendar days of the date the change was reported and verified unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.

(b) When a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

(c) When a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the

change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(3) **Increased benefits:** For reported and verified changes that result in an increase of household benefits, ISD shall act on the change as follows:

(a) For changes which result in an increase in a household's benefits, other than changes described in paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD.

(b) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of fifty dollars (\$50) or more in the household's gross monthly income, ISD shall make the change effective not later than the first allotment issued 10 calendar days after the date the change was reported.

(i) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(ii) If the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the tenth day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) **No change in SNAP benefit amount:** When a reported change has no effect on the SNAP benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(5) **Providing verification:** The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a

change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its' SNAP benefit amount shall revert to the original benefit amount.

**J. Resolving unclear information:**

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.139.120.9 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

**(2) Unclear information resulting from certain data matches:**

(a) if the department receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance

with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the consequences of failing to respond to the notice.

**(b)**

if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

**K. Failure to report**

**changes:** If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

**(1) Decreased**

**benefit amount:** After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Subsection G of 8.139.120.9 NMAC above.

**(2) Increased**

**benefit amount:** When a household fails to make a timely report of a change which will result in an increased SNAP benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 calendar days after the date the change was

reported.

[02/01/95, 10/01/95, 06/15/96, 09/14/96, 11/01/96, 07/01/98, 06/01/99; 8.139.120.9 NMAC - Rn, 8 NMAC 3 FSP.123, 05/15/2001; 8.139.120.9 - N, 02/14/2002; A, 01/01/2004; A, 07/16/2008; A, 08/15/2008; A/E, 10/15/2008; A, 12/31/2008; A, 09/01/2017]

**8.139.120.10**

**[REQUIREMENTS FOR SEMIANNUAL HOUSEHOLDS:**

**A. Household responsibilities at application:**

Changes occurring after the interview, but before the date of the approval notice, must be reported by the household within 10 days of the date the household receives its approval notice.

**B.** A household subject to semiannual reporting shall be required to file a semiannual report no later than the tenth day of the sixth month of the 12-month certification period. The following information, along with required verification, must be provided with the report:

**(1)** any change in household composition, whether a member has moved in or out of the home, and the date the change took place;

**(2)** the gross monthly income received from employment by each household member;

**(3)** the gross monthly unearned income received by each household member;

**(4)** changes in countable resources if the total of all countable resources for the food stamp household exceeds the applicable resource limit;

**(5)** dependent care expenses;

**(6)** a change in medical expenses;

**(7)** a change in child support obligations;

**(8)** student status for anyone living in the home over the age of 17 years, including but not limited to:

**(a)** a change in status from non-college to

college student;

**(b)** a change in status from college student to non-college status;

**(c)** a change in post-secondary curriculum to or from at least half-time; and

**(d)** participation in or termination of work study;

**(9)** a change in immigrant (alien) status for a household member.

**C. Budgeting methodology for semiannual reporting:**

**(1)** Prospective budgeting shall be used for an applicant household at initial application and at recertification as set forth at 8.139.500.9 NMAC.

**(2) Initial application:** Eligibility and amount of payment for the applicant household shall be determined prospectively for the each of the first six months of the certification.

**(3) Processing the semiannual report:** Eligibility and food stamp benefit amount shall be determined prospectively for the six months following the month the semiannual report is due.

**(4) Recertification:** Eligibility and amount of payment shall be determined prospectively for each of the six months following the last month of the previous certification period.

**D. Determining a household's eligibility and food stamp benefit amount:**

**(1) Income received weekly, bi-weekly, semi-monthly or monthly:** The household must submit and the department shall accept as verification the income received from any consecutive 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

**(2) Income received more frequently than weekly:** For households with income received more often than weekly:

**(a)** exact income rather than averaged

and converted income shall be used to determine eligibility and food stamp benefit amount; and

(b)

the household must submit, and the department shall accept as verification income received from any consecutive 30 day period that includes 30 days prior to the month the semiannual report is due and the month the report is due:

(3)

If a determination is made that the use of the pay data for the budgeting methods described in (1) and (2), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; the caseworker shall use whatever method gives the most accurate estimate of earnings:

(4)

**Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover, including but not limited to income sources from sharecropping, farming, self-employment, contract income and income for a school employee or teacher who may not have a contract:

(5) **Self-**

**employment:**

(a)

Requirements for determination of net self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment income are set forth at Subsection B of 8.100.130.14 NMAC:

(b)

A household assigned to semiannual reporting that has its self-employment income annualized shall be required to report changes in self-employment income on the semiannual report if the household has filed a tax return after its last approval or recertification of food stamps:

(c)

A household assigned to semiannual reporting whose self-employment income is not annualized must report self-employment income on

the semiannual report. The income reported on the semiannual report will be calculated in the following manner:

(i)

When a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the six-month period covered by the semiannual report:

(ii)

**Seasonal income:** Self-employment income that is intended to meet a household's needs for only part of the year shall be averaged over the time the income is intended to cover:

(d)

A household that fails to provide verification of an allowable deduction shall not be allowed the deduction. The caseworker shall process the report if all other mandatory verification has been provided:

(6) **Use of**

**conversion factors:** Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(a)

income received on a weekly basis is averaged and multiplied by 4.0;

(b)

income received on a biweekly basis is averaged and multiplied by 2.0;

(c)

averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down:

(7) **Effective**

April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Subsection D of 8.139.120.10 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification:

(a)

Recertification and interim reports submitted prior to April 1, 2010, but

processed in April 2010 or later shall be processed using the March 2010 income conversion methodology:

(b)

Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed:

**E. Time limits for processing a semiannual report received by the county office:**

(1)

The semiannual report form and all verification provided shall be reviewed for completeness within 10 working days of receipt:

(a)

A form that is complete and all verifications are provided, shall be processed within 10 working days of receipt:

(b)

A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:

(i)

shall be notified that verification is questionable; and

(ii)

shall be given 10 calendar days to provide the verification to process the allowable deduction:

(c)

A deduction that is verified within the month the semiannual report is due shall be processed as part of the semiannual report:

(d)

A deduction that is verified in the month after the semiannual report is due shall be processed as a change reported by the household:

(2)

**Incomplete semiannual report is received:**

(a)

A semiannual report form that is not signed shall be returned to the household for a signature:

(b)

A semiannual report that is incomplete because required verification is not



provided shall not be returned to the household. The household shall be notified that the form is incomplete and what information must be provided to complete the semiannual report.

\_\_\_\_\_ (3) \_\_\_\_\_ A household must return the completed semiannual report form by the end of the month in which the report is due in order to process the report for the following month.

\_\_\_\_\_ F. \_\_\_\_\_ A household that fails to submit a semiannual report by the end of the month in which the report is due shall lose its right to uninterrupted benefits and shall be issued an adequate notice of closure.

\_\_\_\_\_ G. **Information requirements for the semiannual report:** The semiannual report form shall specify:

- \_\_\_\_\_ (1) \_\_\_\_\_ the deadline date to submit the form to ensure uninterrupted benefits if the household is determined eligible;
- \_\_\_\_\_ (2) \_\_\_\_\_ the consequences of submitting a late or incomplete form;
- \_\_\_\_\_ (3) \_\_\_\_\_ that verification of some allowable expenses may be required in order for the deduction to be allowed;
- \_\_\_\_\_ (4) \_\_\_\_\_ where to call for help in completing the form;
- \_\_\_\_\_ (5) \_\_\_\_\_ the consequences of providing incorrect information;
- \_\_\_\_\_ (6) \_\_\_\_\_ the notice of rights.

\_\_\_\_\_ H. **Disaster victims:** A household participating in the food stamp program and subject to semiannual reporting shall be required to comply with semiannual reporting requirements during the disaster period. The household remains responsible for submitting the required information set forth in 8.139.120.9 NMAC, to the field office that handles its ongoing case.

\_\_\_\_\_ I. **Reporting requirement for semiannual reporting households:** A household assigned to semiannual reporting shall only be required to report when the household's gross income exceeds the federal poverty guidelines for the

size of the household. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.

\_\_\_\_\_ J. **Action on changes reported between reporting periods for households assigned to semiannual reporting:** The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:

\_\_\_\_\_ (1) \_\_\_\_\_ a household not entitled to CE reports income in excess of 130% of federal poverty guidelines for the size of the household;

\_\_\_\_\_ (2) \_\_\_\_\_ a household entitled to CE reports income in excess of 165% of federal poverty guidelines for the size of the household;

\_\_\_\_\_ (a) \_\_\_\_\_ a household reports or HSD receives documented evidence that the household has moved or intends to move out of the state on a specific date;

\_\_\_\_\_ (b) \_\_\_\_\_ a household requests closure;

\_\_\_\_\_ (c) \_\_\_\_\_ HSD receives documented evidence that the head of household has died; or

\_\_\_\_\_ (d) \_\_\_\_\_ a household that fails to comply with work requirements as specified at 8.139.410.12 and 8.102.620.10 and 11 NMAC.

\_\_\_\_\_ (3) \_\_\_\_\_ A newborn shall be added to the household effective the month following the month the change is reported, if the addition is reported to the agency by the household or by the hospital for medicaid purposes.

\_\_\_\_\_ (4) \_\_\_\_\_ The loss of earned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification, whichever is first, provided that:

\_\_\_\_\_ (a) \_\_\_\_\_ the loss of income was reported and verified by the household;

\_\_\_\_\_ (b) \_\_\_\_\_ the loss of income was not due to voluntary quit.

\_\_\_\_\_ (5) \_\_\_\_\_ The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the household.

\_\_\_\_\_ K. **Transitional food stamps:** A household assigned to semiannual reporting that is approved for transitional food stamps shall have the semiannual reporting requirements terminated during the transitional food stamp benefit period.

\_\_\_\_\_ L. **Action on cash assistance applications:**

\_\_\_\_\_ (1) \_\_\_\_\_ A food stamp household assigned to semiannual reporting that is later approved for cash assistance shall be required to file the scheduled semiannual report or to recertify eligibility at the intervals set at initial food stamp application. The timing of the cash certification and semiannual reporting requirements shall be set to match the requirements of the food stamp program.

\_\_\_\_\_ (2) \_\_\_\_\_ A household assigned to semiannual reporting that is approved for TANF, GA, or EWP a day or more after food stamp approval shall have food stamp benefits adjusted in the month following the month of cash assistance approval. [RESERVED]. [02/01/95, 07/01/98; 8.139.120.10 NMAC - Rn & A, 8.139.120.9 NMAC, 02/14/2002; A, 01/01/2004; A/E, 10/15/2008; A, 12/31/2008; A, 04/01/2010; Repealed, 09/01/2017]

#### 8.139.120.11

#### [REQUIREMENTS FOR ANNUAL REPORTING HOUSEHOLDS:

\_\_\_\_\_ A. **Household responsibilities at application:** An applicant must report all changes affecting eligibility and food stamp benefit amount that may have occurred since the date the application was filed and before the date of the certification interview. Changes

occurring after the interview must be reported by the household subject to the annual reporting requirements in this section:

**B. Reporting requirements for annual reporting households:**

A household subject to annual reporting shall be required to file an annual report no later than the tenth day of the twelfth month of the 24-month certification period. The following information, along with verification, must be provided with the report:

(1) any change in household composition, whether a member has moved in or out of the home, and the date the change took place;

(2) the gross monthly income received from employment by each household member;

(3) the gross monthly unearned income received by each household member;

(4) changes in countable resources if the total of all countable resources for the food stamp household exceeds the applicable resource limit, such as but not limited to:

(a) the account number and balance for a new checking or savings account belonging to any household member; or

(b) the amount of any new stocks or bonds or other financial instruments belonging to any household member;

(5) dependent care expenses;

(6) expenses for shelter, utilities, and telephone, only if a change has occurred since the last certification, or a change will occur in the month following the month the report is due, including but not limited to:

(a) a change in residence;

(b) a change in shelter expense;

(c) a change in billing for utilities, but not including variances in utility bills from month to month for the same

service; or

(d) an increase in shelter expenses that will take place in the month following the report month; or

(e) a termination of any shelter, utility, or telephone expense; or

(f) a new shelter or utility expense;

(7) a change in medical expenses;

(8) a change in child support obligations;

(9) student status for anyone living in the home over the age of 17 years, including but not limited to:

(a) a change in status from non-college to college student;

(b) a change in status from college student to non-college status;

(c) a change in post-secondary curriculum to or from at least halftime; and

(d) participation in or termination of work study;

(10) a change in immigrant (alien) status for a household member.

**C. Budgeting methodology for annual reporting at initial application and interim review:**

(1) Prospective budgeting shall be used for an applicant household at initial application and at interim review as set forth at 8.139.500.9 NMAC.

(2) **Initial application:** At approval, eligibility and amount of payment for the applicant household shall be determined prospectively for the each of the first 12 months of the certification.

(3) **Recertification:** At approval, eligibility and amount of payment shall be determined prospectively for each of the 12 months following the last month of the previous certification period.

**D. Budgeting methodology for processing an**

**annual report:**

(1) **Processing the annual report:** Eligibility and food stamp benefit amount shall be determined prospectively for the 12 months following the month the annual report is due.

(2) **Determining a household's eligibility and food stamp benefit amount:**

(a) Income received weekly, bi-weekly, semi-monthly or monthly: the household must submit and the department shall accept as verification the income received from any consecutive 30 day period that includes 30 days prior to the month the report is due and the month the report is due.

(b) **Income received more frequently than weekly:** For households with income received more often than weekly:

(i) exact income rather than averaged and converted income shall be used to determine eligibility and food stamp benefit amount; and

(ii) the household must submit, and the department shall accept as verification income received from any consecutive past 30 day period that includes 30 days prior to the month the semiannual report is due and the month the report is due.

(c) If a determination is made that the use of the pay data for the budgeting methods described in (a) through (b), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; the caseworker shall use whatever method gives the most accurate estimate of earnings:

(d) **Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover, including but is not limited to income sources

from sharecropping, farming, self-employment, contract income and income for a tenured teacher who may not have a contract.

**(3) Use of conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

**(a)** income received on a weekly basis is averaged and multiplied by 4.0;

**(b)** income received on a biweekly basis is averaged and multiplied by 2.0;

**(c)** averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**(4)** Effective April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Paragraph (4) of Subsection F of 8.102.120.11 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.

**(a)** Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.

**(b)** Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.

**E. Time limits for annual report received by the county office:**

**(1)** The annual report form and all required verification provided shall be reviewed for completeness within 10 working days of receipt.

**(a)** A form that is complete and all required

verifications are provided, shall be processed within 10 working days of receipt.

**(b)** A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:

**(i)** shall be notified that verification is questionable; and

**(ii)** shall be given 10 calendar days to provide the verification to process the allowable deduction.

**(c)** A deduction that is verified within the month the annual report is due shall be processed as part of the annual report.

**(d)** A deduction that is verified in the month after the annual report is due shall be processed as a change reported by the household.

**(2) Incomplete annual report is received:**

**(a)** An annual report form that is not signed shall be returned to the household for a signature.

**(b)** An annual report that is incomplete because required verification is not provided shall not be returned to the household. The household shall be notified that the form is incomplete and what information must be provided to complete the semiannual report.

**(3)** A household must return the completed annual report form by the end of the month in which the report is due in order to process the report for the following month.

**F.** A household that fails to submit an annual report by the end of the month in which the report is due shall lose its right to uninterrupted benefits and shall be issued an adequate notice of closure.

**G. Information requirements for the annual report:** The annual report form shall specify:

**(1)** the deadline date to submit the form to ensure uninterrupted benefits if the household is determined eligible;

**(2)** the consequences of submitting a late or incomplete form;

**(3)** that verification of some allowable expenses may be required in order for the deduction to be allowed;

**(4)** where to call for help in completing the form;

**(5)** the consequences of providing incorrect information;

**(6)** the notice of rights.

**H. Disaster victims:** A household participating in the food stamp program and subject to annual reporting shall be required to comply with annual reporting requirements during the disaster period. The household remains responsible for submitting the required information set forth in 8.139.120.11 NMAC, to the field office that handles its ongoing case.

**I. Reporting requirement for annual reporting households:** A categorically eligible household assigned to annual reporting shall have no further reporting requirement, until they must file an annual report or recertify, whichever comes first. All other households must file a report if their income exceeds 130% of the federal poverty guidelines and if the household remains eligible have no further reporting requirement until the household must file an annual report or recertify, whichever comes first. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.

**J. Action on changes reported between reporting periods for households assigned to annual reporting:**

**(1)** The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:

(a)

a household not entitled to categorical eligible reports income in excess of 130% of federal poverty guidelines for the size of the household;

(b)

a household entitled categorically eligible reports income in excess of 165% of federal poverty guidelines for the size of households;

(c)

household reports or HSD receives documented evidence that the household has moved or intends to move out of the state on a specific date;

(d)

a household requests closure; or

(e)

HSD receives documented evidence that the head of household has died.

(2)

The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the household.

(3)

If a household reports a change that makes them ineligible for annual reporting, they shall be assigned an alternative reporting period when they file an annual report or recertify, whichever comes first.]

#### **[RESERVED]**

[02/01/95; 8.139.120.11 NMAC - Rn & A, 8.139.120.10 NMAC, 02/14/2002; 8.139.120.11 NMAC - N/E, 10/15/2008; A, 12/31/2008; A, 04/01/2010; Repealed, 09/01/2017]

#### **8.139.120.12**

#### **[REQUIREMENTS FOR HOUSEHOLDS ON REGULAR REPORTING:**

**A.** A regular reporting household includes all households not assigned to simplified reporting. If changes occur during a household's certification period, that affect eligibility or benefit amount, the caseworker shall take action to adjust the household's eligibility or SNAP benefit amount.

**B.** Benefit

determinations or changes on or after April 1, 2010, to earned and unearned income shall be calculated using the conversion factors at Paragraph (6) of Subsection D of 8.139.120.10 NMAC provided income is reported to the agency, and verified by the household. All other households shall have their income calculated at the next interim report or recertification.

#### **C. Household responsibilities:**

(1) **At**

**application:** An applicant must report all changes affecting eligibility and SNAP benefit amount that may have occurred since the date the application was filed and before the date of the certification interview.

(2) **Changes**

occurring after the interview, but before the date of the approval notice, must be reported by the household within 10 days of the date the household receives its approval notice.

(3) **Reporting**

#### **during the certification period:**

A household must report changes within 10 days of the date a change becomes known to the household. No change reporting requirements may be imposed except as provided in (a) through (f) below. A household must report:

(a)

**earned income:** a change in the source of earned income, including starting or stopping a job; or

(i)

changing jobs if the change in employment results in a change in income;

(ii)

a change in the amount of gross earned income received by a member of the household, if the amount changes by more than \$100 per month.

(b)

#### **unearned income:**

(i)

a change in the source of unearned income;

(ii)

a change of more than \$50 in the amount of unearned income except that changes in cost of living increases

(COLAs), and mass changes in the social security and SSI benefits and changes in cash assistance amounts in programs administered by ISD including TANF, GA, EWP, and RRP do not have to be reported;

(c)

changes in household composition, such as when an individual moves into or leaves the household;

(d)

changes in residence and the resulting change in shelter costs;

(e)

when cash on hand, stocks, bonds or money in a bank account reach or exceed \$2,250, or \$3,250 for elderly/disabled households;

(f)

changes in the legal obligation to pay child support, including termination of the obligation; a household with less than a 3-month record of child support payments shall be required to report changes greater than \$50.00 from the amount used in the most recent certification action.

(4) **Time**

#### **limits:**

(a)

The 10-day period begins with the date the change becomes known to the household. For the purposes of reporting:

(i)

a financial change shall be considered as timely if the change is reported no later than 10 days after the household receives the first payment or makes the first payment attributable to the change;

(ii)

a non-financial change shall be considered timely if the change is reported no later than 10 days after it occurs.

(b)

The change is considered reported on the date the report of change is received by the local county office or, if mailed, the date of the postmark on the household's report plus three days mailing time.

(c)

Households shall be encouraged to use a change report form to document changes, although changes may also be reported by personal visit or



telephone:

(d)

In the absence of a written report, a 13-day advance notice is required if the change will result in a reduction or termination of benefits.

**D. HSD**

**responsibilities:** The caseworker shall inform the household of its responsibility to report changes. The caseworker shall review any change reported by the household to determine if the change must be acted on and shall take the required action if the change affects eligibility or benefit amount. The caseworker shall document the date a change is reported, and whether the change affects eligibility or SNAP benefit amount.

**(1) Action**

**on changes for regular reporting households:**

(a)

When a household reports a change, The caseworker shall take action to determine the household's eligibility or SNAP benefit amount within 10 days of the date the change is reported.

(b)

For changes that result in a decrease or termination of household benefits, The caseworker shall act on the change as follows:

(i)

If the caseworker receives a written report from the household that meets the standards of Subsection C of 8.139.120.15 NMAC, action shall be taken for the following month without an advance notice of adverse action. The household shall be provided with adequate notice. If the certification period will expire before the expiration notice time limit, no action shall be required to reduce or terminate benefits.

(ii)

If the change is reported by any other means, e.g., by phone, in person, etc., within 10 days the caseworker shall take action to issue a notice of adverse action (Subsection B of 8.139.120.15 NMAC) to reduce or terminate benefits effective the month following the month the adverse action time limit expires. If the

certification period will expire before the expiration of the adverse action time limit, no action shall be required to reduce or terminate benefits.

(c)

During the certification period, the caseworker shall not act on changes in medical expenses of households eligible for the medical expense deduction which it learns of from a source other than the household and which, in order to take action, requires the caseworker to contact the household for verification. The caseworker shall act only on those changes in medical expenses that are learned about from a source other than the household, if those changes are verified upon receipt and do not necessitate contact with the household.

**(2) Increased**

**benefits:**

(a)

For changes resulting in an increase, other than changes described in (b) below, The caseworker shall make the change effective no later than the first benefit amount issued 10 days after the date the change was reported (conforms to ISD2 mass run date).

(b)

For changes resulting in an increase in SNAP benefits because of the addition of a new household member who is not a member of another certified household or a decrease of \$50.00 or more in the household's gross monthly income, The caseworker shall make the change effective not later than the first SNAP benefit amount issued 10 days after the date the change was reported (conforms to ISD2 mass run date). In no event shall these changes take effect any later than the month following the month the change was reported. If the change is reported timely but the increase cannot be made effective the following month, The caseworker shall issue a supplement to the household in the following month.

(c)

**Providing verification:** The household shall be allowed 10 days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a

change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If necessary verification is not provided at the time a change is reported, the household shall be allowed 10 days, plus 3 days if a notice is mailed, to provide verification. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its SNAP benefit amount shall revert to the original benefit amount.

**(3) Decreased**

**benefits:** When a household timely reports a change which will decrease benefits, the caseworker shall issue an adverse action notice to the household (Subsection B of 8.139.120.15 NMAC). If the adverse action time limit expires in the following month, there is no overissuance in the following month and the household is entitled to the greater benefit amount. The decrease shall be effective in the month following the month the notice expires.

(4)

**Termination of benefits:** When the household reports a change that will result in a termination of benefits, the caseworker shall issue an adverse action notice.

(a)

If the adverse action time limit expires in the following month, there is no overissuance to the household in the following month and the household shall be entitled to the greater benefit amount. No claim shall be filed.

(b)

If the adverse action time limit will expire after the certification period ends, action shall be taken to terminate benefits; the certification period shall be allowed to expire. The caseworker shall document the change in the case record.

**(5) No change**

**in SNAP benefit amount:** When a reported change has no effect on the SNAP benefit amount, the caseworker shall document the change in the case

file and notify the household of the receipt of the report and that there is no change in SNAP benefits.

**~~E. Failure to report changes:~~**

~~(1)~~ If the caseworker discovers that the household failed to report a change as required, the caseworker shall evaluate the change to determine whether the household received benefits to which it was not entitled. After verifying the change, the caseworker shall initiate a claim against the household for any month in which the household was overissued SNAP benefits. The first month of the overissuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Paragraph (2) of Subsection B of 8.139.120.12 NMAC above.

~~(2)~~ **~~Increased benefit amount:~~** When a household fails to make a timely report of a change which will result in an increased SNAP benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 days after the date the change was reported.

**~~F. Other changes:~~**

~~(1)~~ **~~Eligibility standard:~~** When a household becomes entitled to a different eligibility standard, the caseworker shall apply the new standard whenever there is a change in household eligibility, benefit amount, or certification period, whichever occurs first.

~~(2)~~

**Reconstituted household:** If members in the household separate

into two or more households, the individuals who left the original household shall not be eligible for separate status in the month the change occurs. An adverse action notice is required whenever members leave the household. If the adverse action time limit expires in the month the change occurs, the individuals in the reconstituted household may be certified in the month following the month the change occurs. If the notice of adverse action time limit expires in the month following the month the change occurred, the reconstituted household shall not be certified until the month following the month the notice time limit expires.

~~(3)~~ **~~Shortened certification period:~~** Whenever a determination is made that a household's certification period must be shortened, the household is entitled to an expiration notice. A household shall be informed that its certification period shall end the month following the month the expiration notice is sent. The household shall be given an opportunity to timely reapply for benefits.

~~(4)~~ **~~Unreported changes:~~** The caseworker shall act on all changes of which the caseworker becomes aware. At a minimum, this means documenting changes in the case record. All discrepancies and questionable information shall be resolved to make sure that the correct SNAP benefit amount is issued to the household. **[RESERVED]** [05/15/97; 8.139.120.12 NMAC - Rn & A, 8.139.120.11 NMAC, 02/14/2002; 8.139.120.12 NMAC - Rn & A/E, 8.139.120.10 NMAC, 10/15/2008; A, 12/31/2008; A, 04/01/2010; A/E, 03/01/2015; Repealed, 09/01/2017]

## HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.139.400 NMAC, Sections 5 and 11, effective 09/01/2017.

**8.139.400.5 EFFECTIVE**

**DATE:** February 1, 1995, unless a later date is cited at the end of a section.  
[02/01/95; 8.139.400.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 09/01/2017]

**8.139.400.11 SPECIAL MEMBERS:**

**A. Students:  
(1) Eligibility:**

An individual who is enrolled at least half-time in an institution of higher education will be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in Paragraph (3) of this section. Half-time enrollment status is determined by the definition of the institution in which the individual is enrolled or attending.

**(2)**

**Enrollment:**

**(a)**

[An individual is considered to be enrolled in an institution of higher education, if the individual is enrolled in a business, technical, trade or vocational school, that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.] Students enrolled in an institution of higher education less than half time are not considered students for purposes of SNAP eligibility, and do not have to meet an exemption at Paragraph (3) of Subsection A of 8.139.400.11 NMAC to be eligible for SNAP.

**(b)**

[The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days.] Students who are enrolled in an institution of higher education in a program that is not in the regular curriculum are

not considered students for purposes of SNAP eligibility, and do not have to meet an exemption at Paragraph (3) of Subsection A of 8.139.400.11 NMAC to be eligible for SNAP. The following programs are not in the "regular curriculum."

(i)

Career or technical certificate programs. Career and technical certificate programs are programs which offer a sequence of courses that provide individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions; provide technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and may include prerequisite courses that meet the requirements of this subparagraph; and include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

(ii)

English as a second language;

(iii)

adult basic education;

(iv)

literacy; or

(v)

community education courses.

(c)

Students who are enrolled at least half-time in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required are students for SNAP purposes and are ineligible to receive SNAP unless they meet an exemption found at Paragraph (3) of Subsection A of 8.139.400.11 NMAC. Regular curriculum programs are: a program that requires a high school diploma or equivalent to enroll; an associate's degree program that is not career or technical as defined above; a

bachelor's degree program; or an advanced degree program.

(d)

The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days.

(e)

Students who reside on campus as defined at 34 CFR 668.46(a) and who have opted to or are required to purchase a meal plan which provides fifty percent or more of their meals are ineligible for SNAP in accordance with 7 CFR 273.1(b)(7)(vi).

(3) Student

**exemptions:** To be eligible, a student must meet at least one of the following exemptions:

(a)

**Age:** Be age 17 or younger or age 50 or older.

(b)

**Physical or mental unfitness:** [Be physically or mentally unfit.] For exemption purposes, physical or mental unfitness per Paragraph (3) of Subsection A of 8.139.400.11 NMAC and 7 CFR 273.5(b)(2) is defined as follows: An individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be obvious to the department and documented in the case file; or not obvious to the department, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

(i)

If an individual claims to be physically or mentally unfit for

purposes of the student exemption, and the unfitness is not evident to [the caseworker] ISD, verification may be required.

(ii)

Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed or certified psychologist.

(c)

**Education/training program:**

Assigned to or placed in an institution of higher education through or in compliance with the requirements of:

(i)

a program under the Job Training Partnership Act of 1974 (JTPA);

(ii)

an employment and training program under the Food Stamp Act;

(iii)

a program under Section 236 of the Trade Act of 1974 [19 U.S.C. 2296]; or

(iv)

an employment and training program for low-income households that is operated by a state or local government where one or more of the components of such program is at least the equivalent to an acceptable SNAP employment and training program component.

(d)

**Employment:** Employed a minimum of 20 hours per week and paid for such employment, or, if self-employed, working a minimum of 20 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(e)

**Work study:** Be participating in a state or federally financed work study program during the regular school year.

(i)

The student must be approved for work study at the time of application for SNAP benefits, the work study must be approved for the school term, and the student must anticipate actually working during that time.

(ii)

The exemption will begin with the

month in which the school term begins or the month work study is approved, whichever is later.

(iii)

Once begun, the exemption will continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.

(iv)

The exemption will not continue between terms when there is a break of a full month or longer, unless the student is participating in work study during the break.

(f)

**Children:** Responsible for a dependent household member who:

(i)

is under age six; or

(ii)

has reached the age of six but is under age 12 when the ISS has determined that adequate child care is not available to enable the student to attend class and comply with the 20-hour work requirement in (4) or the work study requirement in (5) above.

(g)

**Single parents:** Full-time students of higher education who are single parents with the responsibility for the care of a dependent child under age 12.

(i)

This provision applies when only one natural, adoptive or stepparent (single, widow/er, separated, divorced) is in the same SNAP household as the child.

(ii)

If there is no natural, adoptive or stepparent in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he/she has parental control over the child and is not living with his/her spouse.

(h)

**Two parents:** In a two parent household, if both parents are responsible for the care of the dependent child then they both can be eligible for SNAP benefits. If only one is responsible for the care of the dependent child then only one can be

eligible for SNAP benefits.

(i)

This provision applies when only natural, adoptive or stepparent (single, widow/er, separated, divorced) is in the same SNAP household as the child.

(ii)

If there is no natural, adoptive or stepparent in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he/she has parental control over the child and is not living with his/her spouse.

(i)

**Title IV-A:** Receiving Title IV-A cash assistance.

(j)

**Work incentive program:**

Participation in the job opportunities and basic skills program under Title IV of the Social Security Act or its successor programs.

(k)

**On-the-job training:** Be participating in an on-the-job training program. An individual is considered to be participating in an on-the-job training program only during the period of time the individual is being trained by the employer.

#### B. Strikers:

Households with members on strike are ineligible to participate in the SNAP, unless the household was eligible for benefits the day before the strike began and is otherwise eligible at the time of application. A striker is anyone involved in a strike or concerted stoppage of work by employees, including a stoppage because of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees. Employees participating in a sympathy strike will be considered strikers. The household will not receive an increased SNAP benefit amount as a result of the decrease in income of the striking member(s) of the household.

(1)

**Nonstrikers:** The following individuals are not considered

strikers and are eligible for program participation:

(a)

any employee affected by a lockout;

(b)

an individual who goes on strike who is exempt from work registration (Subsection B of 8.139.410.12 NMAC) the day before the strike, except those who were exempt because of employment;

(c)

employees whose workplace is closed by an employer in order to resist demands of employees (i.e., a lockout);

(d)

employees unable to work as a result of other striking employees (e.g., truck drivers who are not working because striking newspaper pressmen prevent newspapers from being printed;

(e)

employees who are not part of the bargaining unit on strike but who do not want to cross a picket line for fear of personal injury or death;

(f)

employees who are ~~fin~~ed fired or laid off, or who are permanently replaced or officially resign; and

(g)

employees who will not be permitted to return to their old jobs but are offered different ones.

(2) Striker

**eligibility:**

(a)

Striker eligibility is determined by considering the day before the strike as the day of application and assuming the strike did not occur.

(b)

Eligibility at the time of application is determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of the nonstriking household members during the month of application.

(c)

To determine benefits (and eligibility for households subject to the net income eligibility standard), deductions will be calculated for the month of application as for any other



household. Whether the striker's prestrike earnings are used or the current income is used, the earnings deduction is allowed if appropriate.

**(d)**

Strikers whose households are eligible to participate in the SNAP will be required to register for work unless otherwise exempt.

**C. Boarders:**

Boarders are defined as individuals or groups of individuals residing with others and paying reasonable compensation to those others for lodging and meals. An individual furnished both lodging and meals by a household, but paying less than reasonable compensation to the household for such services, will be considered a household member. Foster care children placed in the home of relatives or other individuals or families will be considered boarders. Foster care payments made to the household will not be counted as income, unless the household chooses to include the foster child. Payment to a household for lodging and meals will be treated as self-employment income to the household.

**(1)**

**Reasonable compensation:** To determine if an individual is paying reasonable compensation for meals and lodging in making a determination of boarder status, only the amount paid for meals will be used, provided that the amount paid for meals can be distinguished from the amount paid for lodging. A reasonable monthly payment will be either of the following:

**(a)**

A boarder whose board arrangement is for more than two meals a day must pay an amount which equals or exceeds the maximum SNAP benefit amount for the appropriate size of the boarder household.

**(b) A**

boarder whose board arrangement is for two meals or less per day must pay an amount which equals or exceeds two-thirds of the maximum SNAP benefit amount for the appropriate size of the boarder household.

**(2) Included**

**boarders:** A household which

provides boarding services may request that the boarder be included as a member of the household. Boarders are not eligible to participate in the SNAP separately from the household providing the board. All the income and resources of included boarders will be counted in determining the eligibility and SNAP benefit amount of the household.

**(3) Excluded**

**boarders:** The income and resources of boarders who are not included as household members will not be considered available to the household. [02/01/95, 10/01/95, 02/15/96, 05/15/97, 07/01/97/ 06/01/99; 8.139.400.11 NMAC - Rn, 8 NMAC 3.FSP.403, 05/15/2001; A, 07/15/2013; A, 09/01/2017]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.410 NMAC, Sections 5, 12, 13 and 14, effective 09/01/2017.**

**8.139.410.5 EFFECTIVE**

**DATE:** February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.410.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 09/01/2017]

**8.139.410.12 SUPPLEMENTAL  
NUTRITION ASSISTANCE  
PROGRAM (SNAP) GENERAL  
WORK [PROVISIONS**

**AND EMPLOYMENT AND  
TRAINING PROGRAM (E&T)]**

**REQUIREMENTS:** Any SNAP recipient may be subject to general work requirements. SNAP recipients who do not meet a federal exemption must meet the general work requirements in accordance with Subsection [B] C of this section. Federal exemptions from general work requirements are found at 7 Code of Federal Regulation (CFR) 273.7(a)(6) and (b). [SNAP recipients may be subject to E&T program participation requirements. SNAP recipients who do not meet a state

or federal exemption for E&T work program participation are general participants (participants). The state and federal exemptions are listed in Paragraphs (1) and (2) of Subsection C of this section. A participant will follow all program requirements per 7 CFR 273.7 and as contained in this rule. Participants are voluntary until March 1, 2018, when they become mandatory, unless exempted, at the time of initial application or at recertification, whichever occurs first.]

**A. General Work**

**requirements:** ISD will administer the general work requirements in accordance with 7 CFR 273.7. As a condition of eligibility for participation in SNAP, every household member who does not qualify for a federal exemption, must meet general work requirements as outlined in Subsection [B] C of this section. [Federal exemptions from work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be:]

**B. General work**

**requirement exemptions:** Federal exemptions from general work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be:

**(1) obvious to**

ISD and documented in the case file; or

**(2) not**

obvious to ISD, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written

documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

**[B-] C. Compliance with general work requirements ~~and consequences of noncompliance~~:**

An individual who is not temporarily waived or exempt in accordance with 7 CFR 273.7(a)(6) and (b) must:

(1) register for work at the time of application and every 12 months thereafter; all SNAP participants are considered registered for work with the head of household's signature on an application or recertification form for SNAP participation;

(2) participate in an E&T program to the extent required by law;

(3) participate in a workfare program if assigned by the department;

(4) provide ISD or E&T program service provider with information regarding employment status, participation in E&T program status, or availability for work;

(5) report to an employer referred to by ISD or its designee if the potential employment meets the suitability requirements in accordance with 7 CFR 273.7(h);

(6) accept a bona fide offer of suitable employment at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the federal or state minimum wage or eighty percent of the wage that would have governed had the minimum hourly rate of the Fair Labor Standards Act been applicable to the offer of employment; and

(7) not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week within the 30 day period prior to the household's application date, or any time after filing an application, or any time during the household's certification period in accordance with 7 CFR 273.7(a)(vii).

**[(7)] D. Failure to comply with SNAP general work**

**requirements:** An individual who is not exempt who refuses or fails without good cause, to comply with the SNAP general work requirements is ineligible to participate in SNAP, and will be considered an ineligible household member, in accordance with 7 CFR 273.1(b)(7). Prior to placing a disqualification for noncompliance with the work requirements, good cause will be determined in accordance with 7 CFR 273.7(i). When determining whether or not good cause applies to voluntary quit, voluntary quit will be evaluated up to the 30 day period prior to applying for SNAP benefits and at any time thereafter. Within 10 calendar days of establishing that the noncompliance was without good cause, ISD must provide the individual with a notice of adverse action, as specified in Section 273.13.

**[(8)] (1)**

Consequences of non-compliance with work requirements~~[-other than voluntary quit or a reduction in work;]~~ will be in accordance with 7 ~~[C.F.R.]~~ CFR 273.7(f)(j).

**(a)**

For the first occurrence of noncompliance, the individual will be disqualified for [3] three months~~[-or until compliance, whichever occurs later];~~

**(b)**

For the second occurrence of noncompliance, the individual will be disqualified for [6] six months~~[-or until compliance, whichever occurs later];~~ and

**(c)**

For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months ~~[-or until compliance, whichever occurs later.~~

**(9)**

Consequences of voluntary quit or reduction in work effort without good cause, will be in accordance with 7 ~~C.F.R.~~ CFR 273.7(f) and 7 CFR 273.7(j).

**(a)**

For the first occurrence of noncompliance, the individual will be disqualified for 3 months;

**(b)**

For the second occurrence of noncompliance, the individual will be

disqualified for 6 months; and

**(c)**

For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months.]

**(2) Treatment**

**of income and resources:** All the income and resources of an individual disqualified for non-compliance with general work requirements will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520 NMAC.

**(3)**

Households shall not be considered categorically eligible if any benefit group member is disqualified for failure to comply with general work requirements in accordance with 8.139.420.8 NMAC.

**E. Fair hearings:**

Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status or a state agency determination of failure to comply with SNAP work requirements, in accordance with 7 CFR 273.7(f)(6).

~~[-~~ **C. E&T program participation exemptions:** ISD will screen each work registrant in accordance with 7 CFR 273.7(c). SNAP recipients not otherwise exempted as determined by ISD are subject to the E&T program participation requirements beginning on March 1, 2018. Failure to comply with the requirements, without good cause, will result in disqualification in accordance with Subsection L of 8.139.410.12 NMAC.

**(1) Federal**

exemptions: Individuals who are temporarily waived or exempt from work requirements are therefore also temporarily waived or exempt from the E&T program participation in accordance with 7 CFR 273.7(a)(6), (b)(1), and (d)(4)(v).

**(2)**

State exemptions: The following individuals are exempt from E&T program participation:

**(a)**

a parent or other household member

who is responsible for the care of a dependent child under age 13; if the child has their thirteenth birthday during the certification period, the individual responsible for the care of the child is required to participate in the E&T program as part of the next scheduled recertification, unless the individual qualifies for another exemption;

\_\_\_\_\_ (b) \_\_\_\_\_ a pregnant woman;

\_\_\_\_\_ (c) \_\_\_\_\_ workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

\_\_\_\_\_ (d) \_\_\_\_\_ any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by ISD, will not be required to participate in the E&T program;

\_\_\_\_\_ (e) \_\_\_\_\_ any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD; or

\_\_\_\_\_ (f) \_\_\_\_\_ any individual determined to be an able-bodied adult and subject to the time limit, in accordance with 8.139.410.14 NMAC.

\_\_\_\_\_ (3) \_\_\_\_\_ Interim changes in status: Anyone losing exempt status because of changes required to be reported in accordance with 8.139.120.9 NMAC through 8.139.120.12 NMAC, will have their E&T status determined at recertification. Anyone gaining exempt status because of changes reported will have their E&T status updated when it is reported.

\_\_\_\_\_ (4) \_\_\_\_\_ Relocation changes: Participants who relocate within the state retain their E&T participation status at their new location unless their circumstances change or their new location falls under a waiver as defined by the department.

#### **D. General E&T program procedures:**

\_\_\_\_\_ (1) \_\_\_\_\_ **Good**

**cause for non-compliance with E&T participation:** ISD will address good cause in accordance with 7 CFR 273.7(i):

\_\_\_\_\_ (a) \_\_\_\_\_  
Good cause is determined by considering the facts and circumstances involved, including information submitted by the individual, the individual's representative, the work experience service site or community service site.

\_\_\_\_\_ (b) \_\_\_\_\_  
Good cause includes circumstances beyond an individual's control, such as, but not limited to:

\_\_\_\_\_ (i) \_\_\_\_\_ participant illness;

\_\_\_\_\_ (ii) \_\_\_\_\_ illness of another household member requiring the presence of the participating member;

\_\_\_\_\_ (iii) \_\_\_\_\_ an individual or family crisis or a family circumstance that may preclude participation;

\_\_\_\_\_ (iv) \_\_\_\_\_ lack of transportation and the distance to walk to the activity site exceeds five miles roundtrip;

\_\_\_\_\_ (v) \_\_\_\_\_ participant whose physical residence is more than 30 miles away from an income support field office, workforce solutions office or E&T program service provider;

\_\_\_\_\_ (vi) \_\_\_\_\_ court appearance of participant or household member;

\_\_\_\_\_ (vii) \_\_\_\_\_ farmworkers who are away from their permanent residence or home base who travel to work in agriculture or a related industry during part of the year;

\_\_\_\_\_ (viii) \_\_\_\_\_ an absence of dependent care or transportation support services necessary for participation;

\_\_\_\_\_ (ix) \_\_\_\_\_ participant's receipt of job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;

\_\_\_\_\_ (x) \_\_\_\_\_ participant is a victim of family violence; or

\_\_\_\_\_ (xi) \_\_\_\_\_ no available jobs within reasonable commuting distance; a distance is considered unreasonable if the round trip exceeds two hours by public or private transportation.

\_\_\_\_\_ (2) \_\_\_\_\_  
**E&T program service provider responsibilities:** The E&T program service provider is responsible for providing participants referred to the E&T program with an assessment, orientation, development of individual responsibility plan (IRP), a work participation agreement (WPA) and an explanation of good cause. ISD and the E&T program service provider will provide language access services and any necessary reasonable accommodations to SNAP participants, in accordance with 7 CFR 15.

\_\_\_\_\_ (a) \_\_\_\_\_  
Scheduling and conducting assessment and orientation sessions: The E&T program service provider will inform each participant of:

\_\_\_\_\_ (i) \_\_\_\_\_ E&T program requirements and opportunities, including rights, responsibilities, good cause and exemptions;

\_\_\_\_\_ (ii) \_\_\_\_\_ services; and

\_\_\_\_\_ (iii) \_\_\_\_\_ benefits.

\_\_\_\_\_ (b) \_\_\_\_\_  
Placing a participant in an activity component: A participant may be placed in any component deemed appropriate in accordance with 7 CFR 273.7(c) by the E&T program service provider;

\_\_\_\_\_ (c) \_\_\_\_\_  
Authorizing reimbursements: ISD will authorize allowable reimbursements up to the monthly limit established by the department in accordance with 7 CFR 273.7(d)(4).

\_\_\_\_\_ (d) \_\_\_\_\_  
Reporting changes to ISD: The following changes, if reported by the participant to the E&T program service provider, will be shared with ISD:

\_\_\_\_\_ (i) \_\_\_\_\_ participants who become exempt;

\_\_\_\_\_ (ii) \_\_\_\_\_

potential good cause;

(iii)

participants who request closure of SNAP benefits;

(iv)

participants who relocate;

(v)

participants who fail or refuse to comply; or

(vi)

voluntary work participants who no longer wish to volunteer.

**E. Assessment:** An assessment must be completed by a participant and the E&T program service provider no later than 15 calendar days after an application or recertification form for SNAP participation is approved. Assessment tools and forms will be used to address the participant's education, skills, prior work experience, employability, and barriers. The assessment will be utilized to identify exemptions, potential good cause, and to determine appropriate activity placement.

**F. Orientation:**

Participants will be provided a program orientation that explains the program and its objectives. The orientation will include the following information:

(1)

the participants rights and responsibilities;

(2)

support services;

(3)

benefits of participation in the E&T work program; and

(4)

consequences of non-compliance with the E&T work program requirements.

**G. Individual responsibility plan (IRP):**

Participants may complete an IRP with the assistance of the E&T program service provider. The IRP shall include a specific achievable goal or goals and a plan for securing and maintaining employment.

**H. Work participation agreement (WPA):**

(1)

**Requirements:** The WPA is an agreement between the participant and ISD. Participants must complete

the WPA with the E&T program service provider:

(a)

no later than 30 calendar days from date of approval for benefits;

(b)

no later than five calendar days after the expiration of an existing WPA; and

(c)

the WPA will be reevaluated by the parties at recertification and for changes in circumstances as reported.

(2) **WPA**

**Elements:** The WPA will:

(a)

list the participant's approved E&T allowable component(s);

(b)

list the level of effort for each activity;

(c)

list the support services available and to be provided by ISD;

(d)

list the reasonable accommodations that may be necessary to ensure meaningful engagement;

(e)

be explained to the participant; and

(f)

be approved and signed by the E&T program service provider.

**I. E&T allowable components:** ISD will administer E&T components in accordance with 7 CFR 273.7(e).

(1)

**Determination of required**

**hours:** At initial eligibility and recertification, participants will be required to participate in any combination of the components as provided by ISD and, as assigned by the E&T program service provider, for a minimum requirement of up to 12 or 24 activity hours within the initial consecutive three month period during the 12-month certification period from the date of SNAP benefit approval.

(a)

Individuals in a rural area will be required to complete up to 12 activity hours. Rural area is defined as a county containing a core urban area of 50,000 or fewer people as defined by office of management and budget (OMB) metropolitan statistical area

designation. An individual residing on a tribe, pueblo, or nation that is also within such a county, will be defined as living in a rural area. Individuals residing in an area that is determined to be non-rural, as defined by OMB, will be required to complete up to 24 activity hours.

(b)

The collective hours a household must complete will be determined in accordance with 7 CFR 273.7(e)(3) (ii).

(2)

**Individual or group job search with employer contacts:**

(a)

**General:** The purpose of the job search component is to provide the participant a reasonable opportunity to find suitable employment.

(b)

**Component activities:** All participants are required to register as a "job seeker" through the New Mexico department of workforce solutions (DWS), "New Mexico workforce connection". ISD will verify registration in accordance with 8.100.130.9 NMAC. All participants in this component are required to complete the individual or group job search training with employer contacts. One job search activity is equal to one hour of activity. Job search activity examples can be found at 7 CFR 273(e).

(3)

**Work experience:**

(a)

**General:** The purpose of the work experience component is to improve the employability of participants.

(b)

**Component activities:**

(i)

on-the-job skills training;

(ii)

work experience related to their occupational interests.

(c)

The number of hours necessary for compliance in this component are calculated in accordance with 7 CFR 273.7(e)(1):

(4)

**Community service:**

(a)



**General:** The purpose of the community service component is to provide on-the-job skills training and to assist the communities of participants:

(b)

**Component activities:**

(i)

on-the-job skills training;

(ii)

work-like experience.

**J. Federal financial participation:** Federal financial participation will be in accordance with 7 CFR 273.7(d):

**K. Reimbursement:** Participants who incur expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by ISD, in accordance with 7 CFR 273.7(d) (4):

**L. Disqualification for non-compliance:** Participants who fail to:

(1) timely complete the assessment;

(2) timely complete a WPA; and

(3) comply with assigned component requirements and their required hours of participation as outlined in their WPA will be disqualified in accordance with 7 CFR 273.7(f):

(4) **Individual disqualification:** A participant who fails or refuses to comply with the E&T program participation will be considered an ineligible household member in accordance with 7 CFR 273.7(f). Any participant who fails or refuses to comply with the E&T participation, without good cause will be disqualified as follows:

(a) first occurrence: for three months or until compliance, whichever occurs later;

(b) second occurrence: for six months or until compliance, whichever occurs later;

(c) third occurrence: for one year or until compliance, whichever occurs later.

(5) **Individual**

**that is voluntarily participating:** Any individual that is voluntarily participating in the E&T program is not subject to disqualification:

(6) **Treatment**

**of income and resources:** All the income and resources of an individual disqualified for non-compliance with work requirements or work participation will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520-NMAC:

(7) **Notice**

**of adverse action:** Within 10 days of determining that a participant has failed to meet an E&T requirement, ISD shall issue a notice of adverse action in accordance with 7 CFR 273.7(c)(3):

(8)

**Determining the SNAP ineligibility period:** ISD will determine, track and notify participants of disqualification periods in accordance with 7 CFR 273.7(f) and 273.13:

**M. Head of household provisions:**

(1)

**Designation:** The household may designate a head of household in accordance with 7 CFR 273.1(d):

(2) **E&T**

**requirements:** For purposes of determining compliance with the E&T program, the head of household will be considered as an individual household member. If the head of household fails to comply, the head of household will be disqualified in accordance with the disqualification penalties in 8.139.410.12 NMAC:

**N. Fair hearings:**

Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status, or a state agency determination of failure to comply with SNAP work requirements or E&T program requirements, in accordance with 7 CFR 273.7(f)(6):

[02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004;

A, 04/01/2010; A, 06/01/2013; A, 10/01/2014; A, 01/01/2016; A, 01/01/2016; A, 03/01/2017; A, 09/01/2017]

#### **8.139.410.13 [RESERVED] SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

**(SNAP) EMPLOYMENT AND TRAINING PROGRAM (E&T):** ISD will administer the E&T program requirements in accordance with 7 CFR 273.7(e). SNAP participants may choose to voluntarily participate in any of the E&T services available. Volunteers can participate to the extent that they wish and will not be subject to any E&T disqualification. Volunteers who incur transportation expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by ISD, in accordance with 7 CFR 273.7(d)(4). [8.139.410.13 NMAC - N, 04/01/2010; Repealed, 03/01/2017; A, 09/01/2017]

#### **8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS:**

[The department will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This rule becomes effective as of January 1, 2016. The department will use a fixed 36 month period for measurement and tracking purposes. The first fixed period will be in effect from January 1, 2016 through December 31, 2018:

**A. Able-bodied adults can comply by:**

(1) working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:

(a) work in exchange for money;

(b) work in exchange for goods or services ("in kind" work); or

(c) unpaid work, which includes work without compensation that gives a person experience in a job or industry;

tests a person's job skills, or involves volunteer time and effort to a not-for-profit organization.

**(2)**

Participating, for an average of 80 hours a month, in a combination of the E&T work program components found at Subsection I of 8.139.410.12 NMAC as long as the job search component is less than fifty percent of the total activities; or

**(3)**

Participating for an average of 80 hours a month, in a combination of Paragraphs (1) and (2) of this subsection.

**B. Good cause:** As determined by the department, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains their job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

**C. Waived from the time limit requirements:** The department will waive the three-month time limit requirement for the following in accordance with 7 CFR 273.24(f):

**(1)** any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by the department;

**(2)** any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by the department.

**D.** Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR. 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

**E. Exceptions to the**

**three-month time limit:**

**(1)** Exceptions to the three-month time limit required participation are found at 7 CFR 273.24(c).

**(2)** Physical and mental unfitness for the three-month time limit requirements-exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.

**(a)** unfitness can be obvious to the department and documented in the case file; or

**(b)** not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

**F.** The department will administer the fifteen percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by the department, in accordance with 7 CFR 273.24(g).] ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents ("ABAWD") program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three-month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36 month period for measurement and tracking

purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three year period.

**A. Able bodied adults can comply by:** working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:

**(1)** work in exchange for money;

**(2)** work in exchange for goods or services ("in kind" work); or

**(3)** unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person's job skills, or involves volunteer time and effort to a not-for-profit organization.

**B. Good cause:** As determined by ISD, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains their job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

**C. Waived from the time limit requirements:** ISD will waive the three-month time limit requirement for the following individuals in accordance with 7 CFR 273.24(f):

**(1)** any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by ISD;

**(2)** any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD.

**D.** Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in

accordance with 7 CFR 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

**E. Exceptions to the three month time limit:**

(1) Exceptions to the three month time limit required participation are found at 7 CFR 273.24(c).

(2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.

(a) unfitness can be obvious to ISD and documented in the case file; or

(b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

F. ISD will administer the fifteen percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g).

[8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014; A, 2/13/2015; A, 01/01/2016; A, 01/01/2016; A, 09/01/2017]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.500 NMAC, Sections 5, 10 and 12, effective 09/01/2017.**

**8.139.500.5 EFFECTIVE**

**DATE:** February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.500.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A,

09/01/2017]

**8.139.500.10 DETERMINING INCOME:**

A. **Anticipating income:** In determining a household's eligibility and [food-stamp] SNAP benefit amount the caseworker shall use income already received by the household during the certification period and any income the household and the caseworker are reasonably certain shall be received during the remainder of the certification period.

(1) If the amount of income or date of receipt is uncertain, that portion of the household's income that is uncertain shall not be counted.

(2) If the exact amount of the income is not known, that portion of the income which can be anticipated with reasonable certainty shall be considered income.

(3) In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, a household may choose to average its income.

B. **Income received** during any past 30-day consecutive period that includes 30 days prior to the date of application through the date of timely disposition shall be used as an indicator of the income that is and shall be available to the household during the certification period.

(1) Past income is not used as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated during the certification period.

(2) If income fluctuates to the extent that a single four-week period does not provide an accurate indication of anticipated income, a longer period of past time can be used if it gives a more accurate indication of anticipated fluctuations in income.

(3) Income already received is not used and verification is obtained from the income source, if the household and

the caseworker decide that income already received by the household is not indicative of income expected to be received in future months.

C. **[Semiannual]**  
**Simplified reporting:** [A household filing a semiannual report is subject to the income methodology specified at Subsection H of 8.139.120.9 NMAC.] A household filing an interim report form is subject to the income methodology specified at 8.139.500.9 NMAC.

D. **Income anticipated** during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

E. **Use of conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(1) income received on a weekly basis is averaged and multiplied by [4:0] four;

(2) income received on a biweekly basis is averaged and multiplied by [2:0] two;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**F. Held wages:**

(1) **Wages** withheld at the request of an employee shall be considered income to a household in the month the wages would otherwise have been paid by the employer.

(2) **Wages** withheld by the employer as a general practice, even in violation of the law, shall not be counted as income to a household, unless the household anticipates that it will ask for and receive an advance.

(3) If a household anticipates asking for and receiving income from wages that were previously withheld by the employer as a general practice, the income shall be counted to determine eligibility.

**G. Earned income:**  
**(1)** Earned income shall be anticipated based on income received when the following criteria are met:

**(a)** the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification period; and

**(b)** the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

**(2)** When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

**(3)** Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**H. Unearned income:**  
**(1)** Unearned income shall be anticipated based on income received when the following criteria are met:

**(a)** the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

**(b)** the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

**(2)** When the applicant and the caseworker determine that the income received is not indicative of future income

that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

**(3)** Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**(4)** Households receiving state or federal assistance payments, such as Title IV-A, GA, SSI or social security payments on a recurring monthly basis are not considered to have varied monthly income from these sources simply because mailing cycles may cause two payments to be received in one month.

**I. Income received more frequently than weekly:** The amount of monthly gross income paid more frequently than weekly (i.e., daily) is determined by adding all the income received during the past four weeks. The gross income amount is used to anticipate income in the application month and the remainder of the certification period. Conversion factors shall not be applied to this income.

**J. Income received less frequently than monthly:** The amount of monthly gross income paid less frequently than monthly is determined by dividing the total income by the number of months it is intended to cover. The caseworker shall carefully explain to the household how the monthly income was computed and what changes might result in a reportable change. Documentation shall be filed in the case record to establish clearly how the anticipated income was computed.

**K. Use of conversion factors:** Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

**(1)** income received on a weekly basis is averaged and multiplied by [4/0] four;

**(2)** income received on a biweekly basis is averaged and multiplied by [2/0] two;

**(3)** averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**L. Known changes in income for future months at application:**

**(1)** At application or recertification, it shall be determined if any factors affecting income will change in future months. Such factors include a new income source, termination of income, or increases or decreases in income.

**(2)** Income is considered only when the amount of the income and the date it will be received are reasonably certain.

**(3)** In the event that a change is known for future months, benefits are computed by taking into account the change in income.

**M. Averaging income over the certification period:**

**(1)** All households may choose to have their income averaged. Income is usually not averaged for destitute households because averaging would result in assigning to the month of application income from future periods which is not available for its current food needs.

**(2)** To average income, the caseworker uses a household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period.

**(3) Contract income:** Households which, by contract, derive their annual income in a period of less than one year shall have that income averaged over a 12-month period, provided that the income is not received on an hourly or piecework basis.

**(a)** Contract income includes income



for school employees, farmers, self-employed households, and individuals who receive annual payments from the sale of real estate.

(b)

These procedures do not include migrant or seasonal farm worker households.

(4)

**Educational monies:** Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it is provided. All months which the income is intended to cover shall be used to average income, even if the income is received during the certification period. If the period has elapsed completely, the educational monies shall not be considered income.

N. Using exact

**income:** Exact income, rather than averaged income, shall be used if:

(1) the

household has chosen not to average income;

(2) income

is from a source terminated in the application month;

(3)

employment has just begun in the application month and the income represents only a partial month;

(4) in the

month of application, the household qualifies for expedited service or is considered a destitute, migrant or seasonal farm worker household; or

(5) income is

received more frequently than weekly, (i.e., daily).

[02/01/95, 11/01/95, 07/01/97, 06/01/99; 8.139.500.10 NMAC - Rn, 8 NMAC 3.FSP.502.7, 05/15/2001; A, 02/14/2002; A, 01/01/2004; A, 08/30/2007; A, 04/01/2010; A, 09/01/2017]

**8.139.500.12 ESTABLISHING CERTIFICATION PERIODS:**

A. The caseworker shall establish a definite period of time within which a household is eligible to receive benefits.

B. Entitlement to [food stamp] SNAP benefits ends

at the expiration of the household's certification period. Continued eligibility is determined only when an application has been filed, an interview held, and all verification provided.

C. Under no circumstances shall benefits be continued beyond the end of a certification period without a redetermination of eligibility.

D. A household shall be provided with an expiration notice before or at the beginning of the last month of a certification period.

E. If a household is determined eligible for the initial month but ineligible the following month, it shall be certified for one month only. Conversely, a household may be ineligible for the month of application but eligible for the following month(s). If the household is denied for the month of application, it does not need to file a new application for the following month.

F. **Conformity with calendar month:** Certification periods shall conform to calendar months. At the initial application, the first month in the certification period is the month of application, even if the household's eligibility is not determined until a later month.

G. **Length of certification period:** All households will be assigned to simplified reporting and shall be assigned a certification period in accordance with Subsection A of 8.139.120.9 NMAC. Households shall be assigned the longest certification period possible based on the stability of the household's circumstances. A certification period cannot exceed 12 months, except for households in which all adult members in the household are elderly or disabled. Households in which all members are elderly or disabled will be assigned a 24-month certification period. At least one contact with each certified household shall be made every 12 months.

[~~(1) Three months or less:~~ A certification period of three months or less may be assigned if there is a substantial

likelihood of frequent and/or significant changes in household circumstances, including but not limited to, income and household status:

~~(2) More than three months:~~ A certification period of more than three months may be assigned if it is determined that household circumstances will remain stable throughout the certification period. A stable household is one which does not anticipate major changes in income, deductions, or household composition.

~~(3) Cash-assistance households:~~ A household in which all members are contained in a single cash assistance grant shall have a food stamp certification period which coincides with the cash assistance certification period.

~~(4) Up to twelve months:~~

~~(a)~~  
A household whose primary source of income is from self-employment (including self-employed farmers), or from regular farm employment with the same employer, shall be certified for twelve months.

~~(b)~~  
A twelve-month certification period shall be assigned to a household which is paid an annual salary on a scheduled monthly basis.

~~(c)~~  
**Semiannual reporting households:** A household assigned to semiannual reporting shall be assigned a twelve-month certification period.

~~(5) Aliens:~~  
To the degree possible, aliens shall be assigned a certification which shall at some point coincide with the expiration date of the alien's legal alien status.

~~(6) Elderly/disabled households:~~ A household in which all adult household members are elderly or disabled may be certified for up to 24 months. At least one contact with the household shall be made every 12 months.

~~(7)~~ To the degree possible, households in which all members are homeless shall be assigned a three-month certification

period, including but not limited to, homeless households that have no income and live on the street or in a shelter.]

**H. Shortening the certification period:**

**(1)**

The caseworker may not end a household's certification period earlier than its assigned termination date, unless the caseworker receives information that the household has become ineligible, or the household has not taken action to clarify or provide verification of a change in household circumstances for which the caseworker has requested verification.

**(2)** Loss

of cash assistance or a change in employment status is not sufficient to meet the criteria necessary for shortening a certification period.

**I. Lengthening the certification period:**

The caseworker may lengthen a household's current certification period once it is established, as long as the total months of the certification period do not exceed 24 months for households in which all adult members are elderly or disabled, or 12 months for other households. If the caseworker extends the household's certification period, the caseworker shall issue written notice advising the household of the new certification end date. [02/01/95, 01/01/97, 07/01/98; 8.139.500.12 NMAC - Rn, 8 NMAC 3.FSP.502.9, 05/15/2001; A, 02/14/2002; A, 01/01/2004; A, 09/01/2017]

**HUMAN SERVICES**

**DEPARTMENT**

**INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.501 NMAC, Sections 5, 11 and 12, effective 09/01/2017.**

**8.139.501.5 EFFECTIVE**

**DATE:** September 1, 2003, unless a later date is cited at the end of a section.

[8.139.501.5 NMAC - N, 09/01/2003; A, 09/01/2017]

**8.139.501.11 REPORTING REQUIREMENTS DURING THE TRANSITIONAL BENEFIT PERIOD:**

**A. Suspending reporting requirements for TFS households:** ISD will suspend all reporting requirements during the TFS household's transitional benefit period.

**~~(1) Regular~~**

**~~reporting households:~~** A food stamp household that is subject to the regular ten-day reporting requirement at the time the household becomes eligible for TFS benefits shall be advised that the household is not required to report any changes during the transitional benefit period.

**~~(2)~~**

**~~Semiannual households:~~** A food stamp household subject to semiannual reporting at the time the household becomes eligible for TFS benefits shall be advised that the household is not required to submit a semiannual report during the transitional benefit period. The department shall suspend the semiannual reporting requirement during the TFS household's transitional benefit period.]

**B. Requirement to provide the TFS household with change reporting information during the transitional benefit period:**

**(1)** A [food stamp] SNAP household that becomes eligible for TFS benefits shall be advised that a change in address should be reported in order to ensure that the household continues to receive notices or other mail from the department during the transitional benefit period.

**(2)** A [food stamp] SNAP household that becomes eligible for TFS benefits shall be advised that the household is not required to report any changes in the household's circumstances during the transitional benefit period.

**(3)** A TFS household shall be advised that the household may file an application for recertification during the transitional benefit period if a change

has occurred that will most likely increase the household's [food stamp] SNAP benefit amount, such as, but not limited to the addition of a new household member with no income of his own or the loss of income for a household member.

**C. Action on reported changes:** Action shall be taken to adjust the TFS benefit amount during the transitional benefit period without requiring an application for recertification only under the following conditions:

**(1)** a member of the TFS household files an application for [food stamp] SNAP benefits on his or her own behalf; or

**(2)** a newborn child is added to the TFS household.

**D. Requirement to file an application for recertification:** A TFS household that reports a change, other than an address change or those in Subsection C above, during the transitional benefit period shall be required to file an application for recertification of eligibility.

[8.139.501.11 NMAC - N, 09/01/2003; A/E, 10/15/2008; A, 09/01/2017]

**8.139.501.12 CONTINUING [FOOD STAMP BENEFITS] SNAP AFTER THE TRANSITIONAL BENEFIT PERIOD:**

**A.** A household receiving TFS shall be recertified using the recertification requirements at 7 CFR 273.14(b) to determine if they can continue receiving a SNAP benefit after the transitional period [sent an expiration notice in the fourth month of the transitional benefit period]. The [expiration notice] recertification requirements shall inform the TFS household of the expiration of the transitional benefit period and the need to reapply in the fifth month of the transitional benefit period in order to determine the household's eligibility to continue participation in the [food stamp] SNAP program.

**B.** A [food stamp] TFS household shall be required to file an application for recertification and to complete the recertification process

in the fifth month of the transitional benefit period to determine continued eligibility to participate in ~~[the food-stamp program]~~ SNAP.

(1) If otherwise eligible, the ~~[food-stamp]~~ SNAP household shall be assigned a new certification period beginning the month following the expiration of the transitional benefit period.

(2) A household that fails to file an application or to complete the application process in the fifth month of the transitional benefit period shall lose eligibility to continue participation in ~~[the food-stamp-program]~~ SNAP.

[8.139.501.12 NMAC - N, 09/01/2003; A, 09/01/2017]

## PUBLIC REGULATION COMMISSION

**This is an amendment to 17.7.3 NMAC, Sections 3, 7, 8, 9, 11 and 12, effective 8/29/2017.**

**17.7.3.3 STATUTORY AUTHORITY:** This rule is adopted under the authority vested in this commission by the New Mexico Public Regulation Commission Act, ~~[NMSA-1978]~~ Section 8-8-15 NMSA 1978; the Public Utility Act, ~~[NMSA-1978]~~ Section 62-3-1 NMSA 1978, et seq.; and the Efficient Use of Energy Act, ~~[NMSA-1978]~~ Section 62-17-1 NMSA 1978, et seq.  
[17.7.3.3 NMAC - N, 4/16/2007, A 8/29/2017]

**17.7.3.7 DEFINITIONS:** When used in this rule, unless otherwise specified the following definitions will apply:

**A. availability factor** means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured;

**B. capacity factor** means the ratio of the net energy produced by a generating facility during a given time period, to the amount of net energy that could have

been produced if the facility operated continuously at full capacity during that same time period;

**C. demand-side resources** means energy efficiency and load management, as those terms are defined in the Efficient Use of Energy Act;

**D. energy efficiency** means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity without reducing the amount or quality of energy services;

**E. energy storage resource** means a commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter delivering the energy;

**[E] E. heat rate** means the ratio of energy inputs used by a generating facility expressed in BTUs (British thermal units), to the energy output of that facility expressed in kilowatt-hours;

**[F] G. integrated resource plan (IRP)** means a public utility's plan to meet New Mexico jurisdictional retail customers' existing and future demand in accordance with this rule;

**[G] H. load forecasting** means the prediction of the demand for electricity over the planning period for the utility;

**[H] I. load management** means measures or programs that target equipment or devices to decrease peak electricity demand or shift demand from peak to off-peak periods;

**[I] J. most cost effective resource portfolio** means those supply-side resources and demand-side resources that minimize the net present value of revenue requirements proposed by the utility to meet electric system demand during the planning period consistent with reliability and risk considerations;

**[J] K. planning period** means the future period for which a utility develops its IRP; for purposes of this rule, the planning period is 20 years;

**[K] L. public utility or utility has the same meaning** as in the Public Utility Act, except that it does not include a distribution cooperative utility, as defined in the Efficient Use of Energy Act;

**[L] M. renewable energy** means electrical energy generated by means of a low or zero emissions generation technology with substantial long-term production potential and generated by use of renewable energy resources that may include solar, wind, hydropower, geothermal, fuel cells that are not fossil fueled and biomass resources; biomass resources are fuels, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; renewable energy does not include fossil fuel or nuclear energy.  
[17.7.3.7 NMAC - N, 4/16/2007; A, 8/29/2017]

**17.7.3.8 GENERAL PROVISIONS:** The commission adopts this rule in order to fulfill the requirements of ~~[NMSA-1978]~~ Section 62-17-10 NMSA 1978.  
[17.7.3.8 NMAC - N, 4/16/2007, A 8/29/2017]

**17.7.3.9 INTEGRATED RESOURCE PLANS FOR ELECTRIC UTILITIES:** Public utilities supplying electric service to customers shall file an IRP, along with an action plan, with the commission every three years.

**A. Initial filings.** Utilities with greater than 200,000 New Mexico retail customers shall file 15 months after the effective date of this rule. Utilities with less than 200,000 New Mexico retail customers shall file 27 months after the effective date of this rule. An original and fourteen copies of the IRP shall be filed with the commission.

**B. Contents of IRP for electric utilities.** The IRP submitted by an electric utility shall contain the utility's New Mexico jurisdictional:

(1) description

of existing electric supply-side and demand-side resources;

(2) current load forecast as described in this rule;

(3) load and resources table;

(4) identification of resource options;

(5) description of the resource and fuel diversity;

(6) identification of critical facilities susceptible to supply-source or other failures;

(7) determination of the most cost effective resource portfolio and alternative portfolios;

(8) description of public advisory process;

(9) action plan; and

(10) other information that the utility finds may aid the commission in reviewing the utility's planning processes.

C. Description of existing resources. The utility's description of its existing resources used to serve its jurisdictional retail load at the time the IRP is filed shall include:

(1) name(s) and location(s) of utility-owned generation facilities;

(2) rated capacity of utility-owned generation facilities;

(3) fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the planning period;

(4) cost information, including capital costs, fixed and variable operating and maintenance costs, fuel costs, and purchased power costs;

(5) existing generation facilities' expected retirement dates;

(6) amount of capacity obtained or to be obtained through existing purchased power contracts or agreements relied upon by the utility, including the fuel type, if known, and contract duration;

(7) estimated

in-service dates for utility-owned generation facilities for which a certificate of public convenience and necessity (CCN) has been granted but which are not in-service;

(8) amount of capacity and, if applicable, energy, provided annually to the utility pursuant to wheeling agreements and the duration of such wheeling agreements;

(9) description of existing demand-side resources, including:

(a) demand-side resources deployed at the time the IRP is filed; and

(b) demand-side resources approved by the commission, but not yet deployed at the time the IRP is filed; information provided concerning existing demand-side resources shall include, at a minimum, the expected remaining useful life of each demand-side resource and the energy savings and reductions in peak demand, as appropriate, made by the demand-side resource;

(10) description of each existing and approved energy storage resources, to include, at a minimum, the expected remaining useful life of the resource, its maximum capacity and dispatch characteristics, and operating costs;

(11) reserve margin and reserve reliability requirements (e.g. FERC, power pool, etc.) with which the utility must comply and the methodology used to calculate its reserve margin;

(12) existing transmission capabilities:

(a) the utility shall report its existing, and under-construction, transmission facilities of 115 kV and above, including associated switching stations and terminal facilities; the utility shall specifically identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of supply-side resources;

(b) the utility shall describe all

transmission planning or coordination groups to which it is a party, including state and regional transmission groups, transmission companies, and coordinating councils with which the utility may be associated;

(13) environmental impacts of existing supply-side resources:

(a) the utility shall provide the percentage of kilowatt-hours generated by each fuel used by the utility on its existing system, for the latest year for which such information is available;

(b) to the extent feasible, for each existing supply-side resource on its system, the utility shall present emission rates (expressed in pounds emitted per kilowatt-hour generated) of criteria pollutants as well as carbon dioxide and mercury;

(c) to the extent feasible, for each existing supply-side resource on its system, the utility shall present the water consumption rate; and

(14) a summary of back-up fuel capabilities and options.

D. Current load forecast.

(1) The utility shall provide a load forecast for each year of the planning period; the load forecast shall incorporate the following information and projections:

(a) annual sales of energy and coincident peak demand on a system-wide basis, by customer class, and disaggregated among commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states;

(b) annual coincident peak system losses and the allocation of such losses to the transmission and distribution components of the system;

(c) weather normalization adjustments;

(d) assumptions for economic and demographic factors relied on in load forecasting;



(e) expected capacity and energy impacts of existing and proposed demand-side resources; and

(f) typical historic day or week load patterns on a system-wide basis for each major customer class.

(2) The utility shall develop base-case, high-growth and low-growth forecasts, or an alternative forecast that provides an assessment of uncertainty (e.g., probabilistic techniques).

(3) Required detail.

(a) The utility shall explain how the demand-side savings attributable to actions other than the utility-sponsored demand-side resources for each major customer class are accounted for in the utility's load forecast and the effect, as appropriate, on its load forecast of the utility-sponsored demand-side resources on each major customer class.

(b) The utility shall compare the annual forecast of coincident peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the four years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecast in its most recently filed resource plan to the annual forecast in the current resource plan. In its initial IRP filing, the utility shall provide information demonstrating how well its forecasts during the preceding four years predicted demand.

(c) The utility shall explain and document the assumptions, methodologies, and any other inputs upon which it relied to develop its load forecast.

E. Load and resources table. The utility shall provide a load and resources table of its existing loads and resources at the time of its IRP filing. The load and resources table, to the extent practical, shall contain the appropriate components from the load forecast. Resources shall include:

(1) utility-owned generation;

(2) energy storage resources;

(2) (3) existing and future contracted-for purchased power including qualifying facility purchases;

(3) (4) purchases through net metering programs, as appropriate;

(4) (5) demand-side resources, as appropriate; and

(5) (6) other resources relied upon by the utility, such as pooling, wheeling, or coordination agreements effective at the time the plan is filed.

F. Identification of resource options.

(1) In identifying additional resource options, the utility shall consider all feasible supply-side, energy storage, and demand-side resources. The utility shall describe in its plan those resources it evaluated for selection to its portfolio and the assumptions and methodologies used in evaluating its resource options, including, as applicable: life expectancy of the resources, the recognition of whether the resource is replacing/adding capacity or energy, dispatchability, lead-time requirements, flexibility and efficiency of the resource.

(2) For supply-side resource options, the utility shall identify the assumptions actually used for capital costs, fixed and variable operating and maintenance costs, fuel costs forecast by year, and purchased power demand and energy charges forecast by year, fuel type, heat rates, annual capacity factors, availability factors and, to the extent feasible, emission rates (expressed in pounds emitted per kilowatt-hour generated) of criteria pollutants as well as carbon dioxide and mercury.

(3) The utility shall describe its existing rates and tariffs that incorporate load management or load shifting concepts. The utility shall also describe how changes in rate design might assist in meeting, delaying or avoiding the need for new capacity.

G. Determination of the most cost effective resource portfolio and alternative portfolios.

(1) To identify the most cost-effective resource portfolio, utilities shall evaluate all feasible supply, energy storage, and demand-side resource options on a consistent and comparable basis, and take into consideration risk and uncertainty (including but not limited to financial, competitive, reliability, operational, fuel supply, price volatility and anticipated environmental regulation). The utility shall evaluate the cost of each resource through its projected life with a life-cycle or similar analysis. The utility shall also consider and describe ways to mitigate ratepayer risk.

(2) Each electric utility shall provide a summary of how the following factors were considered in, or affected, the development of resource portfolios:

(a) load management and energy efficiency requirements;

(b) renewable energy portfolio requirements;

(c) existing and anticipated environmental laws and regulations, and, if determined by the commission, the standardized cost of carbon emissions;

(d) fuel diversity;

(e) susceptibility to fuel interdependencies;

(f) transmission constraints; and

(g) system reliability and planning reserve margin requirements.

(3) Alternative portfolios. In addition to the detailed description of what the utility determines to be the most cost-effective resource portfolio, the utility shall develop a reasonable number of alternative portfolios by altering risk assumptions and other parameters developed by the utility and the public advisory process.

**H.** Public advisory process. Public input is critical to the development and implementation of integrated resource planning in New Mexico. A utility shall incorporate a public advisory process in the development of its IRP. At least one year prior to the filing date of its IRP, a utility shall initiate a public advisory process to develop its IRP. The purpose of this process shall be to receive public input, solicit public commentary concerning resource planning and related resource acquisition issues. This process shall be administered as follows.

**(1)** The utility shall initiate the process by providing notice at least 30 days prior to the first scheduled meeting to the commission, interveners in its most recent general rate case, and participants in its most recent renewable energy, energy efficiency and IRP proceedings; the utility shall at the same time, also publish this notice in a newspaper of general circulation in every county which it serves and in the utility's billing inserts; this notice shall consist of:

- (a)** a brief description of the IRP process;
- (b)** time, date and location of the first meeting;
- (c)** a statement that interested individuals should notify the utility of their interest in participating in the process; and
- (d)** utility contact information.

**(2)** Upon receipt of the initial notice, the commission may designate a facilitator to assist the participants with dispute resolution.

**(3)** The utility or its designee shall chair the public participation process, schedule meetings, and develop agendas for these meetings. With adequate notice to the utility, participants shall be allowed to place items on the agenda of public participation process meetings.

**(4)** Meetings held as part of the public

participation process shall be noticed and scheduled on a regular basis and shall be open to members of the public who shall be heard and their input considered as part of the public participation process. Upon request, the utility shall provide an executive summary containing a non-technical description of its most recent IRP.

**(5)** The purposes of the public participation process are for the utility to provide information to, and receive and consider input from, the public regarding the development of its IRP. Topics to be discussed as part of the public participation process include, but are not limited to, the utility's load forecast; evaluation of existing supply- and demand-side resources; the assessment of need for additional resources; identification of resource options; modeling and risk assumptions and the cost and general attributes of potential additional resources; and development of the most cost-effective portfolio of resources for the utility's IRP.

**(6)** In its initial IRP advisory process, the utility and participants shall explore a procedure to coordinate the IRP process with renewable energy procurement plans and energy efficiency and load management program proposals. Any proposed procedure shall be designed to conserve commission, participant and utility resources and shall indicate what, if any, variances may be needed to effectuate the proposed procedure.

**I. Action plan.**

**(1)** The utility's action plan shall detail the specific actions the utility will take to implement the integrated resource plan spanning a four-year period following the filing of the utility's IRP. The action plan will include a status report of the specific actions contained in the previous action plan.

**(2)** An action plan does not replace or supplant any requirements for applications for approval of resource additions set forth in New Mexico law or commission regulations.

[17.7.3.9 NMAC - N, 4/16/2007; A, 12-31-12; A, 8/29/2017]

**17.7.3.11**

**CONFIDENTIALITY OF INFORMATION:** The utility may submit any portions of its IRP under seal to the extent the utility deems specific information to be confidential. The utility shall seek a protective order under Subsection B of 17.1.2.8 NMAC for those portions of its IRP it considers confidential, and the utility shall have the burden of proving its right to such protection. Any information submitted under seal pursuant to this paragraph shall remain under seal for a period of two [(2)] years, after which time it shall become public unless the utility seeks and obtains further protection from the commission. Information submitted under seal shall be available for review by the commission and its designated representatives and by any person who has entered into a confidentiality agreement with the utility in a form approved by commission order. [17.7.3.11 NMAC - N, 4/16/2007, A, 8/29/2017]

**17.7.3.12 COMMISSION REVIEW, ACCEPTANCE AND ACTION:**

**A. Compliance Review.** The commission will review the utility's proposed IRP for compliance with the procedures and objectives set forth herein. The commission may accept the proposed IRP as compliant with this rule without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary. Protests must be filed within [thirty] 30 days of the filing of the proposed IRP. If the commission has not acted within [forty-five] 45 days after the filing of the proposed IRP, that IRP is deemed accepted as compliant with this rule. If the commission determines the proposed IRP does not comply with the requirements of this rule, the commission will identify the deficiencies and return it to the utility with instructions for re-filing.

**B. Use in Resource Acquisition Proceedings.** In a proceeding concerning a utility's

request for a CCN for a new utility resource, or in other proceedings concerning a utility's resource acquisition, the utility shall present evidence that the requested resource is consistent with the commission-accepted utility IRP unless material changes, as described in Section 17.7.3.10 of this rule, have occurred that would warrant a different utility course of action. Evidence that the resource is consistent with the IRP, and that there have not been material changes that would warrant a different course of action by the utility, will constitute prima facie evidence that the resource type, but not the particular resource being proposed, is required by the public convenience and necessity.

[17.7.3.12 NMAC - N, 4/16/2007, A, 8/29/2017]

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### **End of Adopted Rules**

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## Other Material Related To Administrative Law

### PUBLIC EDUCATION DEPARTMENT

#### NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The New Mexico Public Education Department (PED) gives Notice of Minor, Nonsubstantive Correction.

The following correction has been identified and amended regarding 6.80.5 NMAC, Charter School Governing Body Training Requirements, filed on July 13, 2017, published on July 25, 2017:

Pursuant to the authority granted under State Rules Act, Paragraph D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all published and electronic copies of the above rule:

- 1) Paragraph 1 of Subsection D of 6.80.5.8 NMAC:  
Insert one TAB.
- 2) Paragraph 4 of Subsection D of 6.80.5.11 NMAC:  
Insert a subparagraph (b) and three TABs for second sentence contained therein.

A copy of this Notification was filed with the official version of the above rule.

Copies of the referenced rule may be accessed through the New Mexico Public Education Department's website under the "Public Notices" link at <http://ped.state.nm.us/ped/PublicNotices.html>, or may be obtained from Jamie Gonzales by contacting her at (505) 827-7889 during regular business hours.

### PUBLIC RECORDS, COMMISSION OF

#### NOTICE TO TERMINATE RULEMAKING

The New Mexico State Commission of Public Records (CPR) and the State Records Administrator (SRA) are providing notice to terminate the rule hearing scheduled on Tuesday, August 29, 2017, at 10:00 am, in accordance with Section 14-4-5 (C) NMSA 1978. The following items of rulemaking are being terminated:

#### Repeal

- |              |   |
|--------------|---|
| 1.13.12 NMAC | Designation of Records Management Personnel [CPR]               |
| 1.13.30 NMAC | Disposition of Public Records and Non-Records [Joint CPR & SRA] |
| 1.24.20 NMAC | Emergency Rules [CPR]   |

#### Amend

- |              |  |
|--------------|--|
| 1.21.2 NMAC  | Retention and Disposition of Public Records [CPR]                          |
| 1.13.5 NMAC  | New Mexico Historical Records Grant Program Guidelines [CPR]               |
| 1.13.4 NMAC  | Records Management Requirements for Electronic Messaging [Joint CPR & SRA] |
| 1.13.10 NMAC | Records Storage and Access [SRA Only]                                      |

#### Replacement

- |              |   |
|--------------|---|
| 1.13.12 NMAC | Designation of Records Management Personnel [CPR]               |
| 1.13.30 NMAC | Disposition of Public Records and Non-Records [Joint CPR & SRA] |

The terminated proposed rules may be accessed at the Commission's website ([www.nmcpr.state.nm.us](http://www.nmcpr.state.nm.us)) or by contacting Melissa Salazar at [Melissa.Salazar@state.nm.us](mailto:Melissa.Salazar@state.nm.us), 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 505-476-7911.

# 2017 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXVII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 5	January 17
Issue 2	January 19	January 31
Issue 3	February 2	February 14
Issue 4	February 16	February 28
Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	April 27	May 16
Issue 10	May 18	May 30
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	June 29	July 11
Issue 14	July 13	July 25
Issue 15	July 27	August 15
Issue 16	August 17	August 29
Issue 17	August 31	September 12
Issue 18	September 14	September 26
Issue 19	September 28	October 17
Issue 20	October 19	October 31
Issue 21	November 2	November 14
Issue 22	November 16	November 28
Issue 23	November 30	December 12
Issue 24	December 14	December 26

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

The New Mexico Register is available free online at: <http://www.nmcpr.state.nm.us/nmregister>. For further information, call 505-476-7942.