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New Mexico Register

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

Volume XXXIV - Issue 20 - October 24, 2023

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The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos

Rey, Santa Fe, NM 87507.

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New Mexico Register

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Notices of Rulemaking and Proposed Rules

ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD NOTICE OF RULEMAKING HEARING TO CONSIDER ADOPTING A NEW RULE REQUIRING REVIEW AND CONSIDERATION OF HEALTH ENVIRONMENT AND EQUITY IMPACTS

The Albuquerque-Bernalillo County Air Quality Control Board (“AQCB”) will hold a hybrid public hearing beginning at 9:00 a.m. on December 4, 2023 <https://cabq.zoom.us/j/83037037761> Passcode: 009378 and in-person at the Albuquerque Convention Center, 401 Second Street NW, Albuquerque, NM. The hearing will last as long as required to hear all testimony, evidence and public comment but is expected to last approximately five days and will likely end on December 8, 2023. Board deliberations may occur immediately at the end of the proceeding or at a future Board meeting.

The subject of the hearing is AQCB Petition No. 2022-3, filed by the Mountain View Neighborhood Association, Mountain View Community Action and Friends of Valle d’Oro (“MountainViewCoalition”). The proposed regulatory change would create a new section of Title 20, Chapter 11, Part 72 entitled Health Environmental and Equity Impacts.

Copies of the proposed regulatory change are available in the rulemaking record for AQCB Petition No. 2022-3, which is accessible on the Air Quality Control Board website at <https://www.dropbox.com/sh/dzxzfu5lkenswc5/AADfoYX4nxQrAqoqiTFhdz6ta?dl=0>. A link to the rulemaking record can also be found on the AQCB’s website,

www.cabq.gov/airquality/air-quality-control-board. The regulatory text the Mountain View Coalition is currently proposing is Docket #140 Notice of Filing of Amended Exhibit A, Version 4, to Petition (filed on October 6, 2023). Copies of the proposed regulatory change may also be obtained by contacting Anita S de Armijo, AQCB Liaison, at 505-768-1915 or airboard@cabq.gov, or by visiting the Environmental Health Department, One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, NM 87102 during normal business hours. In accordance with Subsection A of 20.11.2.22 NMAC, the Department charges a fee of 50 cents per page for providing paper copies.

The hearing on the proposed regulatory change will be conducted in accordance with the Air Quality Control Act, Section 74-2-6, NMSA 1978; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Section 9-5-1-6; Bernalillo County Code, Article II, Section 30-35; 20.11.82 NMAC, Rulemaking Procedures—Air Quality Control Board; and other applicable procedures, and the pre-hearing orders, with the most recent pre-hearing order supplanting any conflicting provisions in earlier orders. The AQCB may decide on the proposed regulatory change at the conclusion of the hearing or at a separate board meeting.

Hearings and meetings of the AQCB are open to the public and all interested persons are encouraged to participate. All interested persons will be given a reasonable opportunity to submit relevant data, views or arguments, orally or in writing, and to examine witnesses by filing a notice of intent (“NOI”) to present technical testimony, filing an entry of appearance, or participating as a member of the general public. Persons intending to participate in the hearing should consult the AQCB Petition No. 2022-3 rulemaking record, which is accessible as

described above, for the pre-hearing orders.

Technical Testimony. Persons intending to present technical testimony at the hearing must file a written notice of intent at least 15 days before the hearing. In addition to any requirements a pre-hearing order may have, as required by 20.11.82.20 NMAC, an NOI to present technical testimony shall (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background; (3) include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness; (4) include the text of any recommended modifications to the proposed regulatory change; (5) list and attach an original and 20 copies of all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules; and (6) be served pursuant to 20.11.82.16 NMAC, including served on the petitioner if the document is an NOI filed by any person other than the petitioner. The filing of an NOI shall be accomplished by emailing the Hearing Clerk, Anita S de Armijo, AQCB Liaison, airboard@cabq.gov or by delivering the document to the Hearing Clerk, via postal mail at Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or in person at the Environmental Health Department, One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, NM 87102 during normal business hours.

Entry of Appearance. In accordance with 20.11.82.21 NMAC, any person who is or may be affected by the proposed regulatory change may file and serve upon all parties an entry of appearance at least 15 days prior to the hearing date and shall be a party. In the event of multiple entries of

appearance by those affiliated with one interest group, the hearing officer may consolidate the entries or divide the service list to avoid a waste of public resources. A timely NOI shall be considered an entry of appearance. See, Paragraph (2) of Subsection Q of 20.11.82 NMAC.

Non-Technical Testimony. As provided by 20.11.82.22 NMAC, any member of the general public may present non-technical testimony at the hearing. No prior notification is required to present non-technical testimony. Any member of the public may also offer non-technical exhibits in connection with non-technical testimony, as long as the non-technical exhibit is not unduly repetitious of previous testimony. A member of the general public who wishes to submit a non-technical written statement for the record instead of oral testimony shall file the written statement prior to the hearing or submit it at the hearing. Written statements submitted prior to the hearing shall be delivered to the Hearing Clerk in the same manner as described above for filing a NOI.

More Information. Contact the AQCB Liaison at 505-768-1915 or visit the AQCB's events calendar at www.cabq.gov/airquality/air-quality-control-board/events prior to the hearing start date for the latest information. Final hearing details will be posted on the events calendar no later than 10 days before the hearing.

NOTICE TO PERSONS WITH DISABILITIES, IN NEED OF LANGUAGE ACCESS OR SPECIAL NEEDS: If you have a disability, require language access or require special assistance to participate in this hearing, including interpretation or an auxiliary aid, please contact the AQCB Liaison as soon as possible but no later than 72 hours before the hearing at 505-768-1915 or airboard@cabq.gov. Those in need of hearing assistance may call 711.

The City of Albuquerque does not discriminate on the basis of race, color, national origin, sex, age or disability. If you believe you have been discriminated against, you may submit a complaint at www.cabq.gov/civilrights/filing-a-complaint. You may also contact Amanda Trujillo at 505-768-4595 or civilrights@cabq.gov.

JUNTA DE CONTROL DE CALIDAD DEL AIRE DEL CONDADO DE ALBUQUERQUE-BERNALILLO AVISO DE AUDIENCIA PARA LA S

La Junta de Control de Calidad del Aire del Condado de Albuquerque-Bernalillo ("AQCB") celebrará una audiencia híbrida pública a partir de las 9:00 a.m., a través de la aplicación ZOOM <https://cabq.zoom.us/j/83037037761> Passcode: 009378 y en persona en Albuquerque Convention Center, 401 Second Street N, Albuquerque, Nuevo Mexico. La audiencia durará el tiempo necesario para escuchar todos los testimonios, pruebas y comentarios del público, pero se espera que dure aproximadamente cinco días, terminando el 8 de Diciembre las deliberaciones pueden ser inmediatamente después de la audiencia o en una reunión de La Junta..

El tema de la audiencia es la Petición de la AQCB No. 2022-3, presentada por Mountain View Neighborhood Association, Mountain View Community Action and Friends of Valle d'Oro ("MountainViewCoalition") sobre salud ambiental y justicia.

Las copias del cambio regulatorio propuesto están disponibles en el registro de reglamentación de la Petición de la AQCB No. 2022-3, al que se puede acceder en la página web <https://www.dropbox.com/sh/dzxzfu5lkenswc5/AADfoYX4nxQrAqoqiTFhdz6ta?dl=0>. Un enlace al registro de la elaboracion de normas. www.cabq.gov/airquality/air-quality-control-board. El texto de

la regulación propuesta de Mountain View Coalition es Docket # 140 Notice of Filing of Amended Exhibit A, Version 4, to Petition (filed on October 6, 2023).

También se pueden obtener copias del cambio regulatorio propuesto comunicándose con Anita SdeArmijo intermediaria de la AQCB, al 505-768-1915 o por correo electrónico a airboard@cabq.gov, o visitando el Departamento de Salud Ambiental, One Civic Plaza NW, tercer piso, sala 3023, Albuquerque, NM 87102 durante el horario comercial normal. De acuerdo con la norma NMAC 20.11.2.22(A), el Departamento cobra una tarifa de 50 centavos por página para proporcionar copias en papel.

La audiencia sobre el cambio regulatorio propuesto se llevará a cabo de acuerdo con la Ley de control de la calidad del aire, NMSA 1978, Sección 74-2-6; la Ordenanza de la Junta conjunta de Control de Calidad del Aire, Ordenanzas revisadas de Albuquerque 1994, Sección 9-5-1-6; Código del Condado de Bernalillo, Artículo II, Sección 30-35; NMAC 20.11.82, Procedimientos de reglamentación de la Junta de Control de Calidad del Aire, y otros procedimientos aplicables, incluidas las órdenes previas a la audiencia. La AQCB puede decidir sobre el cambio regulatorio propuesto al final de la audiencia o en una reunión de la junta por separado.

Las audiencias y reuniones de la AQCB están abiertas al público y se recomienda la participación de todas las personas interesadas. Todas las personas interesadas tendrán la oportunidad razonable de presentar datos, puntos de vista o argumentos pertinentes, de forma oral o por escrito, y de interrogar a los testigos mediante la presentación de un aviso de intención ("NOI") para presentar testimonio técnico, la presentación de una solicitud de comparecencia o la participación como un miembro del público en general. Para cualquier orden previa a la audiencia, las personas que tengan la intención de

participar en esta deben consultar el registro de reglamentación de la Petición No. 2022-3 de la AQCB, al que se puede acceder como se describe anteriormente.

Testimonio técnico. Las personas que tengan la intención de presentar testimonio técnico en la audiencia deben presentar una notificación de intención por escrito al menos 20 días antes de la audiencia. Además de cualquier requisito que pueda tener una orden previa a la audiencia, según lo exige la NMAC 20.11.82.20, para presentar testimonio técnico un NOI deberá (1) identificar a la persona por la cual testificarán los testigos; (2) identificar cada testigo que la persona tiene la intención de presentar y declarar las calificaciones de ese testigo, incluida una descripción de su educación y antecedentes laborales; (3) incluir una copia del testimonio directo de cada testigo técnico y establecer la duración anticipada del testimonio de ese testigo; (4) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; (5) enumerar y adjuntar un original y 20 copias de todos los anexos que se anticipa que ofrecerá esa persona en la audiencia, incluida cualquier declaración propuesta de razones para la adopción de reglas; y (6) ser notificado de conformidad con la NMAC 20.11.82.16, incluida la notificación al peticionario si el documento es un NOI presentado por cualquier persona que no sea el peticionario. A menos que se estipule lo contrario en una orden previa a la audiencia, la presentación de un NOI se realizará mediante la entrega del documento a la secretaria de la audiencia, Anita S de Armijo, intermediaria de la AQCB, por correo postal al Departamento de Salud Ambiental, P.O. Box 1293, Albuquerque, NM 87103, o personalmente en el Departamento de Salud Ambiental, One Civic Plaza NW, tercer piso, sala 3023, Albuquerque, NM 87102 durante el horario administrativo normal.

Solicitud de comparecencia. De acuerdo con la NMAC 20.11.82.21,

cualquier persona que se vea o pueda verse afectada por el cambio regulatorio propuesto puede presentar y notificar a todas las partes una solicitud de comparecencia al menos 15 días antes de la fecha de la audiencia y será parte. En caso de múltiples inscripciones de comparecencia de afiliados a un mismo grupo de interés, el funcionario auditor podrá consolidar las inscripciones o dividir la lista de servicios para evitar el despilfarro de recursos públicos. Un NOI oportuno se considerará una solicitud de comparecencia. Véase NMAC 20.11.82.7(Q)(2).

Testimonio no técnico. Según lo dispuesto por la NMAC 20.11.82.22, cualquier miembro del público en general puede presentar testimonio no técnico en la audiencia. No se requiere notificación previa para presentar testimonio no técnico. Cualquier miembro del público también puede ofrecer pruebas no técnicas en relación con testimonios no técnicos, siempre que la prueba no técnica no sea una repetición indebida de testimonios anteriores. Un miembro del público en general que desee presentar una declaración escrita no técnica para el registro en lugar de un testimonio oral deberá presentar la declaración escrita antes de la audiencia o presentarla en la audiencia. A menos que se estipule lo contrario en una orden previa a la audiencia, las declaraciones escritas presentadas antes de la audiencia se entregarán a la secretaria de la audiencia de la misma manera descrita anteriormente para la presentación de un NOI.

Más información. Comuníquese con la intermediaria de la AQCB al 505-768-1915 o por correo electrónico a airboard@cabq.gov, o visite el calendario de eventos de la AQCB en www.cabq.gov/airquality/air-quality-control-board/events antes de la fecha de inicio de la audiencia para conocer las últimas informaciones. Los detalles finales de la audiencia se publicarán en el calendario de eventos a más tardar 10 días.

AVISO A PERSONAS CON DISCAPACIDAD O NECESIDAD DE INTERPRETACIÓN O NECESIDADES ESPECIALES: Si tiene una discapacidad o necesita asistencia especial para participar en esta audiencia, incluida la interpretación o una ayuda auxiliar, comuníquese con la intermediaria de la AQCB lo antes posible, pero a más tardar 72 horas antes de la audiencia, al 505-768-1915 o por correo electrónico a airboard@cabq.gov. Aquellos que necesiten asistencia auditiva pueden llamar al 711.

La ciudad de Albuquerque no discrimina por motivos de raza, color, origen nacional, sexo, edad o discapacidad. Si cree que ha sido discriminado, puede presentar una queja en www.cabq.gov/civilrights/filing-a-complaint. También puede comunicarse con Amanda Trujillo 505-768-4595 o por correo electrónico a civilrights@cabq.gov.

Nếu bạn muốn thông báo này được dịch sang tiếng Việt, vui lòng truy cập www.cabq.gov/airquality/regulation-development/public-notices-and-comment-opportunities và sử dụng tính năng Dịch ở đầu trang.

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed adoption of a new rule, 7.7.3 NMAC, "Requirements for Rural Emergency Hospitals". The public hearing will be held on November 27, 2023, at 9:00 a.m. MDT via web video conference and telephone. The hearing will be conducted to receive public comment regarding the adoption of the proposed rule, which concern requirements for licensing of Rural Emergency Hospitals, pursuant to Section 24-1-5.12, NMSA 1978 ("Rural emergency hospital licensure; licensing requirements") effective June 16, 2023.

The purpose of this emergency rule is to protect the immediate health and safety of individuals who reside in rural areas of the state which have been provided health care at critical access hospitals, or hospitals with no more than 50 licensed beds located in a county in a rural area, as of December 27, 2020. Rural Emergency Hospitals (REH) are meant to reinforce access to outpatient medical services and reduce health disparities in areas that may not be able to sustain a full-service hospital. The new regulation will allow eligible types of facilities to continue operating under a new license status and then apply to be the new Medicare provider type with outpatient and emergency services only, instead of closing. Without regulation the health, safety and welfare of some state residents living in rural areas served by these two eligible types of facilities is in imminent peril.

The purpose of the new rule is also to conform to the final federal Center for Medicaid and Medicaid rule changes concerning Rural Emergency Hospitals which had an effective date of January 1, 2023.

The legal authority authorizing the proposed rule by the Department is at Subsection E of Section 9-7-6, NMSA 1978, and the Section 24-1-5.12, NMSA 1978 entitled Rural emergency hospital licensure; licensing requirements.

A free copy of the full text of the proposed rule can be obtained from the Department’s website at <https://nmhealth.org/publication/regulation/>.

Any interested member of the public may attend the hearing, and anyone may offer public comments on the proposed rule amendments orally at the hearing. To access the hearing by telephone: please call 1-505-312-4308, phone conference i.d. code 780720462#. To access the hearing via internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>, enter the following

meeting i.d. code and passcode where indicated on screen—meeting i.d. code 258 278 534 982, Passcode: 72hE2M, then click the “Join a meeting” button. All oral comments will be recorded.

Any person may submit written public comment concerning the rule amendments. Written comments may be submitted to the mailing address shown below. Please submit any written comments regarding the proposed rules to the attention of: Christopher Burmeister
Division Director, Health Improvement
New Mexico Department of Health
2040 S. Pacheco,
Santa Fe, NM 87505
christopher.burmeis@doh.nm.gov
505-252-4492

Mailed written comments must be received no later than 5:00 p.m. MDT on November 27, 2023. Written comments may also be submitted to the email address shown above through 5:00 pm MDT on the date of the hearing. All written comments will be published on the agency website at <http://nmhealth.org/publication/regulation/> within 3 business days of receipt, and will be available at the Office of the New Mexico Department of Health, at the address above, for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Felicia Garcia by telephone at (505) 490-7012. The Department requests at least ten (10) days’ advance notice to provide requested special accommodations.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION
NOTICE OF PUBLIC HEARING**

Annual adjustments were made to the income limits found in 8.102.500 NMAC and 8.106.500 NMAC. Each

year the Department is required to update the income and resource eligibility standards as well as the deduction amounts available to eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Services (FNS). The Department received notification of the adjusted amounts on August 3, 2023, which became effective for benefit month October 2023 for Federal Fiscal Year (FFY) 2024 to comply with federal law and regulations. These proposed rules are to be finalized for FFY 2024. HSD is also proposing an amendment to increase the FY24 Elderly and Disabled State SNAP supplement which can be found in 8.139.502.9 NMAC.

A hybrid public hearing to receive public comment on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on Friday, December 22, 2023, from 11:00 am-12:00 pm.

You may join in person: HSD Administrative Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505 or

Virtually through GoTo Meeting <https://meet.goto.com/223826941>. If you prefer to join via phone, you may call: +1 (224) 501-3412, Access Code: 223-826-941.

All written comments may be dropped off during the scheduled hearing time at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505. The conference room is located on the first floor in the ASD Rodeo Building.

The Human Services Register Vol. 46 No. 18 outlining the proposed regulations are available on HSD’s website: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. Individuals wishing to testify or request a copy of the proposed regulation should contact the Income

Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348, or by calling 505-469-9569.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-827-6201 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide the requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, Friday, December 22, 2023. The agency shall post all written comments on its website as soon as practicable and no more than 3 business days following receipt to allow for public review. All written comments received shall also be available for public inspection at the main office of the agency. You may send comments electronically to: HSD-isdrules@state.nm.us or written comments to:

Human Services Department
P.O. Box 2348,
Santa Fe, New Mexico 87504-2348

RACING COMMISSION

NOTICE OF PUBLIC MEETING AND RULES HEARING

The NM Racing Commission will hold a Public Meeting and Rules Hearing on November 30, 2023. Rules hearing will be held during the Commission's regular business meeting with public session beginning at 9:00 a.m. Meetings will be held in person in the Boardroom, at 4900 Alameda Blvd., NE, Albuquerque, NM and virtually via Zoom.

Topic: Regular Commission Meeting and Rules Hearing
Time: November 30, 2023, 09:00 AM Mountain Time (US & Canada)

Join Zoom Meeting
<https://us02web.zoom.us/j/8188056116?pwd=Yko1bk1DckZPMmpHN3pSQzJqbmFnUT09>

Meeting ID: 818 8056 1116
Passcode: R431MN

One tap mobile
+12532050468,,81880561116#,,,,*421821# US
+12532158782,,81880561116#,,,,*421821# US (Tacoma)

Find your local number: <https://us02web.zoom.us/j/ksCE6FA0J>

The Commission is proposing the following amendments to Rules Governing Horse Racing in NM:

- 15.2.1 NMAC – Gaming
- 15.2.2 NMAC – Associations
- 15.2.3 NMAC – Flat Racing Officials
- 15.2.4 NMAC – Types of Races
- 15.2.5 NMAC – Horse Race – Rules of the Race
- 15.2.6 NMAC – Veterinary Practices, Equine Health, Medication, and Trainer Responsibility
- 15.2.7 NMAC – Pari-Mutuel Wagering
- 16.47.1 NMAC – General Provisions

A copy of proposed rules may be found at: <https://www.nmrc.state.nm.us/rules-regulations/>.

Written comments on proposed rules may be submitted to address below and/or you may appear at the meeting and provide brief, verbal comments. All written comments must be submitted to DeniseM.Chavez@rc.nm.gov and received by 12:00 p.m. November 29, 2023.

The final meeting agenda will be available 120 hours prior to meeting. The final agenda may be obtained from Denise Chavez or from NMRC's website.

No technical information served as the basis for proposed rules.

Anyone requiring special accommodations should notify NMRC of such needs at least 5 days prior to meeting.

Statutory Authority: Legal authority for NMRC rulemaking can be found at NMSA Section 60-1A-4(B)(1).

The following rule amendments are proposed:

Subsections C, M, P and S of

15.2.1.7 NMAC: The rule defines horseracing terms. The purpose of the proposed amendment is to define “catastrophic injury.” The purpose of proposed amendments is to clarify the existing definitions of “maiden” and “purse” recognizing industry-standard resources and add “substitute steward” and its definition as means of ensuring race meets can proceed in the event a third steward is not available.

Subsections C and J of 15.2.1.8

NMAC: The rule details Commission authority and structure. The purposes of proposed amendments are to provide flexibility for Commissioner meeting attendance and to edit typographical errors and correct the citation to a referenced rule.

Subsections A and B of 15.2.1.9

NMAC: The rule deals with due process and disciplinary actions. The purposes of proposed amendments are to abridge the rule, expand and define reasons for summary suspension furthering goals of disciplinary processes, provide stewards direction and options when conducting hearings and providing notice of hearings and copy of rulings, modify time frame for payment of fines, and relocate a portion to a more applicable rule section.

Subsections E, G, H, L and R of

15.2.2.8 NMAC: The rule details association requirements. The purposes of proposed amendments

are to ensure presence of sufficient medical personnel consistent with HISA requirements, ensure photo finish pictures are not destroyed but saved if later review is required, hold associations accountable for surface conditions, fix typographical errors, and improve public confidence in industry by displaying race replays being reviewed by stewards in response to inquiry or objection.

Subsections A, B, C, E and O of 15.2.3.8 NMAC: The rule details general provisions of racing officials. The purposes of proposed amendments are to properly identify and list all positions deemed racing officials, provide both reasons for and flexibility in appointment of substitute stewards, clarify stall allocation being subject to association screening and preference processes, ensure the associations provide sufficient number of veterinarians, and correct typographical errors.

Subsections A, C, F and G of 15.2.4.8 NMAC: The rule details mechanics of claiming races. The purposes of proposed amendments are to eliminate and correct rule conflicts regarding condition of claimed horses and provide clearer understanding of claiming processes, procedures and stewards' voiding of a claim.

Subsection B of 15.2.5.8 NMAC: The rule details entries and nominations for races. The purpose of the proposed amendments is to provide more detail regarding the process of entering a horse into a race and the responsibilities of the entry clerk.

Subsection B of 15.2.5.9 NMAC: The rule details declarations and scratches. The purposes of proposed amendments are to clarify when and who has authority to request a scratch of a horse following the closing of entries and that stewards have sole authority to approve such request and scratch a horse.

Subsections A and B of 15.2.5.12 NMAC: The rule details when

horses are ineligible to enter and start in races. The purpose of proposed amendments is to clarify and expand specifics of ineligibility to enter and to start.

Subsections C, D and E of 15.2.5.13 NMAC: The rule details running of a race. The purposes of proposed amendments are to clarify jockey fees, correct typographical errors and clarify rules for zero tolerance of electrical devices and proper and improper use of riding crops.

Subsection C of 15.2.5.14 NMAC: The rule details protests, objections and inquiries. The purpose of proposed amendments is to clarify timing of an objection and expand the reasons for a prior objection.

Subsection B of 15.2.6.8 NMAC: The rule details veterinary practices. The purpose of the proposed amendment is to clarify veterinary treatment restrictions prior to a race to protect the health and welfare of the equine athletes.

Subsections of A and C of 15.2.6.9 NMAC: The rule details medications and prohibited substances. The purpose of proposed amendments is to include "Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule," April, 2023, version 16.0 and "Association of Racing Commissioners International Controlled Therapeutic Medication Schedule for Horses", version 4.2.1. The purposes of other proposed amendments are to further protection of horses and advise licensees by clarifying impacts resulting from positive medication test results, clarify that both post-race and out-of-competition positive test sample results are prima facie evidence a prohibited substance was administered, correct a typographical error, and clarify medication restrictions.

Subsections A and B of 15.2.6.10 NMAC: The rule details testing of horses. The purposes of proposed

amendments are to clarify and ensure a security guard escorts horses to the test barn is provided by an employee of the association, not the Commission and eliminate a repetitive subsection.

Subsection B of 15.2.6.12 NMAC: The rule details physical inspection of horses. The purpose of proposed amendment is to expand the reasons a horse is placed on the veterinarian's list for protection of the horse.

Subsection A of 15.2.7.10 NMAC: The rule details simulcast wagering. The purpose of proposed amendment is to ensure associations' processes in obtaining approval of their simulcast agreements prior to commencement of the race meet are in compliance with both text and spirit of applicable federal law.

Subsections A, N and P of 16.47.1.8 NMAC: The rule details provisions related to licensing in general. The purposes of proposed amendments are to clarify requirements to apply for a license, require applicants apply for and obtain a license for every capacity applicants are working in within the industry, require licensees report to changes of information to Commission, and correct typographical error.

Subsections A and B of 16.47.1.10 NMAC: The rule details provisions on trainers and their responsibilities. The purpose of proposed amendments is to strengthen requirements for becoming a trainer to better ensure and improve health, safety and welfare of horses, empower Commission to hold trainers accountable for condition of horses in their care, custody and control, require trainers exercise due diligence in ensuring newly acquired horses are free of prohibited substances, and detail consequences of catastrophic injuries.

Subsections A, B, and C of 16.47.1.17 NMAC: This rule details processes for human drug and alcohol testing of licensees. The purpose of

proposed amendments is to expand reasons under which licensees may be subject to drug and/or alcohol testing to include impacts use of those substances has on public's confidence in the industry and to specify the impacts of the presence of alcohol on the licensee.

Subsections A, B, C and D of

16.47.1.18 NMAC: This rule details human drug testing procedures of licensees. The purposes of proposed amendments are to provide for random or episodic testing without notice, provide for licensee's ability to get confirmation test, define what constitutes a refusal to submit to drug or alcohol testing and create progressive penalty system for licensees whose test results show presence of alcohol.

**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.

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.100.5 NMAC Section 6 effective 10/24/2023.

5.100.5.6 OBJECTIVE:

A. Each private post-secondary institution with a physical presence in New Mexico shall be classified by the department as either subject to or exempt from provisions of the Post-Secondary Educational Institution Act (“the act”).

(1) Engaging in one or more of the following activities constitutes a physical presence in New Mexico:

(a) ongoing occupation of a physical location in the state;

(b) maintenance of an administrative office to support the provision of higher education instruction;

(c) establishing a physical location for instruction which is synchronous (instruction in which a group of students engage in learning at the same time) or asynchronous (instruction that does not occur in the same place or at the same time);

(d) requiring students to physically meet in a location for instructional purposes more than twice per full-term (quarter or semester) course for a total of more than six hours;

(e) establishing an administrative office;

(f) providing student support services to enrolled students, from a physical site operated by or on behalf of the institution in the state;

(g) obtaining office space for instructional or non-instructional staff;

(h) maintaining a mailing address or phone exchange in New Mexico;

(i) holding proctored exams on behalf of the institution in New Mexico more than twice per full-term (quarter or semester); or

(j) facilitating student participation in off-campus field trips in New Mexico for academic purposes in excess of 20 classroom hours in one six-month period or in which the institution establishes a residential or instructional facility in New Mexico.

(2) The following is a non-exhaustive list of activities, which if conducted by the institution, will not trigger a physical presence in New Mexico:

(a) advertising to students whether through print, billboard, direct mail, internet, radio, television or other medium;

(b) maintaining a server, router or similar electronic service device housed in a facility that otherwise would not constitute physical presence (the presence of a server or similar pass-through switching device does not by itself constitute the offering of a course or program in the state);

(c) having faculty, adjunct faculty, mentors, tutors, recruiters or other academic personnel residing in New Mexico and working from their homes or another private, non-institutional site, provided that such staff is not engaged in activities that would otherwise constitute physical presence;

(d) using recruiters in New Mexico if the recruiter has registered as an agent pursuant to Section 21-24-1 through Section 21-21-9 NMSA 1978;

(e) independent off-campus study or research by students including, independent fieldwork for a thesis or dissertation, by individual students not engaged in a supervised field experience under 5.99.1 NMAC and with no supervision or control by the student’s institution; or

(f) facilitating student participation in off-campus field trips in New Mexico for academic purposes, so long as the field trip does not exceed more than 20 classroom hours in one six-month period, or the establishment of a residential or instructional facility by the institution in New Mexico.

(g) operating on a military base in New Mexico and offering educational programs to active military personnel, military reserve personnel, military veterans, and civilians employed full-time on the military base and the spouses and dependents of active military personnel, military reserve personnel, military veterans, and civilians employed full-time on the military base.

(3) The Post-Secondary Educational Institution Act does not apply to or affect:

(a) a post-secondary educational institution that is established by name as an educational institution by the state through a charter, constitutional provision or other action and is supported in whole or in part by state or local taxation;

(b) an occupational, trade or professional school operating pursuant to any New Mexico occupational licensing law;

(c) a course of instruction provided by an employer to its own employees for training purposes;

(d) institutions that exclusively offer education that is solely avocational or recreational in nature;

(e) a course of instruction or study sponsored by a recognized fraternal, trade, business or professional organization or labor union for the instruction of its members;

(f) chartered, nonprofit religious non-degree and degree granting institutions whose sole purpose is to train students in religious disciplines to prepare them to assume a vocational objective relating primarily to religion;

(g) institutions that exclusively offer instruction at any level from preschool through the twelfth grade;

(h) an institution funded in full or in part by an Indian tribe or pueblo in the state of New Mexico; or

(i) an organization that provides only brief courses of instruction designed to teach specific skills that may be applicable in a work setting but are not sufficient in themselves to be a program of training in employment.

B. A post-secondary educational institution is subject to the act unless expressly exempted by the department. Post-secondary educational institutions or programs shall apply to the department to receive formal exemption status. Exempt institutions may use the term “exempt” but may not refer to their status with the department using terms such as “authorized,” “accredited,” “licensed,” “approved,” or “endorsed.”

C. Post-secondary educational institutions that do not have state authorization or have not been granted express exemption by the department, and meet the definition of physical presence in New Mexico, shall be notified by certified mail that they shall cease immediately to offer instruction until they obtain a state authorization or exemption from the department; the department shall initiate appropriate legal

action if post-secondary educational institutions fail to comply; whoever violates any provision of Sections 21-23-1 et seq. NMSA 1978 of the Post-Secondary Educational Institution Act may be assessed a civil penalty not to exceed five hundred dollars (\$500) per day per violation.

D. An exemption status shall in no way constitute state authorization. Therefore, references to the department shall not be used in any advertisements, brochures, etc. without written consent of the department.

E. Non-accredited private post-secondary educational institutions that offer a degree program shall not be granted exemption unless they meet the criteria for exemption pursuant to Section 21-23-4 NMSA 1978. [5.100.5.6 NMAC - N, 12/26/2017; A, 12/11/2018; A, 8/10/2021; A, 10/24/2023]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.100.6 NMAC Section 16 effective 10/24/2023.

5.100.6.16 RECORD MAINTENANCE AND RETENTION POLICY:

A. Each regionally accredited college or university registered by the department shall provide a records maintenance and retention plan. The plan shall consist of a records maintenance and disposal schedule that is in compliance with the functional records retention and disposition schedule in 1.21.2 NMAC, the records retention schedule set by the department, regulations of any other authorizing agency, or laws, regulations, and rules of any other authorizing jurisdiction or territory, whichever is longest in time. If another authorizing agency of the institution requires a longer period of retention than that of 1.21.2 NMAC, the longest retention period shall prevail. [The plan must include a

description of how records will be maintained in the event of closure, which includes, but is not limited to, designation of a custodian of records, digitization, and a process for obtaining transcripts from the custodian of record.]

B. Each institution [must] shall submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed [institution] institutions.

C. Each institution shall report the percentage of all student transcripts since inception of the institution that are not digitalized at the time of application. If there are non-digitalized transcripts, the institution shall submit a plan to the department which describes how the institution will digitalize all student transcripts within a twelve-month period.

D. Each institution shall provide information regarding the custodian of records and the process for obtaining transcript records through the custodian at the time of application.

E. If the department determines the plan for processing transcripts is not satisfactory, the institution shall:

(1) hire a professional digital credential firm to manage its student transcripts; or

(2) submit all of the student transcripts within a twelve-month period to the department in a specified format and agree the department shall become custodian of record upon receipt of the transcripts.

F. If the department becomes the custodian of record for an institution, it will be at no cost to the institution.

G. If the department becomes the custodian of record for an institution that is in operation, the institution shall periodically submit updated transcripts to the department in a specified format. The submission schedule shall be based on end dates of programs offered by the institution.

H. The department may contract with a professional digital credential firm to service the transcripts.
[5.100.6.16 NMAC - N, 12/26/2017; A, 12/11/2018; A, 10/24/2023]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.100.7 NMAC Section 10 effective 10/24/2023.

5.100.7.10 APPLICATION REQUIREMENTS: The institution must provide complete and accurate information to the department. The department may request additional supporting documentation. Upon request of the department, the applicant must supply any missing or requested information to the department. An applicant must respond to the department within deadlines set by the department. The department application will require institutions to supply information described in Subsections A through W of 5.100.7.10 NMAC:

A. Evaluation plan: The plan shall include measures of institutional success. The institution shall provide a plan for evaluation of the following:

- (1) the satisfaction of its graduates and shall make available to the department all reports of these satisfaction assessments prepared during the past five years;
- (2) a written plan for keeping courses current;
- (3) a written plan for faculty improvement in terms of content knowledge and relevant instructional techniques and the use of new and applicable technologies to support instruction; and
- (4) if the institution is subject to the Student-Right-to-Know Act, it shall provide the department with copies of all reports submitted to the federal agency.

B. Tuition policy: Tuition and fee charges shall be

the same for all students admitted to a given program for a given term of instruction. An institution may not discount its tuition and fees charged to individual students as an incentive for quick enrollment or early payment. An institution may negotiate special rates with business, industrial, governmental, or similar groups for group training programs and may establish special rates for students who transfer between programs. An institution may charge a reasonable carrying fee associated with deferred payments or payment plans. All tuition and fees must be comprehensively listed in the institution’s catalog as required in Subsection G of 5.100.7.10 NMAC.

C. Tuition refund policy: An institution licensed by the department shall adhere to the following tuition refund policy:

(1) An institution accredited by agencies recognized by the United States department of education shall adhere to the tuition refund schedule established by the institution’s accrediting body or the United States department of education. If an institution is required to adopt such refund schedule, it is required to provide proof of adoption and a copy of the refund schedule policy from either the accreditor or the United States department of education.

(2) If an institution is not required to adopt a refund schedule policy by an accreditor or the United States department of education, the following refund schedule policy set out by the department shall be adopted:

Date of student withdrawal as a % of the enrollment period for which the student was obligated	Portion of tuition and fees obligated and paid that are eligible to be retained by the institution
On 1st class day	0%
After 1st day; within 10%	10%
After 10%; within 25%	50%
After 25%; within 50%	75%
50% or thereafter	100%

(3) Any student signing an enrollment agreement or making an initial deposit or payment toward tuition and fees of the institution shall be entitled to a cooling off period as defined in 5.100.7.7 NMAC. During the cooling off period the agreement can be withdrawn and all payments shall be refunded. Evidence of personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means shall be deemed as meeting the terms of the cooling off period.

(4) Following the cooling off period, but prior to the beginning of instruction, a student may withdraw from enrollment, effective upon personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than \$100 or five percent in tuition or fees, whichever is less, as the institution’s registration charges.

(5) In the case of students enrolling for non-traditional instruction, a student may withdraw from enrollment following the cooling off period, prior to submission by the student of any lesson materials and effective upon deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than \$100 or five percent in tuition or fees, whichever is less, as the institution’s registration charges or an alternative amount that the institution can demonstrate to have been expended in preparation for that particular student’s enrollment.

(6) Upon request by a student or by the department, the institution shall provide an accounting for such amounts retained under this standard within five work days.

D. Record maintenance and retention policy: Each private career school or non-regionally accredited college or university licensed by the department shall provide a records maintenance and retention plan.

(1) The plan shall consist of a records maintenance and disposal schedule that is in compliance with the functional records retention and disposition schedule in 1.21.2 NMAC, the records retention schedule set by the department, regulations of any other authorizing agency, or laws, regulations, and rules of any other authorizing jurisdiction or territory, whichever is longest in time. If another authorizing agency of the institution requires a longer period of retention than that of 1.21.2 NMAC, the longest retention period shall prevail. [The plan must include a description of how records will be maintained in the event of closure, which includes, but is not limited to, designation of a custodian of records, digitization, and a process for obtaining transcripts from the custodian of record.]

(2) Each institution shall submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed institutions.

(3) Each institution shall report the percentage of all student transcripts since inception of the institution that are not digitalized at the time of application. If there are non-digitalized transcripts, the institution shall submit a plan to the department which describes how the institution will digitalize all student transcripts within a 12-month period.

(4) Each institution shall provide information regarding the custodian of records and the process for obtaining transcript records through the custodian at the time of application.

(5) If the department determines the plan for processing transcripts is not satisfactory, the institution shall:

(a) hire a professional digital credential firm to manage its student transcripts; or

(b) submit all of the student transcripts within a 12-month period to the department in a specified format and agree the department shall become custodian of record upon receipt of the transcripts.

(6) If the department becomes the custodian of record for an institution, it will be at no cost to the institution.

(7) If the department becomes the custodian of record for an institution that is in operation, the institution shall periodically submit updated transcripts to the department in a specified format. The submission schedule shall be based on end dates of programs offered by the institution.

(8) The department may contract with a professional digital credential firm to service the transcripts.

E. Materials and information: The department shall regulate the use of deceptive and misleading materials and information. An institution shall not disseminate material or information that is deceptive, misleading or untrue. The institution shall certify compliance with all laws and regulations related to materials and information. The department may request copies of publications, advertisements, agreements, marketing collateral, or contracts in order to regulate the use of deceptive and misleading information. All materials and information shall comply with the following requirements:

(1) Representation of accreditation and state authorization status:

(a) An institution may not make claims to or advertise an accreditation status if the accrediting agency is not recognized by the United States department of education.

(b) An institution not accredited by a United States department of education

recognized accreditor shall clearly state that the institution is not accredited.

(c) An institution licensed by the department may not use terms such as “accredited,” “endorsed,” or “recommended” in reference to its approval by the department.

(2) Enrollment agreement: Before a student begins coursework at an institution, the institution shall execute an enrollment agreement with the student. An enrollment agreement will be binding only when it has been fully completed, signed, and dated by the student and authorized institution representative prior to the beginning of instruction. The institution shall retain the original enrollment agreement and a copy shall be delivered to the student at the time of execution or by mail when the enrollment is solicited by mail. A copy of the blank agreement or contract shall be submitted to the department. Each enrollment contract or agreement shall include at least the following:

(a) information that will clearly and completely define the terms of the agreement between the student and the school;

(b) names and addresses of the school and the student;

(c) the program or course title in which the student is enrolling and the applicable catalog date or version reference;

(d) the program start date and estimated end date;

(e) the number of hours or units of instruction;

(f) the school’s cancellation and refund policies;

(g) an itemization of all charges, fees and required purchases being incurred by the student or their sponsor in order to complete the training, e.g., tuition,

books, supplies and all other items of expense required by the school;

(h)

the method of payment and payment schedule being established; and

(i)

when applicable, a statement detailing the institution's academic placement policy.

(3)

Advertising, marketing, promotional materials and recruitment: All advertisements and promotional literature must be truthful regarding the content of an institution's educational program(s), the duration of the program(s), student attributes and skills needed for successful completion of the program(s), and costs of the program(s). An institution shall use no advertisements or promotional materials that are false, deceptive, inaccurate, or misleading. Materials must comply with all of the following requirements:

(a)

Advertisements and promotional literature shall not contain promises of job placement or employment, either explicitly or implicitly, but may refer to an institution's services to assist students in obtaining employment.

(b)

Advertisements shall clearly indicate by their content and location in media that the institution is offering education or training and may not either explicitly or implicitly suggest that the institution is offering employment.

(c)

An institution advertising salary ranges or averages for its graduates must have on file and available to inspection by students, the department, or their representatives current and accurate data that includes New Mexico employers and that validates such claims.

(d)

An institution shall not advertise the transferability of its courses or programs to another institution unless it has signed transfer or articulation agreements with that institution.

(e)

An institution shall not include in its

advertising or promotional materials any photograph or other illustration of facilities unless those facilities serve predominantly as sites of instruction or related activities provided by the institution, either in New Mexico or in other states. Photographs or other illustrations must accurately depict the size and condition of any facilities or equipment illustrated.

(f)

No person shall for a fee solicit enrollment at an institution who is not employed by and under supervision of the institution. The institution shall be responsible for the representations of its employees.

(g)

Prospective students shall not be solicited by any representative of an institution on the sites of any government agency such as motor vehicle division offices, unemployment offices, or public assistance offices. However, leaflets or other promotional material may be made available at such sites.

(h)

Prospective students shall not be solicited by any representative of an institution on the site of any public school, except at the invitation of school personnel. No institution shall offer or provide financial inducement to any public school in return for permission to solicit students.

(i)

No institution shall solicit the enrollment of any student who is currently attending another institution in New Mexico by using any inducement of greater financial assistance in meeting the costs of education.

(j)

On all materials, an institution shall use the full name in which it is licensed and list any other names in which the institution holds other government approvals. Permutations of its name, e.g., initials, or shortened name or nicknames, cannot be employed without prior written permission of the department.

(k)

On all materials, the name of an institution shall not be misleading.

F. Name of the

institution: The department reserves the right to deny licensure to an institution proposing to operate under a name that the department determines to be misleading or so similar to that of another institution operating within the state that it may result in substantial confusion. Institution names must comply with each of the following regulations:

(1) institutions

including the term "college" in their name must offer at least an associate degree and enroll a substantial portion of their students in such degree programs; and

(2) institutions

including the term "university" in their name must offer graduate degree programs and must enroll a preponderance of their students in baccalaureate and graduate degree programs.

G. Information

provided to students: Information shall be provided to students prior to their signing an enrollment agreement and the institution shall make reasonable effort to assure and verify that each student understands their academic and financial obligations prior to enrolling in the institution and maintain records of the institution's effort for at least five years after the students enroll at the institution. An institution shall publish and make available to all students a catalog or other materials that clearly describe:

(1) accurate

representation of accreditation and state authorization status as described in Paragraph (1) of Subsection E of 5.100.7.10 NMAC;

(2) admission

policies and procedures that provide criteria and methods used to assess and admit or deny admission;

(3) admission

methods and criteria used to assess student ability to complete program requirement;

(4) programs

offered, the program completion requirements of each program offered, and descriptions of all courses offered;

(5) requirements and costs for those occupations that require professional or trade licensure and for which the institution is offering preparation;

(6) tuition, fees and books and supplies, including cost for rental or purchase of equipment or materials required of all students;

(7) room, board and transportation expenses incurred by a student;

(8) reasonable costs associated with a program of study abroad approved for credit by a student's home institution, if applicable;

(9) expenses related to a student's disability, including special services, personal assistance, transportation, equipment and supplies;

(10) refund policies, consistent with the requirements in Subsection C of 5.100.7.10 NMAC;

(11) types of financial aid available to students and the procedure for applying for such aid;

(12) the institution's policy regarding program or course cancellations;

(13) rules and regulations pertaining to academic progress;

(14) rules and regulations pertaining to student conduct;

(15) the procedure to be followed in the instance that a student decides to withdraw from the institution prior to completing a program;

(16) the institution's policy regarding student complaints and the resources available to students for resolving differences with the institution. The institution must adopt the student complaint process established by the department and published by the department; and

(17) the institution's policy regarding release of transcripts.

H. Financial aid: Prior to a student signing a financial

aid agreement, each student must be informed in writing regarding his or her obligations associated with receipt of financial aid and the institution must take reasonable steps to assure that the student understands that obligation. The institution shall provide financial aid resources to students.

I. Proof of teach-out agreement: Each institution shall submit a teach-out plan or agreement.

(1) An institution must submit proof of a teach-out agreement with at least one other private or public institution operating in the state or provide a teach-out plan that allows students to complete their program of study at the institution within a timeframe accepted by the department. Proof of such teach-out agreement(s) with another institution must be submitted to the department. The teach-out plan or agreement must address the ability of students to complete programs within a reasonable proximity to the physical location of the institution and shall be arranged at no additional cost to the students beyond that originally agreed to by the students.

(2) The department may determine that a teach-out plan or agreement is not feasible after consideration of evidence submitted to the department. The department may find that teach-out arrangements are not feasible for students in one or more programs offered by the institution, in which case the institution shall plan to refund all tuition and fees paid by the students in question for the current period of enrollment and shall plan to provide appropriate transcripts and evaluations to assist students in transferring their work to another institution.

(3) A teach-out plan or agreement shall be evaluated and updated by the institution annually upon submitting a license renewal application. If an institution closes or has a substantial change in location, the institution is subject to 5.100.8 NMAC. If the teach-out plan or agreement presented

to the department during application for licensure becomes impossible or is no longer feasible due to institutional changes, the plan must be updated and submitted to the department within 90 days of the change.

J. Adoption of degree standards: Institutions accredited by a recognized United States department of education accreditor shall adopt degree standards governed by their accrediting body. Any non-accredited degree granting institution shall adopt the following degree standards for each credential as listed below:

(1) Associate degree program:

(a) associate degree programs must include both technical or vocational and general education instruction. Associate degree programs shall consist of 60 credit hours of study or the equivalent;

(b) associate of applied science degrees, associate of occupational studies degrees or comparable appellations must be based upon the institution's certification that the recipient is prepared for immediate employment in a specified career field and must be comprised primarily of technical or vocational study; and

(c) associate of arts or associate of science degrees must be based upon the institution's certification that the recipient is prepared both for immediate employment in a specified career field and transfer to another institution for more advanced study; associate of arts and associate of science degree programs will normally consist of approximately equal numbers of technical or vocational and general education courses.

(2) Baccalaureate degree programs:

(a) baccalaureate degree programs must be comparable in quality to those offered by institutions operating in New Mexico that are accredited by agencies recognized by the United States department of education as authorities regarding the quality

of such degree programs; award of degrees must be based upon the institution's certification that the recipient has met standards of performance and competency comparable to the standards of institutions so accredited; and

(b)

at a minimum, issuance of a baccalaureate degree shall require 120 credit hours or the equivalent; the degree program must include 30 credit hours of general education core requirements.

(3) Master's

degree programs:

(a)

master's degree programs must be comparable in quality to those offered by institutions operating in New Mexico that are accredited by agencies recognized by the United States department of education as authorities regarding the quality of such degree programs; award of degrees must be based upon the institution's certification that the recipient has met standards of performance and competency comparable to the standards of institutions so accredited; and

(b)

at a minimum, issuance of a master's degree shall require 30 credit hours of academic credit or the equivalent beyond a baccalaureate degree.

(4) Doctoral

degree programs:

(a)

at a minimum, issuance of a doctoral degree shall require 90 credit hours of academic credit or the equivalent beyond a baccalaureate degree or 60 credit hours or the equivalent beyond the master's degree and shall require successful completion and defense of a major independent project, involving original research or application of knowledge. The research component shall provide no more than thirty percent of the degree credit requirement;

(b)

research or project committees composed of no fewer than three qualified readers shall review the project at various stages of

development; documentation shall be provided to support this requirement. The final version of the research or project shall be accompanied by the original signature of each committee member; and

(c)

the institution shall maintain a copy of the final report of the research or project and make it available upon request.

(5) Honorary

degree or certificate: Licensed, private degree-granting institutions may issue honorary degrees or certificates. An honorary degree or certificate shall identify in its title or name that it is an honorary degree or certificate and shall bear such on its face.

(6) Credit for

life experience: If an institution offers academic credit for life experience or employment related experience, the institution must have and adhere to the following requirements:

(a)

applicable life experience shall be limited to work experience, military experience or a combination of the two;

(b) no

more than thirty percent of the credit in a student's degree program may be awarded for life or work experience;

(c)

the institution shall utilize the methodologies outlined by the council for adult and experimental learning (CAEL) for evaluating life experience or shall have in place a comparable plan which describes procedures and requirements for the assessment of experiential learning;

(d)

the institution shall maintain documentation for at least three years of all materials used to assess and award credit for experiential learning;

(e)

the institution shall clearly indicate on the student degree plan the course(s) for which the experiential learning is being substituted;

(f)

the institution shall evaluate extra-institutional learning only in subject

areas in which it has or can arrange for faculty expertise or where it can rely on nationally validated examinations or other procedures for establishing credit equivalencies; and

(g) no

life experience credit shall be awarded toward the doctorate degree beyond master's level study.

K. Accreditation:

(1) Accredited

institutions shall be governed by their accrediting agencies in establishing degree and program standards.

Accredited institutions shall submit:

(a)

formal documentation from the accreditor listing all approved campuses, degrees and programs; and

(b)

written notification of any changes related to accreditation.

(2) Institutions

proposing to change or add programs must formally notify the department.

If the change or addition of the program requires the accreditor's approval, the institution must provide written proof of the approval. If the change or addition does not require approval by the accreditor, the institution shall provide proof that the accreditor was notified of the change or addition. The department shall review proposed changes. The department may review proposed changes on a set schedule defined by the department and charge an administrative fee for the processing of such requests. Upon final review, the department will provide a formal acknowledgment of the approved new degrees and programs. The institution may begin to advertise the program based on the department's letter of acknowledgement. The complete list of programs offered by an institution will be listed on the license issued to the institution.

L. Accreditation for

new degree-granting institutions or degree-granting institution seeking accreditation: New degree-granting institutions making application with the department will be required to obtain accreditation with an accrediting agency recognized by the United States department of education

within three years of submitting the initial application. Non-accredited degree-granting institutions must submit a written accreditation plan, which shall include:

(1) the United States department of education recognized accrediting agency with which the applicant intends to apply for institutional accreditation;

(2) the planned timeline for application with and approval by the United States department of education recognized accrediting agency;

(3) any contracts already made with the United States department of education recognized accrediting agency, including supporting documents;

(4) certification that the institution will complete the accreditation process within the planned timeline provided to the department;

(5) submit all documents as required for non-accredited non-degree granting institutions; and

(6) any additional information which the department may request.

M. Non-accredited non-degree granting institutions: Applications for non-accredited non-degree granting institutions shall be evaluated by a department review committee described in 5.100.7.11 NMAC. A new non-accredited non-degree granting institution applying for licensure will be approved to offer no more than six degree programs during the first two years of operation. Non-accredited non-degree granting institutions shall submit the following for review:

(1) Institution curriculum requirements: For each program and course of instruction offered by an institution, the institution shall submit:

(a) program outline, syllabus and curriculum materials that accurately describe the objectives, content, and methods of the program or course;

(b) objectives, content, and methods

of each program and course of instruction which demonstrate curriculum quality;

(c) details of equipment and facilities utilized by a program which shall be sufficient for the number of students using them, and shall be applicable to the objectives set for the program; and

(d) a report that demonstrates that each program is designed to provide training for an occupation that is recognized in New Mexico and that the training provided is sufficient in length and quality to prepare students for immediate employment in the occupation(s) or prepare students to complete licensing assessments.

(2) Faculty qualifications: The institution must demonstrate the following:

(a) each member of the teaching faculty has an educational background, including licensure or occupational or credential, and experience applicable to teaching assignments;

(b) faculty degrees, licensure, certification, and credentials are in the applicable field of instruction unless the institution demonstrates to the satisfaction of the department and review committee, on an individual basis, that alternative qualifications are sufficient;

(c) for degree-granting institutions faculty must hold degrees in the field of instruction from an accredited institution at a minimum of one degree level higher than the level of instruction, and in no case less than a baccalaureate unless the institution demonstrates to the satisfaction of the department that alternative qualifications are sufficient;

(d) for degree-granting institutions no more than twenty percent of the faculty of an institution may be employed under alternative qualifications;

(e) for each proposed credential offering, the institution employs at least one faculty member with the

applicable training who shall have the responsibility for providing oversight of the instructional program; and

(f) faculty are sufficient in number to provide instruction and attention to the work of students of the institution.

(3) Student outcomes: New institutions submitting first time application shall provide a plan for tracking program completion rates, withdrawal rates and satisfaction of students, and employers. Institutions renewing application with the department must submit required reporting for program completion rates, withdrawal rates, and satisfaction of students and employers.

(4) Non-accredited non-degree institutions proposing to change existing programs or add new degree programs to their curriculum shall submit application on a form acceptable to the department, for review committee approval prior to marketing the program and enrolling students in the proposed program.

N. Maintenance of records certification: Each institution must submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed institutions.

O. Surety bond: Each institution licensed by the department shall maintain in force a surety bond or alternative surety accepted by the department, in an amount set by the department, and payable to the department. The institution must have and adhere to the following requirements:

(1) the amount of the bond or alternative surety shall be sufficient to indemnify any student damaged as a result of fraud or misrepresentation by a licensed institution or as a result of the institution ceasing operation prior to its students having completed the programs for which they have contracted. If a licensed institution closes, the department may draw upon the bond to pay costs associated with

preservation of student records. The bond must also meet the following criteria:

(a) the bond required for each institution shall be twenty percent of the institution's projected or actual gross annual tuition and fee revenue in New Mexico, which takes into consideration the size, number of students and total income and assets of an institution. In no case shall the bond be less than \$5,000; and

(b) bonds provided by institutions must be accompanied by the name, office address and phone number of the issuing company representative.

(2) If an institution seeks to cancel a surety bond, written notice must be delivered to the department. The institution may not cancel the surety bond until provided with written release by the department. The institution shall provide the department with a like surety or acceptable alternative in order to maintain licensure.

(3) Alternative forms of surety: An institution may request a waiver from the bond requirement and provide to the department an explanation of the alternative form for which they are seeking approval. The department has the authority to accept or reject any request. Such alternative may be a cash deposit escrow account, irrevocable letter or credit, or similar alternative payable to the department in the amount equal to the bond requirement.

P. Proof of financial stability: Standards for reviewing and analyzing financial stability are a critical component of the institution's overall assessment. The institution's financial stability will be reviewed by the department to assess the institution's ability to meet financial obligations including, but not limited to, obligations to enrolled students. In determining financial stability of the institution the department shall review the following requirements:

(1) Insurance: Institutions licensed by the department shall maintain

valid standard, commercial liability insurance, worker's compensation insurance, and property insurance sufficient to protect students, employees, and other citizens from hazards in the institution's facilities. Where applicable, institutions shall have liability insurance covering students involved in internships at sites and locations other than the institution.

(2) Financial statement analysis: The department shall consider an institution's financial history when reviewing an application for licensure. In the case where an institution submits an audit report and management letter provided by a certified public accountant, the department shall normally accept the report as accurate and rely on the auditor's professional responsibility to evaluate and to make known their professional opinion.

(3) New institutions not previously operating in any capacity in any state or jurisdiction shall demonstrate liquid assets sufficient to operate the institution for a period of one year exclusive of anticipated revenue from tuition and fees. These assets shall be sufficient to pay all projected salary and benefits of employees and the rent, utilities, insurance and other costs of operating the institution's facilities for a period of one year. If an institution has audited financials available for the year prior to that of the application, such audited financials shall be submitted for review. Any new institution shall submit the following:

(a) bank statements, investor agreements, any other financial donations or gifts used to develop the institution;

(b) the institution's projected income statement certified as accurate by the institution. The income statement must include details of projected salaries and benefits of employees, rent, utilities, insurance, any financial obligations made by the institution, and any other operating costs; and

(c) any additional information which the department may request.

(4) Existing institutions: If an institution has previously operated in any capacity in any jurisdiction, it must submit documents based on the following thresholds:

(a) An institution with seven hundred fifty thousand dollars (\$750,000) or more in gross annual tuition revenue and all federal Title IV financial aid institutions shall submit, on a schedule set by the department, an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, Section 61-28B-1 et seq. NMSA 1978 as amended. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(b) An institution with gross annual tuition revenue of two hundred fifty thousand dollars (\$250,000) or more but less than seven hundred forty nine thousand nine hundred ninety-nine dollars (\$749,999) shall submit, on a schedule set by the department, either an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, Section 61-28B-1 et seq. NMSA 1978 as amended or a review of financial statements prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act. If the institution has been required to obtain a financial

responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(c)

An institution with gross annual tuition revenue of less than two hundred forty nine thousand nine hundred ninety-nine dollars (\$249,999) shall submit on a schedule set by the department either an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, 61-28B-1 et seq. NMSA 1978 as amended, a review of financial statements prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, or an income statement and balance sheet certified as accurate by the institution. In addition to the audit report and management letter, the review of financial statements, or the income statement and balance sheet as described in this paragraph, the institution shall submit copies of business tax returns and bank statements for the most current year. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(5) Failure

to satisfactorily meet financial requirements: If considerable concern is established as to the institution's ability to maintain its operation, department staff may contact the school to request additional information regarding the institution's financial picture. If concerns are not addressed through the additional information provided to the department, a department financial analyst may conduct a second financial review. If after the second review, substantial doubt remains about the institution's ability to continue, the department may contract for further independent review of the records. All costs associated with contracting a third party independent reviewer will be charged to the institution. Following review and based on the determination of the department

(a)

the institution may be authorized for operation; or

(b)

the institution may be placed on probationary status and required to submit a management plan of action; and

(c)

the department may report the failure to satisfactorily meet financial requirements to the United States department of education and the institution's accreditor. If the issue is not resolved, the department may take action to forward the file to the attorney general's office for issuance of a notice of contemplated action to deny licensure.

Q. Procedure for resolution of student complaints:

An institution shall provide proof of an adopted complaint procedure that complies with the minimum requirements set by the department. The institution shall have and make available to all students, the adopted complaint procedure that describes, in detail, how students or other parties may register a complaint or grievance, how the institution will investigate the complaint, and how the institution will attempt to resolve the complaint. Such policies shall at a minimum include the following components:

(1)

requirement that students or other parties with complaints or grievances against an institution first seek to resolve their complaint or grievance directly with the institution;

(2) a time

frame within which the institution will investigate the complaint and respond to the complainant;

(3) assurance

of the involvement of a person who will serve as an impartial representative of the institution but not be directly involved in the area of the complaint;

(4) assurance

that no adverse action will be taken against the complainant for registering the complaint; and

(5)

identification of the higher education department as the agency to be contacted in cases where a complaint cannot be resolved.

R. Student Services:

The institution shall certify that it will provide the following:

(1) Financial

aid counseling: Institutions offering financial aid to students shall provide adequate personnel qualified to administer the financial aid programs according to the regulations of all applicable agencies;

(2) Academic

counseling and progress: Institutions shall provide adequate counseling for students regarding their academic progress. An institution shall have a clear policy and procedure for assessing the progress of students toward their program objectives and to inform student of progress. Students shall receive warning when their academic status is at risk and shall be given clear information about their academic status and whatever actions are needed to maintain satisfactory progress. The institution shall have a policy for terminating enrollment in manner that minimizes the financial cost to the student, when the student fails to meet the standards for academic progress. Records of the institution, including individual student records, shall reflect consistent application of such policy

and procedure. The institution's catalog and other publications shall clearly inform students about the institution's standards for academic progress and any academic counseling and support services available to students.

(3) Employment counseling and placement: Institutions shall provide services that assist students in locating and qualifying for employment opportunities. Employment counseling and placement services must be provided at no additional charge to students. No institution shall be expected to provide employment counseling and placement services beyond providing academic and financial aid transcripts for more than one year following a student's receipt of a diploma, certificate, or degree, except by such policy of the institution. An institution offering placement services for its students and graduates shall maintain records listing, for each student who has been assisted, each placement conference held with the student and each placement contact made in behalf of the student.

S. Records standards and access:

(1) Transcript standards: An institution shall prepare for students a transcript of record. A sample transcript shall be submitted and include at minimum the following:

(a) designation of the program(s) of study for which the student has been enrolled;

(b) each course completed by the student and the grade or other indication of performance assigned; and

(c) a dated statement of completion of the program and award of any certificate, diploma, or degree earned by the student.

(2) The method by which students and graduates may obtain transcripts and financial aid documents and applicable fees shall be described clearly in the institution's catalog or in

other documents provided to students. All documents with reference to the method for obtaining transcripts and financial aid documents and fees must be submitted to the department for review.

(3) The institution shall certify that an official student file will be kept for each student and include at a minimum the following:

(a) admission application and enrollment agreement;

(b) official transcripts indicating qualification for admission;

(c) when applicable actual test and scores from an ability-to-benefit assessment;

(d) grades received (up-dated transcript);

(e) all obligations incurred and all funds paid by the student to the institution;

(f) student attendance information;

(g) academic counseling and employment counseling records; and

(h) financial aid records.

T. Academic support resources: The institution shall provide or otherwise assist students in gaining access to learning resources needed for completion of their programs, including library materials, laboratories, facilities, equipment and materials, and relevant experiences needed to meet program requirements. No institution shall absolve itself from this requirement solely by referring students to the resources of other private or public institutions or facilities, except by written agreement with such institutions or facilities. The institution will certify that:

(1) students have access to learning resources;

(2) resources are adequate to support the programs;

(3) students are adequately informed about learning resources available to them and how to access such resources and services;

(4) training is made available for accessing learning resources;

(5) resources are delivered within a reasonable period of time;

(6) the facilities have satisfactorily met all applicable health and fire inspections; and

(7) compliance with regulations pursuant to the American with Disabilities Act (ADA).

U. Admission policy: Each institution shall adopt an admission policy that includes the following standards:

(1) No student shall begin a certificate or diploma program who has not received a high school diploma or the equivalent or who has not demonstrated ability to benefit from the program through a process of assessment that meets standards of the United States department of education or the department or who is participating in a concurrent enrollment program with a secondary school.

(2) Institutions enrolling students who are of compulsory school age or who are concurrently attending an elementary or secondary school shall have in their possession a signature or other written acknowledgement by elementary or secondary officials and by the student's parent or guardian.

(3) Institutions using an ability-to-benefit admission option shall provide the department with a clear and detailed statement describing their ability-to-benefit assessment programs (including cut off scores and validity data for any test used) and shall be able to demonstrate that ability-to-benefit assessment is performed in a consistent and valid manner.

(4) No student shall be admitted to an associate degree or baccalaureate degree program who has not received a high school diploma or the equivalent.

(5) No student shall be admitted to a graduate degree program who has not received

a baccalaureate degree from an institution accredited by an agency recognized by the United States department of education, or received a baccalaureate degree from a non-accredited institution licensed by the department or by the cognizant state agency in another state, or qualified in an alternative manner approved by the department.

V. Cooperation: The institution shall provide copies of valid certificates from other federal, state and municipal agencies, and any other higher education authorities as proof of compliance with applicable bodies. At minimum the application submission must include:

(1) a copy of the notification of good standing and ability to do business in New Mexico issued by the New Mexico secretary of state's office;

(2) a copy of the New Mexico taxation and revenue department registration;

(3) as applicable, a copy of the national council of state authorization reciprocity agreements (NC-SARA) welcome letter;

(4) as applicable, a list and copy of authorizations granted by other jurisdictions;

(5) as applicable, a list and copy of authorizations granted by other New Mexico boards, commission or agencies.

W. Ownership and administration: The institution shall provide the department with information about ownership, owners, and managers. An institution shall notify the department in writing within 10 working days whenever the institution changes ownership, whenever there is a change in control of the institution, or whenever changes are made to managers. No institution will be licensed in the state of New Mexico without completion certifications required by the department. Any changes or events that may trigger any certification to be untrue, must be immediately reported to the department, and shall

be reported in no less than 10 working days.

(1) The institution shall provide a list of principal owners and provide a list of managers.

(2) The institution shall certify that no owner of the institution has:

(a) been convicted of or has pled no contest or guilty to a crime involving abuse of public funds;

(b) been convicted of or has pled no contest or guilty to a crime of dishonesty or felony within the last five years;

(c) controlled or managed an institution that has ceased operation during the past five years without providing for the completion of programs by its students; or

(d) filed bankruptcy associated with the operation of an educational institution during the past five years.

(3) The institution shall certify that no manager of the institution has:

(a) been convicted of or has pled no contest or guilty to a crime involving abuse of public funds;

(b) been convicted of or has pled no contest or guilty to a crime of dishonesty or felony within the last five years;

(c) controlled or managed an institution that has ceased operation during the past five years without providing for the completion of programs by its students; or

(d) filed bankruptcy associated with the operation of an educational institution during the past five years.

(4) The institution shall certify it:

(a) has not filed bankruptcy during the past five years;

(b) is not under the ownership of any person who has filed bankruptcy associated

with the operation of an educational institution during the past five years; (c) is not managed by any person who has filed bankruptcy associated with the operation of an educational institution during the past five years;

(d) has not been found to be operating illegally in another state for a least five years.

[5.100.7.10 NMAC - N, 12/26/2017; A, 12/11/2018; A, 12/29/2020; A, 10/24/2023]

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

The Human Services Income Support Division is approving to repeal its rule 8.102.100 NMAC, Cash Assistance Programs - Recipient Policies - Definitions And Acronyms, filed 06/18/2001 and replace it with 8.102.100 NMAC, Cash Assistance Programs - Recipient Policies - Definitions And Acronyms, adopted 9/29/2023 and effective 11/1/2023.

The Human Services Income Support Division is approving to repeal its rule 8.106.100 NMAC, Recipient Policies - Definitions and Acronyms, filed 11/17/2009) and replace it with 8.106.100 NMAC, Recipient Policies - Definitions and Acronyms, adopted 9/29/2023 and effective 11/1/2023.

The Human Services Income Support Division is approving to repeal its rule 8.106.520 NMAC, State Funded Assistance Program - Eligibility Policy Income, filed 06/17/2004 and replace it with 8.106.520 NMAC, State Funded Assistance Program - Eligibility Policy Income, adopted 9/29/2023 and effective 11/1/2023.

The Human Services Income Support Division is approving to repeal its rule 8.139.100 NMAC, Social Services Food Stamp Program - General Provisions For The Food Stamp Program filed (4/26/2001) and replace it with 8.139.100 NMAC, Social Services Food Stamp Program

- General Provisions For The Food Stamp Program adopted 9/29/2023 and effective 11/1/2023.

The Human Services Income Support Division is approving to repeal its rule 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/ Income And Resources Excluded By Federal Law filed 6/10/1998 and replace it with 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law, adopted 9/29/2023 and effective 11/1/2023.

The Human Services Income Support Division is approving to repeal its rule 8.139.527 NMAC, Food Stamp Program - Food Stamp Program/ Income And Resources Excluded By Federal Law filed 4/26/2001 and replace it with 8.139.527 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law, adopted 9/29/2023 and effective 11/1/2023.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

**TITLE 8 SOCIAL
SERVICES
CHAPTER 102 CASH
ASSISTANCE PROGRAMS
PART 100 RECIPIENT
POLICIES - DEFINITIONS AND
ACRONYMS**

8.102.100.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.102.100.1 NMAC - Rp,
8.102.100.1 NMAC 11/01/2023]

8.102.100.2 SCOPE: The rule applies to the general public.
[8.102.100.2 NMAC - Rp,
8.102.100.2 NMAC 11/01/2023]

8.102.100.3 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 (PRWORA) 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 (NMW) program was created to replace the AFDC program.

C. Under authority granted to the governor by the federal Social Security Act, the human services department (HSD) 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 employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.100.3 NMAC - Rp,
8.102.100.3 NMAC 11/01/2023]

8.102.100.4 DURATION: Permanent.
[8.102.100.4 NMAC - N, 07/01/2001;
Rp, 11/01/2023]

8.102.100.5 EFFECTIVE DATE: November 1, 2023, unless a later date is cited at the end of a section.
[8.102.100.5 NMAC - Rp,
8.102.100.5 NMAC 11/01/2023]

8.102.100.6 OBJECTIVE:
A. The purpose of the New Mexico works (NMW) program is to improve the quality of life for parents and children by increasing family income, resources and support. The further purpose of the program is to increase family income through family employment and child support and by utilizing cash assistance as a support service to enable and assist parents to participate in employment.

B. The objective of education works program (EWP) is to provide cash assistance to a benefit group where at least one individual is enrolled in a post-secondary, graduate or post-graduate institution. Education and training are essential to long-term career development. The applicant or recipient benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.
[8.102.100.6 NMAC - Rp,
8.102.100.6 NMAC 11/01/2023]

8.102.100.7 DEFINITIONS:
A. Definitions beginning with "A":
(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 childcare 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.

B. Definitions beginning with "B":
(1) Basic needs: include food, clothing, shelter,

utilities, personal requirements and the individual's share of household supplies.

(2) **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 month and initial month are used interchangeably. A benefit group is budgeted prospectively in a beginning month.

(3) **Benefit**

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

(4) **Benefit**

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

(5) **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.

C. **Definitions**

beginning with "C":

(1) **Capital**

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

(2) **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.

(3) **Caretaker**

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

(4)

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 one hundred sixty five percent FPG.

(5)

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

(6)

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.

(7) **Collateral**

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

(8)

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.

(9)

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

D. **Definitions**

beginning with "D":

(1) **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.

(2) **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.

(3) **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.

(4)

Department: means the human services department.

(5) **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.

(6) **Director:**

means the director of the income support division.

(7) **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.

(8)

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.

E. **Definitions**

beginning with "E":

(1) **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.

(2) **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.

(3)

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.

(4)

Encumbrance: means debt owed on property.

(5) **Equity**

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

(6) **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.

(7)

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

F. Definitions

beginning with "F":

(1) **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.

(2) **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.

(3) **Federal**

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

(4) **Federal**

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

(5) **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.

(6) **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.

(7) **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.

(8) **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.

G. Definitions

beginning with "G":

(1) **General**

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

(2)

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.

(3) **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.

(4) **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.

(5)

Guaranteed basic income:

Guaranteed basic income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

H. Definitions

beginning with "H":

(1) **Hardship**

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

(2) **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.

I. Definitions

beginning with "I":

(1)

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.

(2)

Immigration and naturalization

service (INS): a division of the U.S. department of justice dealing with U.S. citizenship and immigration services.

(3)

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.

(4) 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.

(5) 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.

(6) 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.

(7) Ineligible

alien: means an individual who does not meet the eligible alien requirements.

(8) 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.

(9) Inquiry:

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

(10) 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.

(11) 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.

(12)

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

(13) Issuance

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

J. Definitions

beginning with “J”: [RESERVED]

K. Definitions

beginning with “K”: [RESERVED]

L. Definitions

beginning with “L”:

(1) 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.

(2) 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.

(3) 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.

M. Definitions

beginning with “M”:

(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.

N. Definitions

beginning with “N”:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

O. Definitions beginning with "O": **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.

P. Definitions beginning with "P":

(1) Parent: means natural parent, adoptive parent, or stepparent.

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

(3) 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.

(4) 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.

(5) Person: means an individual.

(6) 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.

Q. Definitions beginning with "Q": **Qualified alien status** means a person lawfully admitted into the United States under INA guidelines as defined in PROWRA of 1996.

R. Definitions beginning with "R":

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

(2) 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.

(3) Recipient: means a person receiving cash assistance benefits.

(4) Refugee: means a lawfully admitted individual granted conditional entry into the United States.

(5) 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.

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

(7) 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.

(8) 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.

S. Definitions beginning with "S":

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

(2) Secretary: means the secretary of the department.

(3) 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.

(4) 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.

(5) 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.

(6) Simplified

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

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) Standard

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

(13) 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.

(14)

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.

(15)

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.

T. Definitions

beginning with "T":

(1)

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.

(2) 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.

(3) 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.

U. Definitions

beginning with "U":

(1) 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.

(2) Universal

Basic Income: Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

V. Definitions

beginning with "V":

(1) 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.

(2)

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

(3) 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.

W. Definitions beginning with “W”: **Wage subsidy program** means a subsidized employment training opportunity through which a TANF cash assistance recipient is hired into full-time employment.

X. Definitions beginning with “X”:

Y. Definitions beginning with “Y”:

Z. Definitions beginning with “Z”:

[8.102.100.7 NMAC - Rp, 8.102.100.7 NMAC 11/01/2023]

8.102.100.8

ABBREVIATIONS AND ACRONYMS:

A. ABBREVIATIONS AND ACRONYMS beginning with “A”: **AFDC:** aid to families with dependent children (replaced by TANF effective July 1, 1997).

B. ABBREVIATIONS AND ACRONYMS beginning with “B”:

(1) **BG:** benefit group;
 (2) **BIA:** bureau of Indian affairs;
 (3) **BIA-GA:** bureau of Indian affairs-general assistance.

C. ABBREVIATIONS AND ACRONYMS beginning with “C”:

(1) **CA:** cash assistance;
 (2) **CE:** categorical eligibility or categorically eligible;
 (3) **CFR:** code of federal regulations;
 (4) **CS:** child support;

(5) **CSED:** (HSD) child support enforcement division;

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

D. ABBREVIATIONS AND ACRONYMS beginning with “D”:

(1) **DOH:** (New Mexico) department of health;
 (2) **DOL:** department of labor;
 (3) **DOT:** dictionary of occupational titles.

E. ABBREVIATIONS AND ACRONYMS beginning with “E”:

(1) **E&T:** employment and training (food stamp work program);
 (2) **EBT:** electronic benefit transfer;
 (3) **EI:** earned income;
 (4) **EW:** eligibility worker (now caseworker);
 (5) **EWP:** education works program.

F. ABBREVIATIONS AND ACRONYMS beginning with “F”:

(1) **FAP:** financial assistance program;
 (2) **FAA:** family assistance analyst (formally ISS);
 (3) **FFY:** federal fiscal year;
 (4) **FMV:** fair market value;
 (5) **FNS:** food and nutrition service (previously FCS);
 (6) **FPL:** federal poverty level.

G. ABBREVIATIONS AND ACRONYMS beginning with “G”:

(1) **GBI:** guaranteed basic income;
 (2) **GED:** general equivalency degree.

H. ABBREVIATIONS AND ACRONYMS beginning with “H”:

(1) **HHS:** (U.S.) health and human services;

(2) **HSE:** high school equivalency formerly known as GED;

(3) **HSD:** (New Mexico) human services department;

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

I. ABBREVIATIONS AND ACRONYMS beginning with “I”:

(1) **IDA:** individual development account;
 (2) **INS:** (U.S.) immigration and naturalization service;
 (3) **IPV:** intentional program violation;
 (4) **IRP:** individual responsibility plan;
 (5) **IRU:** incapacity review unit;
 (6) **ISD:** (HSD) income support division;
 (7) **ISD2:** integrated services delivery for ISD;
 (8) **ISS:** income support specialist (now caseworker).

J. ABBREVIATIONS AND ACRONYMS beginning with “J”: **JTPA:** Job Training Partnership Act (now WIA).

K. ABBREVIATIONS AND ACRONYMS beginning with “K”: [RESERVED]

L. ABBREVIATIONS AND ACRONYMS beginning with “L”:

(1) **LIHEAP:** low income home energy assistance program;
 (2) **LITAP:** low income telephone assistance program.

M. ABBREVIATIONS AND ACRONYMS beginning with “M”:

(1) **MAD:** (HSD) medical assistance division;
 (2) **MVD:** (New Mexico) motor vehicle division.

N. ABBREVIATIONS AND ACRONYMS beginning with “N”:

(1) **NADA:**
national automobile dealers association;

(2) **NMAC:**
New Mexico administrative code;

(3) **NMW:**
New Mexico works;

(4) **NOAA:**
notice of adverse action.

O.
ABBREVIATIONS AND ACRONYMS beginning with "O":
[RESERVED]

P.
ABBREVIATIONS AND ACRONYMS beginning with "P":
POS: point of sale.

Q.
ABBREVIATIONS AND ACRONYMS beginning with "Q":
QC: quality control;

R.
ABBREVIATIONS AND ACRONYMS beginning with "R":
(1) **RR:**
regular reporting or regular reporters.
(2) **RRP:**
refugee resettlement program.

S.
ABBREVIATIONS AND ACRONYMS beginning with "S":
(1) **SAVE:**
systematic alien verification for entitlements;
(2) **SE:** self-employment;
(3) **SR:**
simplified reporting;
(4) **SNAP:**
supplemental nutrition assistance program formerly known as food stamps;
(5) **SSA:**
social security administration;
(6) **SSI:**
supplemental security income;
(7) **SSN:**
social security number.

T. ABBREVIATIONS AND ACRONYMS beginning with "T": **TANF:** temporary assistance to needy families (block grant program under Title IV-A of the Social Security Act).

U. ABBREVIATIONS AND ACRONYMS beginning with "U":
(1) **UBI:**
Universal basic income;

(2) **UCB:**
unemployment compensation benefits;

(3) **UEI:**
unearned income;

(4) **USDA:**
United States department of agriculture.

V.
ABBREVIATIONS AND ACRONYMS beginning with "V":
VA: Veterans administration.

W.
ABBREVIATIONS AND ACRONYMS beginning with "W":
(1) **WIA:**
Workforce Investment Act;
(2) **WID:**
work incentive deduction;
(3) **WPA:**
work participation agreement.

X.
ABBREVIATIONS AND ACRONYMS beginning with "X":

Y.
ABBREVIATIONS AND ACRONYMS beginning with "Y":

Z.
ABBREVIATIONS AND ACRONYMS beginning with "Z":
[8.102.100.8 NMAC - Rp,
8.102.100.8 NMAC 11/01/2023]

History of 8.102.100 NMAC:
[RESERVED]

History of Repealed Material:
8.102.100 NMAC, Cash Assistance Programs - Recipient Policies - Definitions And Acronyms, filed 06/18/2001 - Repealed effective 11/1/2023.

Other: 8.102.100 NMAC, Cash Assistance Programs - Recipient Policies - Definitions And Acronyms, filed 06/18/2001 - Replaced 8.102.100 NMAC, Cash Assistance Programs - Recipient Policies - Definitions And Acronyms, effective 11/1/2023.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

TITLE 8 SOCIAL SERVICES

CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS
PART 100 RECIPIENT POLICIES - DEFINITIONS AND ACRONYMS

8.106.100.1 ISSUING
AGENCY: New Mexico Human Services Department.
[8.106.100.1 NMAC - Rp,
8.106.100.1 NMAC, 11/01/2023]

8.106.100.2 SCOPE: The rule applies to the general public.
[8.106.100.2 NMAC - Rp,
8.106.100.2 NMAC, 11/01/2023]

8.106.100.3 STATUTORY AUTHORITY: 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.
[8.106.100.3 NMAC - Rp,
8.106.100.3 NMAC, 11/01/2023]

8.106.100.4 DURATION:
Permanent.
[8.106.100.4 NMAC - Rp,
8.106.100.4 NMAC, 11/01/2023]

8.106.100.5 EFFECTIVE DATE: November 1, 2023, unless a later date is cited at the end of a section.
[8.106.100.5 NMAC - Rp,
8.106.100.5 NMAC, 11/01/2023]

8.106.100.6 OBJECTIVE:
A. The objective of general assistance is to provide cash assistance to dependent needy children and disabled adults who are not eligible for assistance under a federally matched cash assistance program, such as New Mexico works (NMW) or the federal program of supplemental security income (SSI).
B. The objective of the supplement for residential care program is to provide a cash assistance supplement to SSI recipients who reside in licensed adult residential care homes.

C. The objective of the burial assistance program is to assist in payment of burial expenses for an individual who was a low-income individual at the time of death. [8.106.100.6 NMAC - Rp, 8.106.100.6 NMAC, 11/01/2023]

8.106.100.7 DEFINITIONS:

A. Definitions beginning with "A":

(1) **Adult residential shelter care home (ARSCH):** means a shelter care home for adults that is licensed by the department of health.

(2) **Alien:** means an individual who is not a United States citizen.

(3) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.

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

(5) **Authorized beneficiary:** means the surviving spouse of a disabled adult or the caretaker of an unrelated child, who has the ability to use a deceased recipient's issued payment.

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

B. Definitions beginning with "B":

(1) **Basic needs:** means food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.

(2) **Benefit group:** means an individual or group of individuals authorized to receive cash assistance financed by state or local funds.

(3) **Benefit month:** means the month for which cash assistance benefits are issued.

(4) **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.

C. Definitions beginning with "C":

(1) **Capacity to work:** the effects of impairment(s), work-related factors, functionality on the ability for an individual to engage in gainful employment.

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

(3) **Cash assistance:** means state-funded cash assistance in the general assistance program, the adult residential shelter care home program (ARSCH), or the burial assistance program for the indigent.

(4) **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 one hundred sixty-five percent FPG.

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

(6) **Certification period:** means the time period in calendar months that is assigned to a benefit group that is approved to receive cash assistance benefits.

(7) **Collateral contact:** means an individual or agency designated to provide information concerning eligibility.

(8) **Contingency:** means requirement(s) an individual must accept as a condition of eligibility such as, treatment available outside the GA program, unless a determination is made that good cause exists for the individual's inability to comply.

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

D. Definitions beginning with "D":

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

(2) **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. 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.

(3) **Date of authorization:** means the date when action is taken to approve a cash payment for a benefit group.

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

(5) **Day(s):** means working days, unless otherwise defined in this chapter.

(6) **Department:** means the human services department.

(7) **Dependent child:** means an individual who is seventeen years of age or younger; eighteen years of age and enrolled

in high school; or between eighteen and twenty-two years of age and is receiving special education services regulated by the state public education department.

(8) Director:

means the director of the income support division.

(9)

Disability: means the definitions of disability related to the general assistance program and the disability determination process found at 8.106.420.7 NMAC.

E. Definitions

beginning with “E”:

(1) 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.

(2)

Emancipated: means an individual under the age of 18 who is legally recognized as no longer under parental control due to the individual’s marriage, active duty in the armed forces or by the order of a court.

(3)

Encumbrance: means debt owed on property.

(4) Equity

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

(5) Essential

person: means an individual responsible for the care of a disabled general assistance recipient to the extent that placement into institutional care would be required were it not for care provided by this individual.

(6)

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

F. Definitions

beginning with “F”:

(1) Fair

hearing: means an administrative proceeding that a claimant or the claimant’s representative may request if:

(a) an

application is not acted on within the application time limits at 8.106.110.12 NMAC; or

(b)

an application is denied in whole or in part; or

(c)

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

(2) 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 as a trade-in, not the amount the dealer would sell the vehicle for at retail.

(3) Federal

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

(4) Federal

fiscal year: means the time period beginning on October 1 and ending on September 30 of the calendar year.

(5) 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.

G. Definitions

beginning with “G”:

(1) Gainful

employment: means any job or class of jobs in the state that would provide an income equaling or exceeding eighty-five percent of the federal poverty guidelines to the benefit group.

(2)

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

(3) Gross

income: means the total amount of earned or unearned income 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.

(4) Gross

income test: means the income test applied to the maximum income eligibility limit for participation in a particular cash assistance program based on the size of the household or benefit group.

(5)

Guaranteed basic income:

Guaranteed basic income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

H. Definitions

beginning with H”:

Head of household means an individual who is the responsible case head for the benefit group. The head of household may be the parent, guardian, sole adult member, specified relative, pregnant woman, a recipient of general assistance, or caretaker.

I. Definitions

beginning with “I”:

(1)

Immigrant: means an individual who is an alien as defined in title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PROWRA) and within the technical meaning at 8 U.S.C. 1101(a) (15).

(2) Ineligible

alien: means an individual who does not meet the eligible alien requirements or has not been admitted for permanent residence.

(3) 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.

(4) Inquiry:

means a request for information about eligibility requirements for a financial,

medical, or food assistance program that is not an application for that program.

(5) Interim assistance reimbursement: means the program within the social security administration that will reimburse the state through the department for payments made to an individual receiving GA disability during the period the individual's application for SSI was pending.

(6) Institution of higher education: means any education institution which normally requires a high school diploma or equivalency certificate for enrollment, including, but not limited to, colleges, universities, and vocational or technical schools at the post-high school level.

(7) Institutionalized: Living in a facility licensed as an adult residential shelter care home (ARSCH) by the New Mexico department of health.

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

(9) Issuance month: means the calendar month in which cash assistance is issued.

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L": Limited state funds means that the standard of need for a one person benefit group is calculated at \$150.00 per month or less.

M. Definitions beginning with "M":

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

(2) Mandatory benefit group member:

The income and resources of mandatory members will always be considered to determine need, but not payment. In order to be included in the assistance group, members must individually meet eligibility requirements. Members mandatory for inclusion are: spouses residing in the home with the applicant, a caretaker of the applicant, and the father of an unborn child residing in the home with the applicant.

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

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

(5) Month of approval: means the first month in which a benefit group is eligible for cash assistance.

N. Definitions beginning with "N":

(1) Net income test: means the income test applied to eligibility for a particular program, after all allowable deductions are taken from the gross income for the household or 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.

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

(3) New Mexico works: means the federally funded temporary cash assistance program for needy families that carries a sixty-month term limit for adults in the state.

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

(5) Non-cash TANF/MOE benefit or service: means a non-cash TANF/MOE benefit or services including 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.

(6) 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.

(7) Notice of adverse action (NOAA): means a written or electronic notice sent 13 days in advance of an action to reduce, suspend or terminate benefits that includes a statement of the action the department 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 overpayment received if the hearing decision is adverse to the benefit group.

O. Definitions beginning with "O": Overpayment/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.

P. Definitions beginning with "P":

(1) Parent: means a natural parent, adoptive parent, or stepparent.

(2) Payment: means the amount of the cash assistance benefit, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and before any reduction by sanction or recoupment.

(3)

Permanently residing under color of law (PRUCOL): means aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law as follows.

(a)

The individual may be eligible for medicaid if the individual is an alien residing in the United States with the knowledge and permission of the immigration and naturalization services (INS) and the INS does not contemplate enforcing the alien's departure. The INS does not contemplate enforcing an alien's departure if it is the policy or practice of INS not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in a particular case it appears that INS is otherwise permitting the alien to reside in the United States indefinitely, as determined by verifying the aliens status with INS.

(b)

Aliens who are permanently residing in the United States under color of law are listed below. None of the categories include applicants for an immigration and naturalization service status other than those applicants listed in Item (vi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC or those covered under Item (xvi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC. None of the categories allow medicaid eligibility for non-immigrants; for example, students or visitors. Also listed are the most commonly used documents that the INS provides to aliens in these categories:

(i)

aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7) (Section 203(a)(7) of the Immigration and Nationality Act); ask for a copy of INS Form I-94 endorsed "refugee-conditional entry";

(ii)

aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5)(Section 212(d)(5)) of the Immigration and Nationality Act;

for Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981; (although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act);

(iii)

aliens residing in the United States pursuant to an indefinite stay of deportation; ask for an immigration and naturalization service's letter with this information or INS Form I-94 clearly stated that voluntary departure has been granted for an indefinite period of time;

(iv)

aliens residing in the United States pursuant to an indefinite voluntary departure; ask for an immigration and naturalization service's letter or INS Form I-94 showing that voluntary departure has been granted for an indefinite time period;

(v)

aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I-94 or Form I-210 or a letter clearly stating that status;

(vi)

aliens who have filed applications for adjustment of status pursuant to Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the immigration and naturalization services has accepted as properly filed (within the meaning of 8 CFR 245.2(a)(1) or (2) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I-94 or I-181 or a passport appropriately stamped;

(vii)

aliens granted stays of deportation by court order, statute, or regulation, or by individual determination of the immigration and naturalization service pursuant to Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105 a) or relevant immigration and naturalization

service's instructions, whose departure that agency does not contemplate enforcing; ask for a copy of INS Form I-94 or a letter from the immigration and naturalization service, or a copy of a court order establishing the alien's status;

(viii)

aliens granted asylum pursuant to Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158); ask for a copy of INS Form I-94 and a letter establishing this status;

(ix)

aliens admitted as refugees pursuant to Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or Section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)); ask for a copy of INS Form I-94 properly endorsed;

(x)

aliens granted voluntary departure pursuant to Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing; ask for a Form I-94 or Form I-210 bearing a departure date;

(xi)

aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later; ask for a copy for INS Form I-210 or a letter showing that departure has been deferred;

(xii)

aliens residing in the United States under orders of supervision pursuant to Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)); ask for a copy of Form I-220 B;

(xiii)

aliens who have entered and continuously resided in the United States since before January 1, 1972, (or any date established by Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259); ask for any proof establishing this entry and continuous residence;

(xiv)

aliens granted suspension for deportation pursuant to Section 244

of the Immigration and Naturalization Act (8 U.S.C. 1254) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for an order from an immigration judge showing that deportation has been withheld;

(xv) aliens whose deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); ask for an order from an immigration judge showing that deportation has been withheld;

(xvi) any other aliens living in the United States with the knowledge and permission of the immigration and naturalization service and whose departure the agency does not contemplate enforcing (including permanent non-immigrants as established by Public Law 99-239, and persons granted extended voluntary departure due to conditions in the alien's home country based on a determination by the secretary of state).

(4) **Person:** means an individual.

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

Q. Definitions beginning with "Q": Qualified alien includes any of the classes of immigrant status granted by USCIS below:

(1) an alien who is lawfully-admitted for permanent residence (LPR) under the Immigration and Nationality Act (INA);

(2) an alien granted asylum under section 208 of the INA;

(3) an alien admitted into the United States as a refugee under section 207 of the INA;

(4) an alien paroled into the United States for a period of at least one year under section 212(d)(5) of the INA;

(5) an alien whose deportation has been withheld under section 243(h) of the INA as in effect prior to April 1, 1997, who whose removal has been withheld under section 241(b)(3) of the INA;

(6) an alien who has been granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;

(7) an alien who was a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

(8) an alien, an alien parent or alien child, who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same home as the alien at the time of the abuse and there is a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA, as long as the alien has begun the process of becoming a lawful permanent resident under the Violence Against Women Act;

(9) an alien who is a victim of a severe form of trafficking, regardless of immigration status, under the Trafficking Victims Protection Act of 2000.

R. Definitions beginning with "R":

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

(2) **Recertification:** means a complete review of all conditions of eligibility and a redetermination of the amount of the cash assistance benefits for an additional period of time.

(3) **Recipient:** means a person receiving cash assistance benefits.

(4) **Reconsideration:** means a re-evaluation of disability based on additional medical evidence provided by the client.

(5) **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.

(6) **Resource standard:** means the financial standard with respect to an applicant's/recipient's resources and property, which is set at \$2,000 for non-liquid resources and \$1,500 for liquid resources.

(7) **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.

S. Definitions beginning with "S":

(1) **Secretary:** means the secretary of the human services department.

(2) **Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income.

(3) **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.

(4) **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.

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

(6) **Single-parent benefit group:** means a benefit group that does not include both parents of a child who is included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

(7) **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 into the United States as a permanent resident.

(8) 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.

(9) Spouse:

means an individual legally bound by marriage.

(10) 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.

(11) Standard

of need: means the amount provided to each GA cash assistance benefit group on a monthly basis and is based on legislative funding, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR case number and expenditures, and number of pending applications.

(12)

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.

(13)

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 1382 of the Social Security Act.

T. Definitions

beginning with “T”: [RESERVED]

U. Definitions

beginning with “U”:

(1)

Unavailable state funds: means the funds are not sufficient to provide all GA benefit groups with a one dollar monthly cash payment.

(2) 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; other public or private disability or retirement benefits 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.

(3) Universal

basic income: Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

(4) Unrelated

caretaker: means an individual who is not a specified relative within the fifth degree of relationship of a dependent child and has assumed responsibility for care, support and supervision of an unrelated child and for meeting the child’s physical and emotional needs.

(5) Unrelated

child: means a minor, under 18 years of age, residing with a caretaker who is not a specified relative within the fifth degree of relationship.

V. Definitions

beginning with “V”:

(1) Variable

term GA: The certification period shall be set for a length of time, not to exceed 12 months, beginning from the month of approval and is subject to review.

(2)

Verification: means the use of third-party information or documentation to establish the accuracy of statements on the application or recertification.

W. Definitions

beginning with “W”: **Work related factors** means factors taken into account in the disability determination process such as age, education, training, work experience, language ability, appearance, marital status, living situation, as well as relevant social history and minimal employment and activities that would be required in a work setting such as sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating and understanding and following directions.

X. Definitions

beginning with “X”: [RESERVED]

Y. Definitions

beginning with “Y”: [RESERVED]

Z. Definitions

beginning with “Z”: [RESERVED]

[8.106.100.7 NMAC - Rp, 8.106.100.7 NMAC, 11/01/2023]

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) **GBI:**
guaranteed based income;

(24) **GED:**
general equivalency degree;

(25) **HHS:**
(U.S.) health and human services;

(26) **HSD:**
(New Mexico) human services department;

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

(28) **IDA:**
individual development account;

(29) **IPV:**
intentional program violation;

(30) **IRP:**
individual responsibility plan;

(31) **IRU:**
incapacity review unit;

(32) **ISD:**
(HSD) income support division;

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

(34) **MAD:**
(HSD) medical assistance division;

(35) **MVD:**
(New Mexico) motor vehicle division;

(36) **NADA:**
national automobile dealers association;

(37) **NMAC:**
New Mexico administrative code;

(38) **NMDWS:**
New Mexico department of workforce solutions;

(39) **NMW:**
New Mexico works;

(40) **NOAA:**
notice of adverse action;

(41) **POS:**
point of sale;

(42) **PED:**
(New Mexico) public education department;

(43) **QC:**
quality control;

(44) **RR:**
regular reporting;

(45) **RRP:**
refugee resettlement program;

(46) **SAVE:**
systematic alien verification for entitlements;

(47) **SE:** self-employment;

(48) **SR:**
simplified reporting;

(49) **SSA:**
social security administration;

(50) **SSI:**
supplemental security income;

(51) **SSN:**
social security number;

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

(53) **UBI:**
Universal basic income;

(54) **UCB:**
unemployment compensation benefits;

(55) **UEI:**
unearned income;

(56) **USCIS:**
United States immigration and naturalization services;

(57) **USDA:**
United States department of agriculture;

(58) **VA:**
veterans administration;

(59) **WIA:**
Workforce Investment Act;

(60) **WID:**
work incentive deduction;

(61) **WPA:**
work participation agreement.
[8.106.100.8 NMAC - Rp,
8.106.100.8 NMAC, 11/01/2023]

HISTORY OF 8.106.100 NMAC:

History of Repealed Material:
8.106.100 NMAC, Recipient Policies - Definitions and Acronyms, filed 06/17/2004 - Repealed 12/01/2009.
8.106.100 NMAC, Recipient Policies - Definitions and Acronyms, filed 11/17/2009- Repealed 11/01/2023.

Other: 8.106.100 NMAC, Recipient Policies - Definitions and Acronyms, filed 06/17/2004 - Replaced 8.106.100 NMAC, Recipient Policies - Definitions and Acronyms effective 12/01/2009.
8.106.100 NMAC, Recipient Policies - Definitions and Acronyms, filed 11/17/2009 - Replaced 8.106.100 NMAC, Recipient Policies - Definitions and Acronyms effective 11/1/2023.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

**TITLE 8 SOCIAL SERVICES
CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS
PART 520 ELIGIBILITY POLICY - INCOME**

8.106.520.1 ISSUING

AGENCY: New Mexico Human Services Department.
[8.106.520.1 NMAC - Rp,
8.106.520.1 NMAC, 11/01/2023]

8.106.520.2 SCOPE: The rule applies to the general public.

[8.106.520.2 NMAC - Rp,
8.106.520.2 NMAC, 11/01/2023]

8.106.520.3 STATUTORY AUTHORITY: 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.

[8.106.520.3 NMAC - Rp,
8.106.520.3 NMAC, 11/01/2023]

8.106.520.4 DURATION:
Permanent.
[8.106.520.4 NMAC - 8.106.520.4 NMAC, 11/01/2023]

8.106.520.5 EFFECTIVE DATE: November 1, 2023, unless a later date is cited at the end of a section.
[8.106.520.5 NMAC - Rp, 8.106.520.5 NMAC, 11/01/2023]

8.106.520.6 OBJECTIVE:
A. The objective of general assistance is to provide financial assistance to dependent needy children and disabled adults who are not eligible for assistance under a federally matched financial assistance program such as New Mexico works (NMW) or the federal program of supplemental security income (SSI).

B. The objective of the supplement for residential care program is to provide a cash assistance supplement to SSI recipients who reside in licensed adult residential care homes.

C. The objective of the burial assistance program is to assist in payment of burial expenses for an individual who was a low-income individual at the time of death.
[8.106.520.6 NMAC - Rp, 8.106.520.6 NMAC, 11/01/2023]

8.106.520.7 DEFINITIONS:
[RESERVED]
[8.106.520.7 NMAC - Rp, 8.106.520.7 NMAC, 11/01/2023]

8.106.520.8 GENERAL:
A. Income eligibility:
To be eligible for GA cash assistance based on income the countable gross earned and unearned income available to the benefit group is considered to determine the income eligibility of the benefit group.

B. Gross income test:
For the benefit group to be income eligible, the countable gross earned and unearned income considered available to the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

C. Net income test:
For the benefit group to be income eligible, the countable net income after all allowable deductions must be less than the standard of need for the size of the benefit group.
[8.106.520.8 NMAC - Rp, 8.106.520.8 NMAC, 11/01/2023]

8.106.520.9 EXEMPT INCOME: The following income sources or assistance types are not considered available for the gross income test, the net income test and the cash payment calculation:
A. medicaid;
B. food stamp benefits;
C. government-subsidized foster care, if the child for whom the payment is received is not included in the benefit group;
D. SSI;
E. government-subsidized housing or housing payment; government includes any federal, state, local or tribal government, or a private non-profit or for-profit entity operating housing programs or using government funds to provide subsidized housing or to make housing payments.

F. income excluded by federal law (described in 8.139.527 NMAC);

G. educational payments made directly to an educational institution;

H. government-subsidized child care;

I. earned income that belongs to a child 17 years of age or younger who is not the head of household; only earned income paid directly to the child is considered as belonging to the child;

J. up to \$50.00 child support disregard and up to \$100.00 for one child and \$200 for two or more children per month, child support pass-through distributed to the benefit group by the CSED;

K. an emergency one-time only payment made by other agencies or programs;

L. reimbursements for past or future identified expenses, to the extent they do not exceed actual expenses and do not represent a gain

or benefit to the benefit group, such as expenses for job or job training-related activities, travel, per diem, uniforms, transportation costs to and from the job or training site, medical or dependent care reimbursements and any reimbursement for expenses incurred while participating in NMW work program activities; reimbursements for normal living expenses, such as rent, mortgage, clothing or food eaten at home are not excluded;

M. utility assistance payments, such as from LIHEAP, LITAP or similar assistance programs.

N. all exempt income identified in 8.102.520.9 NMAC.
[8.106.520.9 NMAC - Rp, 8.106.520.9 NMAC, 11/01/2023]

8.106.520.10 EARNED INCOME DEFINITION:

A. Earned income means cash or payment in kind that is received as wages from employment, payment in lieu of wages, 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.

B. Earnings include gross profit from self-employment, which requires substantial effort on a continuous basis by the individual who is receiving the income.

(1) Income from rental property is considered earnings if the individual regularly does painting, plumbing, carpentry, maintenance, cleaning or repair work on the property, or if substantial time is spent each month in bookkeeping, collecting rent, or paying bills on the property.

(2) Income from livestock is considered earnings if the individual raises livestock for the purpose of making cash sales. Net income received from the sale of livestock shall be considered in determining the cash assistance benefit amount.

(a) The income received from the sale of livestock may be prorated and

projected on a monthly basis over the certification period.

(b)

Domestic pets (cats, dogs, etc.) are not considered livestock, and their value is not considered in determining income eligibility, except when they are bred and raised for sale.

C. The use of property, such as inhabiting a home or apartment, is considered as earnings if it is received in exchange for services provided to the person owning or controlling the property, and the applicant or recipient would be legally obligated to make a payment for use of the property.

[8.106.520.10 NMAC - Rp, 8.106.520.10 NMAC, 11/01/2023]

8.106.520.11 DETERMINING INCOME FOR SELF-EMPLOYED INDIVIDUALS:

A. Reporting of earnings as business or self-employment income to state or federal tax authorities is the usual indicator of business or self-employment income. Criteria for verification of business and self-employment income are set forth in Paragraph (2) of Subsection B of 8.100.130.14 NMAC.

(1) Tax returns from the previous year may be used, unless the amount of business and self-employment income reported on tax returns is no longer a good indicator of anticipated income.

(2) If the self-employment enterprise has been in operation for such a short time that there is insufficient information to make a reasonable projection, the benefit group shall be required to report income at shorter intervals until there is enough information to make a longer projection of anticipated income.

(3) When tax forms are used to annualize and project income, the expenses reported on the tax forms shall be used, allowing for adjustments for those expenses or costs that are treated differently or not allowed under cash assistance policy.

(4) Capital gains are counted in full as income to

determine self-employment income. A capital gain is defined as proceeds from the sale of capital goods or equipment.

B. Averaging business or self-employment income:

Business or self-employment income is averaged over the period the income is intended to cover, even if the benefit group receives income from other sources.

(1) An individual in a benefit group, who by contract or self-employment derives his or her annual income in a period of time shorter than one year, must have income averaged over a twelve-month period.

(2) If significant changes have occurred because of a substantial increase or decrease in business and averaged income will not accurately reflect the self-employed individuals' income, the self-employment income shall be calculated on the basis of anticipated, not prior, earnings.

(3) 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 coming year.

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

C. Determining monthly business or self-employment income: For the period of time over which self-employment income is averaged, the individual's monthly self-employment income is determined by adding all self-employment income, including capital gains, and excluding allowable costs of producing the self-employment income, and dividing the resulting self-employment income by the number of months the income is intended to cover.

[8.106.520.11 NMAC - Rp, 8.106.520.11 NMAC, 11/01/2023]

8.106.520.12 EARNED INCOME DEDUCTIONS:

A. Earnings deductions: Deductions from gross earned income shall be made in determining the net countable earned income of benefit group members.

(1) Earned income deductions may not exceed the amount of an individual's gross earned income.

(2) The earned income deductions may not be used to reduce unearned income, nor may deductions that are not used by one benefit group member be allocated against the earnings of another benefit group member.

(3) An allowable business expense or cost of producing self-employment income that has been used as a deduction from self-employment income shall not also be allowed as an earned income deduction.

B. Business expenses and self-employment costs: Business expenses and self-employment costs shall be deducted from the gross earnings of a self-employed benefit group member. The income remaining after all allowable business expenses and self-employment costs have been deducted shall be counted as the gross income of the benefit group member. To be eligible for a business or self-employment expense deduction, a Tax ID shall be required.

(1) Allowable expenses and costs: Allowable costs of producing self-employment income include, but are not limited to:

(a) costs of materials and supplies;

(b) business travel, but not personal commuting expenses, calculated at \$.25 per mile, unless the self-employed individual can prove that the actual expense is greater;

(c) business taxes, including occupational taxes, gross receipts taxes and property taxes on a place of business other than the home, and business licenses;

(d) rental of equipment, tools and machinery;

(e) rent expense for the place of business, except for the place of business when the individual operates the business out of the individual's residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines;

(f) payments on the principal of the purchase price of income-producing real estate and capital assets, machinery, equipment and other durable goods;

(g) interest paid to purchase income-producing property.

(2) **Expenses and costs not allowed:**

(a) costs for depreciation, personal business, entertainment expenses and personal transportation to and from work; and

(b) expenses or costs of self-employment that are reimbursed by other agencies cannot also be claimed as costs of self-employment, such as, but not limited to, reimbursements made through USDA to individuals who provide home child care.

(3) Expenses or costs that exceed self-employment income shall not be deducted from other income.

C. Living expense deduction:

(1) **Allowing the deduction in the GA-disabled adult program:** The living expense deduction is allowed with no time limit as follows:

(a) \$125 and one-half of the remainder for a single-adult benefit group;

(b) \$225 and one-half of the remainder for a benefit group that includes two adults.

(2) **Allowing the deduction in a GA-unrelated child benefit group:** The living expense deduction shall be allowed when the caretaker of an unrelated

dependent child chooses to be included as a benefit group member. The living expense deduction is allowed with no time limit as follows:

(a) \$125 and one-half of the remainder for a single-adult benefit group;

(b) \$225 and one-half of the remainder for a benefit group that includes the unrelated caretaker and his or her spouse.

D. Child care costs: Out-of-pocket expenses for child care apply only to the GA-unrelated child benefit group. Expenses paid by the unrelated caretaker for the dependent child included in the benefit group that are necessary due to employment of the caretaker shall be allowed.

(1) From earnings remaining after allowing the work incentive deduction, deduct an amount not to exceed \$200 per month for a child under age two and \$175 per month for a child age two or older.

(2) If both the caretaker and spouse of the caretaker are working, child care expenses shall be allocated to maximize the available deduction to the benefit group.

(3) The total amount deducted per child shall not exceed the applicable limits set forth above.

[8.106.520.12 NMAC - Rp, 8.106.520.12 NMAC, 11/01/2023]

8.106.520.13 UNEARNED INCOME:

A. Definition of unearned income: 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.

B. Special considerations:

(1) **Direct receipt of child support:** Child support payments directly received by an unrelated caretaker and retained by the caretaker are considered available to the benefit group in their entirety, whether or not the caretaker chooses to be included in the benefit group.

(2) **Real property income:** Income from real property is considered as unearned income when an individual included in the benefit group engages in the management of the property less than 20 hours a week. Costs associated with maintenance of the property or the production of income for which the benefit group is responsible are deducted from the income received for the use of the property.

(3) **Alien sponsor income:** All of the income of the alien sponsor and sponsor's spouse is counted as unearned income to the benefit group.

[8.106.520.13 NMAC - Rp, 8.106.520.13 NMAC, 11/01/2023]

8.106.520.14 NET COUNTABLE INCOME: The earned income remaining after all allowable exemptions and deductions shall be added to the unearned income belonging to the benefit group. The resulting amount shall be the net countable income of benefit group members. The net countable income shall be used to determine the cash assistance payment to the benefit group.

[8.106.520.14 NMAC - Rp, 8.106.520.14 NMAC, 11/01/2023]

History of 8.106.520 NMAC: [RESERVED]

History of Repealed Material: 8.106.520 NMAC, State Funded Assistance Program - Eligibility Policy Income, filed 06/17/2004 - Repealed effective 11/01/2023.

Other: 8.106.520 NMAC, State Funded Assistance Program - Eligibility Policy Income, filed 06/17/2004 - was Replaced by 8.106.520 NMAC, State Funded Assistance Program - Eligibility Policy Income, effective 11/1/2023.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

**TITLE 8 SOCIAL
SERVICES
CHAPTER 139 FOOD STAMP
PROGRAM
PART 100 GENERAL
PROVISIONS FOR THE FOOD
STAMP PROGRAM**

8.139.100.1 ISSUING
AGENCY: New Mexico Human Services Department.
[8.139.100.1 NMAC - Rp,
8.130.100.1 NMAC 11/1/2023]

8.139.100.2 SCOPE: General public.
[8.139.100.2 NMAC - Rp,
8.130.100.2 NMAC 11/1/2023]

8.139.100.3 STATUTORY
AUTHORITY: The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp program is contained in Chapter 27 NMSA 1978. Administration of the human services department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8 NMSA 1978 (Repl. 1983).
[8.139.100.3 NMAC - Rp,
8.130.100.3 NMAC 11/1/2023]

8.139.100.4 DURATION: Permanent.
[8.139.100.4 NMAC - Rp,
8.130.100.4 NMAC 11/1/2023]

8.139.100.5 EFFECTIVE
DATE: November 1, 2023, unless

a later date is cited at the end of a section.
[8.139.100.5 NMAC - Rp,
8.130.100.5 NMAC 11/1/2023]

8.139.100.6 OBJECTIVE:
Issuance of the revised food stamp program policy manual is intended to be used in administration of the food stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.
[8.139.100.6 NMAC - Rp,
8.130.100.6 NMAC 11/1/2023]

8.139.100.7 DEFINITIONS:
A. Definitions beginning with "A":
(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) Attendant: means an individual needed in the home for medical, housekeeping, or child care reasons.

(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.

B. Definitions beginning with "B":
(1) Benefit month: means the month for which SNAP benefits have been issued. This term is synonymous with issuance month defined below.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

C. Definitions

beginning with "C":

(1) Capital

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

(2)

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.

(3) 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.

(4)

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

(5)

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.

(6) Collateral

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

(7)

Communal diner: means an individual 60 years of age or 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.

(8)

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.

(9)

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

D. Definitions

beginning with "D":

(1) 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.

(2) 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.

(3) 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.

(4) Disability:

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

(5) Disabled

member: see elderly or disabled member.

(6)

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.

(7) 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.)

E. Definitions

beginning with “E”:

(1) 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).

(2) 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.

(3) Encumbrance: means debt owed on property.

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

(5) 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 (MFSA). 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.

(6) **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.

(7)

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

F. Definitions

beginning with “F”:

(1) **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.

(2) **Fair**

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

(3) **FNS:**

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

(4) **Food**

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

(5)

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.

(6) **Full time**

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

G. Definitions

beginning with “G”:

(1) **General**

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

(2) **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.

(3) **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.

(4)

Guaranteed Basic Income: Guaranteed basic income provides an individual or household a one time or recurring cash payment or transfer funded from a public or private source intended to support the basic needs of individuals or households by reducing poverty, promoting economic mobility, or increasing the financial stability.

H. Definitions

beginning with “H”:

(1) **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).

(2) **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).

(3) **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.

I. Definitions

beginning with “I”:

(1)

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.

(2) **Ineligible**

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

(3) **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.

(4) 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.

(5) 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.

(6) 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).

(7) 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.

(8) 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.

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

(10) 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.

J. Definitions beginning with “J”: [RESERVED]

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”: **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.

M. Definitions beginning with “M”:

(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.

N. Definitions beginning with “N”:

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

(2) 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 applies to non-financial households (NFA).

(3) 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.

(4) 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).

(5) Non

household 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. No household 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.

(6) 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.

(7) 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.

O. Definitions

beginning with "O": Over-issuance means the amount by which SNAP benefits issued to a household exceed the amount the household was eligible to receive.

P. Definitions

beginning with "P":

(1) 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.

(2) 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.

(3)

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.

Q. Definitions

beginning with "Q": 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.

R. Definitions

beginning with "R":

(1) Real

property: means land, buildings, and whatever is built on or affixed to the land.

(2) Recipient:

means a person receiving SNAP benefits. Recipient is the same as participant.

(3) Refugee:

means a lawfully admitted individual granted conditional entry into the U.S.

(4)

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

(5) 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.

(6)

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.

S. Definitions

beginning with "S":

(1) **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.

(2) **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.

(3) **Simplified**

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

(4) **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.

(5) **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.

(6) **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.

(7) **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.

(8) **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.

(9) **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.

(10) **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.

(11) **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.

(12)

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.

(13)

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.

(14)
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.

(15) **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.

(16)
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.

T. Definitions
beginning with "T":
 (1) **Thrifty food plan (TFP):** see maximum SNAP allotment.

(2)
Transitional food stamps: an extension of SNAP benefits up to five months to certain households whose cash assistance benefits have been terminated.

(3)
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.

U. Definitions
beginning with "U":

(1) **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.

(2) **Universal basic income:** Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to every individual or household to meet the basic needs.

V. Definitions
beginning with "V":
 (1) **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.

(2)
Verification: means the use of third-party information or documentation to establish the accuracy of statements on the application.

W. Definitions
beginning with "W":
 [RESERVED]

X. Definitions
beginning with "X": [RESERVED]

Y. Definitions
beginning with "Y": [RESERVED]

Z. Definitions
beginning with "Z": [RESERVED]
 [8.139.100.7 NMAC - Rp, 8.130.100.7 NMAC 11/1/2023]

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

(4) **CA:** cash assistance (same as financial assistance)

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

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

(7) **CPI-U:** consumer price index for urban consumers

(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) **DOJ:** (United States) department of justice

(13) **DOL:** (New Mexico) department of labor

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

(15) **DRIPS:** disqualified recipient information processing system

(16) **E&T:** employment and training

(17) **EBT:** electronic benefit transfer

(18) **EC:** employment counselor

(19) **EI:** earned income

(20) **EW:** eligibility worker (now FAA or caseworker)

(21) **FA:** financial assistance (same as cash assistance)

(22) **FAA:** family assistance analyst (caseworker)

(23) **FCS:** food and consumer services of the USDA, now FNS

(24) **FFY:** federal fiscal year

(25) **FMV:** fair market value

(26) **FNS:** food and nutrition service

(27) **FSP:** food stamp program

(28) **GA:** general assistance

(29) **GBI:** guaranteed basic income;

(30) **GED:** general equivalency degree;

(31) **HHS:** (U.S.) health and human services;

(32) **HSD:** (New Mexico) human services department;

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

(34) **IEVS:** income and eligibility verification system;

(35) **IPV:** intentional program violation;

(36) **ISD:** (HSD) income support division;

(37) **ISD2:** integrated services delivery for ISD;

(38) **ISS:** income support specialist (now FAA or caseworker);

(39) **JOBS:** jobs opportunities and basic skills (a work program under AFDC);

(40) **JTPA:** Job Training Partnership Act (now WIA);

(41) **LIHEAP:** low income home energy assistance program;

(42) **LITAP:** low income telephone assistance program;

(43) **MFSA:** maximum food stamp allotment (benefit amount);

(44) **MRRB:** monthly reporting and retrospective budgeting;

(45) **MVD:** (New Mexico) motor vehicle division;

(46) **NADA:** national automobile dealers association;

(47) **NFA:** nonfinancial assistance (same as non-cash assistance (NCA));

(48) **NMW:** New Mexico works;

(49) **QC:** quality control;

(50) **RR:** regular reporting or regular reporters;

(51) **RSVP:** retired seniors volunteer program;

(52) **SAVE:** systematic alien verification for entitlements;

(53) **SNAP:** supplemental nutrition assistance program;

(54) **SR:** simplified reporting;

(55) **SSA:** social security administration;

(56) **SSI:** supplemental security income;

(57) **SSN:** social security number;

(58) **SUA:** standard utility allowance;

(59) **SWICA:** state wage information collection agency;

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

(61) **TAPP:** tribal assistance project program (Navajo);

(62) **TFP:** thrifty food plan (now the maximum SNAP allotment);

(63) **TFS:** transitional food stamp (benefit amount);

(64) **UBI:** universal basic income;

(65) **UCB:** unemployment compensation benefits;

(66) **USCIS:** United States citizenship and immigration services;

(67) **USDA:** U. S. department of agriculture;

(68) **VA:** veterans administration;

(69) **WIA:** Workforce Investment Act (formally JTPA);

[8.139.100.8 NMAC - Rp, 8.130.100.8 NMAC 11/1/2023]

8.139.100.9 MISSION STATEMENT:

A. The purpose of the program is to provide for improved levels of nutrition among low-income households through a cooperative federal-state program of food assistance to be operated through normal channels of trade.

B. Section 2 of the Food Stamp Act of 1977 states, in

part: Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power to all eligible households who apply for participation.

[8.139.100.9 NMAC - Rp, 8.130.100.9 NMAC 11/1/2023]

8.139.100.10 PROGRAM OVERVIEW:

A. Establishment of the food stamp program: Sec. 4 [2013] (a) of the act provides that subject to availability of funds appropriated under section 18, the secretary is authorized to formulate and administer a food stamp program under which eligible households within a state be provided an opportunity to obtain a more nutritious diet through the issuance to the household of an allotment.

B. State participation: A state is prohibited from participating in the food stamp program if it is determined that state or local sales taxes are collected on purchases of food made with coupons issued under the act.

C. Retail stores: Food stamp benefits used by households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Benefits issued and used as provided in the act shall be redeemable at face value by the secretary through the facilities of the treasury of the United States.

[8.139.100.10 NMAC - Rp, 8.130.100.10 NMAC 11/1/2023]

8.139.100.11 GENERAL PROGRAM DESCRIPTION:

A. Purpose: The supplemental nutrition assistance program (SNAP) is designed to promote the general welfare and to

safeguard the health and well-being of the nation’s population by raising the levels of nutrition among low-income households.

B. Household participation: Participation in SNAP shall be limited to those households whose income and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Eligibility for the program is determined by comparing the applicant group’s income, resources, and non-financial eligibility information to the program’s policies.

C. National standards: Uniform national standards for determining eligibility and participation are established each year, and are effective every October. A household shall meet income and resource limits and other specific eligibility criteria before approval for participation in SNAP. The income test is based on one hundred and thirty percent of the federal poverty level. Resource eligibility limits are \$2,250 for households whose members are under 60 years of age, and \$3,250 for households containing one or more individuals 60 years of age or over. The federal government funds program benefits at one hundred percent and administrative costs at fifty percent.

[8.139.100.11 NMAC - Rp, 8.130.100.11 NMAC 11/1/2023]

8.139.100.12

ADMINISTRATION: The state agency of each participating state shall assume responsibility for the certification of applicant households and for the issuance of coupons (benefits). In New Mexico the agency responsible for administration of the food stamp program is the human services department, income support division. HSD is responsible for control and accountability in the food stamp program. Records shall be kept to ascertain whether the program is being conducted in compliance with provisions of the Food Stamp Act of 1977. Such records shall be available for inspection and audit

at any reasonable time and shall be preserved for not less than three years. [8.139.100.12 NMAC - Rp, 8.130.100.12 NMAC 11/1/2023]

8.139.100.13 DIVISION

RESPONSIBILITIES: The income support division of the human services department shall be responsible for general administration of the food stamp program.

A. Issuance of food stamp coupons to eligible low-income households is accomplished in Santa Fe via direct mail delivery.

B. Since September 1990, benefit delivery was accomplished via electronic benefit transfer in selected counties. The electronic benefit transfer delivery system has been approved statewide.

C. Policy changes and interpretation is forwarded to field staff and other interested parties as it is received from the food and nutrition service of the United States department of agriculture. Individual requests for policy clarifications are also disseminated.

D. The division is responsible for record keeping to satisfy provisions of the Food Stamp Act of 1977, including keeping numbers of participating households, amount of food stamp benefits issued monthly, benefits returned monthly, affidavits filed, and coupons destroyed.

[8.139.100.13 NMAC - Rp, 8.130.100.13 NMAC 11/1/2023]

HISTORY OF 8.139.100 NMAC: [RESERVED]

History of Repealed Material: 8.139.100 NMAC, Food Stamp Program - General Provisions For The Food Stamp Program filed 4/26/2001, Repealed effective 11/1/2023.

Other: 8.139.100 NMAC, Food Stamp Program - General Provisions For The Food Stamp Program filed 4/26/2001, Replaced by 8.139.100 NMAC, Food Stamp Program - General Provisions For The Food Stamp Program effective 11/1/2023.

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 139 FOOD STAMP PROGRAM PART 410 GENERAL RECIPIENT REQUIREMENTS - NONFINANCIAL ELIGIBILITY CRITERIA

8.139.410.1 ISSUING AGENCY: New Mexico Human Services Department. [8.139.410.1 NMAC - Rp, 8.139.410.1 NMAC, 11/1/2023]

8.139.410.2 SCOPE: General public. [8.139.410.2 NMAC - Rp, 8.139.410.2 NMAC, 11/1/2023]

8.139.410.3 STATUTORY AUTHORITY: The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Administration of the human services department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983). [8.139.410.3 NMAC - Rp, 8.139.410.3 NMAC, 11/1/2023]

8.139.410.4 DURATION: Permanent. [8.139.410.4 NMAC - Rp, 8.139.410.4 NMAC, 11/1/2023]

8.139.410.5 EFFECTIVE DATE: November 1, 2023, unless a later date is cited at the end of a section. [8.139.410.5 NMAC - Rp, 8.139.410.5 NMAC, 11/1/2023]

8.139.410.6 OBJECTIVE: Issuance of the revised food stamp program policy manual is intended to be used in administration of the food

stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.

[8.139.410.6 NMAC - Rp,
8.139.410.6 NMAC, 11/1/2023]

**8.139.410.7 DEFINITIONS:
[RESERVED]**

**8.139.410.8 ENUMERATION
(SOCIAL SECURITY NUMBER):**

A. Requirement: The social security number is required for every individual who receives food stamp benefits. Providing the social security number of a household member is voluntary. However, failure to provide the social security number shall result in the denial of food stamp benefits to the household member.

(1) A household participating in the food stamp program (FSP) must provide the social security number of each household member before certification. An actual social security card is not mandatory to fulfill the verification requirement.

(2) If an individual has more than one number, all numbers must be provided.

(3) If an individual does not have a social security number, or if the household does not know if an individual member has a social security number, the household must apply for a social security number for the individual(s) before certification.

(4) A caseworker shall inform the household where to apply and what information is needed, and shall advise the household that proof of application from the social security administration (SSA) office for a social security number is required before certification.

(5) The caseworker shall explain to applicants and participants that refusal or failure to comply, without good cause, shall result in disqualification of the individual household member for whom a social security number has not been provided or obtained.

(6) For a newborn, the household must provide a social security number or proof of application for a social security number at the next recertification or within six months, whichever is later.

B. Validation of social security number:

(1) The caseworker shall record, in the case file and the computer file, the social security number of each household member at certification, recertification, or at any contact with the household. The social security number is validated by the SSA on a periodic basis.

(2) Immediate validation of an individual's social security number is not required for participation in the FSP. Household certification or issuance of food stamp benefits shall not be delayed solely to validate the social security number of a household member.

(3) When a social security number has been validated by the SSA, the caseworker shall make a permanent annotation on the client case file to prevent validation of the social security number in the future.

(4) The caseworker shall offer to:

(a) complete, or help the applicant complete, an application for a social security number, form SS-5.

(b) verify identity, age, and citizenship or alien status, as required by SSA;

(c) forward the SS-5 application to the SSA.

C. Disqualification from food stamps: If a caseworker determines that the household has refused or failed to provide or apply for a social security number without good cause, the individual who does not have a social security number shall be ineligible to participate in the FSP.

(1) **Refusal to comply:** Refusal to provide or apply for a social security number shall result in the disqualification of the individual for whom a social security number is required. Any remaining household members are eligible to participate in the FSP.

(2) **Failure to comply:** Individuals who fail, without good cause, to meet the enumeration requirement within the required time period are ineligible. The disqualification applies to an individual(s), not to an entire household. An individual becomes eligible to participate, and the disqualification ends, when the social security number is provided.

(3) **Determining good cause:** If a household can show good cause why an application has not been completed in a timely manner, the household member without a social security number shall be allowed to participate for one month in addition to the application month. To determine good cause, information from the household member, the social security administration, and HSD records shall be considered. Documentary evidence or collateral information (8.139.100.7 NMAC definitions) that the member has applied for a social security number or has made every effort to provide the social security administration with the information needed to complete an application is considered good cause for not complying timely with this requirement. If a household member applying for a social security number is unable to obtain the documents required by the social security

administration, the caseworker shall make every effort to help the household get these documents.

(a)

If a household can show good cause why an application for a social security number has not been made in a timely manner, the household member concerned shall be allowed to continue to participate each month that good cause exists.

(b)

Good cause does not include delays caused by illness, lack of transportation, or temporary absence, since the SSA provides for the application process to be conducted entirely by mail. A personal interview is not required except for persons age 18 or over who must apply for an original social security number at a local SSA office.

(4)

Participation pending notification:

When an application for a social security number has been filed, as verified by a receipt of application for a social security number from the social security administration (SSA), an individual shall be permitted to participate in the food stamp program, pending notification by the SSA of the household member's social security number.

(5)

Subsequent actions: If the social security number is not verified at recertification for a number already provided, or has not been computer-verified in the interim, the caseworker shall disqualify the individual for noncompliance with the enumeration requirement. The caseworker shall have offered to help the individual complete an application for a duplicate social security number. Any household member disqualified for noncompliance with the enumeration requirement becomes eligible upon providing verification of a valid social security number.

D. Resources

and income: The resources of a disqualified individual count in their entirety. A pro rata share of the disqualified individual's income shall be considered available to the remaining household members.

E. Use of social

security number: HSD is authorized to use social security numbers in the administration of the food stamp program. To the extent determined necessary, HSD may access computer information regarding individual applicants and participants who receive benefits or services under Title XVI of the Social Security Act. The social security number shall be used to prevent duplicate participation, to facilitate mass changes in federal benefits, and to request and exchange information on individuals through the IEVS and SAVE computer match programs, and the department of labor.

[8.139.410.8 NMAC - Rp, 8.139.410.8 NMAC, 11/1/2023]

8.139.410.9 CITIZENSHIP AND IMMIGRATION STATUS

FOR ELIGIBILITY: Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below. The department will determine eligibility for non-citizens in accordance with 7 CFR 273.2 and 7 CFR 273.4. No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:

A. A U.S. citizen;

B. A U.S. non-citizen national;

C. An individual who is:

(1) a member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; (including a spouse, surviving spouse, or child of tribe member) who are lawfully present in the U.S.;

(2) an American Indian born in Canada who possesses at least fifty percent of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act apply; or a member of an Indian tribe as defined at section 4(e) of 25 U.S.C. 450b(e) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians; or

(3) a victim of

human trafficking and their derivative beneficiaries, in accordance with 7 CFR 273.4(a)(5); or

D. A qualified

immigrant meeting the criteria in Subsection D, Paragraph (2) below:

(1) A qualified

immigrant is a:

(a)

lawful permanent resident;

(b)

refugee;

(c)

asylee;

(d)

person granted withholding of deportation or removal;

(e)

conditional entrants, (in effect prior to April 1, 1980);

(f)

person paroled into the U.S. for at least one year;

(g)

Cuban/Haitian entrants;

(h)

battered spouses and children with a pending or approved self-petition for an immigrant visa and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same), or battered spouses and children with an application for cancellation of removal or suspension of deportation, and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same).

(2) Qualified

immigrants are eligible only if they:

(a)

were 65 or older and were lawfully residing in the U.S. on August 22, 1996, or

(b)

are under age 18, or

(c)

have been in "qualified" immigrant status for at least five years, or

(d)

are lawful permanent residents who have worked or can be credited with 40 qualifying quarters of employment, or

(e) were granted refugee or asylum status or withholding of deportation/removal; or

(f) are a Cuban/Haitian entrant, or Amerasian immigrant, or

(g) are receiving blindness or disability-related assistance or

(h) are a veteran, active duty military; or the spouse, or the surviving spouse who has not married, or the child.

(i) are in Iraqi or Afghan special immigrant status.

E. Verification of immigrant status is determined in accordance with 7 CFR 273.2(f) and reasonable opportunity is provided pursuant to 7 CFR 273.2(f)(1)(c).

F. Reporting undocumented aliens:

(1) HSD shall inform the local DHS office only when an official determination is made that any individual who is applying for or receives benefits is present in the U.S. in violation of the INA. An official determination that an undocumented immigrant is in the U.S. in violation of the INA is only made when:

(a) the undocumented alien's unlawful presence is a finding of fact or conclusion of law that is made by HSD as part of a formal determination about the individual's eligibility; and

(b) HSD's finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.

(2) A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.

(3) Undocumented immigrant status is

considered reported when ISD enters the information about the non-citizen into the household's computer file.

(4) When a household indicates inability or unwillingness to provide documentation of immigrant status for any household member, HSD must classify that member as an ineligible immigrant. When a person indicates inability or unwillingness to provide documentation of immigrant status, HSD must classify that person as an ineligible immigrant. In such cases HSD must not continue efforts to obtain that documentation.

[8.139.410.9 NMAC - Rp, 8.139.410.9 NMAC, 11/1/2023]

8.139.410.10 RESIDENCE:

A. Households may be an active member in only one SNAP household in any month, with the exception of residents of a domestic violence shelter.

B. Domestic violence shelter: Any individual who is a resident of a domestic violence shelter may participate as a member in more than one SNAP household simultaneously, provided that the shelter resident(s) left a household which contained the abusive individual.

C. Residence duration: No residence duration requirement will be imposed on any household.

D. Fixed residence or mailing address: An otherwise eligible household is not required to live in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

E. Intent to reside: An intention to reside permanently in New Mexico is not required as a condition for participation in SNAP. However, a specific temporary purpose, such as vacationing in New Mexico, does not satisfy the residence requirement.

F. Verification of residency: Verification of residence should, whenever possible, be made in conjunction with the verification of other information. This can be done through such documents as

rent receipts, mortgage bills, utility expenses, or identification papers which show the name and address of the applicant. Collateral contacts or other documentary evidence can be accepted to verify residence. Any document or collateral contact which reasonably establishes the household's residence must be accepted. No requirement for a specific type of verification may be imposed.

G. Lack of verification in unusual cases: The residence requirement will be verified, except in unusual circumstances, such as homeless households, some migrant farmworker households, where verification of residence cannot reasonably be accomplished.

[8.139.410.10 NMAC - Rp, 8.139.410.10 NMAC, 11/1/2023]

8.139.410.11 NONCONCURRENT RECEIPT OF ASSISTANCE (DUAL PARTICIPATION):

A. In no event may an individual receive food stamp benefits in more than one household in the state of New Mexico in the same month, with the exception of women and children in battered women's shelters (Subsection B of 8.139.410.10 NMAC). In addition, an individual may not receive food stamp benefits in the state of New Mexico and any other state, or the territories of Guam, the Virgin Islands, or Puerto Rico, in the same month. An individual or household participating in a commodity distribution program administered by any Indian tribal organization (ITO) on an Indian reservation is not eligible to receive food stamp benefits in the same month that commodities are received. A household need not be living on the Indian reservation to participate in an Indian tribal commodities program. If an ISS determines that an individual or household has received food stamp benefits to which it was not entitled because of dual participation, a claim will be filed for any month in which there was an over-issuance of food stamp benefits.

B. Disqualification for receipt of multiple benefits:

A finding that an individual has received multiple food stamp benefits simultaneously as a result of an administrative disqualification hearing and IPV, or a conviction in federal or state court, will result in a ten year disqualification period. The income and resources of the disqualified individual will continue to count in their entirety to the household while the individual remains in the home. [8.139.410.11 NMAC - Rp, 8.139.410.11 NMAC, 11/1/2023]

8.139.410.12 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) GENERAL WORK 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 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).

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 C of this section.

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.

C. Compliance with general work requirements: 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).

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 7 CFR 273.13. A participant who corrects the failure of compliance during the notice of adverse action 13-day time period shall not have the disqualification imposed against the household member.

(1) Consequences of non-compliance with work requirements will be in accordance with 7 CFR 273.7(f).

(a) For the first occurrence of noncompliance, the individual will be disqualified for three months;

(b) For the second occurrence of noncompliance, the individual will be disqualified for six 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).

[8.139.410.12 NMAC - Rp, 8.139.410.12 NMAC, 11/1/2023]

8.139.410.13 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. 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).

[8.139.410.13 NMAC - Rp, 8.139.410.13 NMAC, 11/1/2023]

8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS:

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. The age limit standards for individuals who are subject to the ABAWD work requirement.

Age Limit	Date ends
18-49	September 5th 2023
18-50	September 30th 2023
18-52	September 30th 2024
18-54	September 30th 2025

B. 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.

C. 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. 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.

D. 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.

E. 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).

F. 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.

(3) Individuals who are homeless as outlined at Subsection A of 8.139.100.7 NMAC.

(4) Individuals who are Veterans.

(5) Individuals 24 years of age or younger who were in foster care under the responsibility of the state through the maximum age permitted by the state.

G. ISD will administer the eight percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g).
[8.139.410.13 NMAC - Rp, 8.139.410.13 NMAC, 11/1/2023]

HISTORY OF 8.139.410 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives: ISD 430.0000, Certification of Eligible Households, 8/8/1980. ISD-Rule 422.0000, Food Assistance - Residency, 11/4/1982. ISD-Rule 422.0000, Residency, 2/9/1983. ISD-Rule 422.0000, Residency, 8/13/1986. ISD-Rule 423.0000, Food Assistance - Social Security Enumeration, 11/4/1982. ISD-Rule 423.0000, Social Security Enumeration, 2/4/1983. ISD-Rule 423.0000, Social Security Enumeration, 4/7/1983. ISD-Rule 423.0000, Social Security Enumeration, 5/3/1984. ISD Rule 423.0000, Food Assistance - Social Security Enumeration, 7/22/1987. ISD-Rule 426.0000, Food Assistance - Citizenship and Alien Status, 11/4/1982. ISD-Rule 426.0000, Citizenship and Alien Status, 2/11/1983. ISD-Rule 426.0000, Citizenship and Alien Status, 4/2/1983. ISD FS 310, Food Stamp Nonfinancial Eligibility Criteria, 2/29/1988.

History of Repealed Material:
8.139.410 NMAC, Food Stamp Program - Food Stamp Program/ Income And Resources Excluded By Federal Law filed 6/10/1998 repealed effective 11/1/2023.

Other: 8.139.410 NMAC, Food

Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law filed 6/10/1998 Replaced 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law effective 11/1/2023.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

**TITLE 8 SOCIAL
SERVICES
CHAPTER 139 FOOD STAMP
PROGRAM
PART 527 FOOD STAMP
PROGRAM / INCOME AND
RESOURCES EXCLUDED BY
FEDERAL LAW**

8.139.527.1 ISSUING
AGENCY: New Mexico Human Services Department.
[8.139.527.1 NMAC - Rp, 8.139.527.1 NMAC 11/01/2023]

8.139.527.2 SCOPE: General public.
[8.139.527.2 NMAC - Rp, 8.139.527.2 NMAC 11/01/2023]

8.139.527.3 STATUTORY
AUTHORITY: The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270/282. State authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Administration of the human services department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).
[8.139.527.3 NMAC - Rp, 8.139.527.3 NMAC 11/01/2023]

8.139.527.4 DURATION: Permanent.
[8.139.527.4 NMAC - Rp, 8.139.527.4 NMAC 11/01/2023]

8.139.527.5 EFFECTIVE
DATE: November 1, 2023 unless a later date is cited at the end of the section.
[8.139.527.5 NMAC - Rp, 8.139.527.5 NMAC 11/01/2023]

8.139.527.6 OBJECTIVE: Issuance of the revised food stamp program policy manual is intended to be used in administration of the food stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.
[8.139.527.6 NMAC - Rp, 8.139.527.6 NMAC 11/01/2023]

8.139.527.7 DEFINITIONS
[RESERVED]

8.139.527.8 INCOME AND RESOURCES EXCLUDED BY FEDERAL LAWS: Certain income and resources are specifically excluded by federal law from consideration in determining eligibility for the food stamp program.
[8.139.527.8 NMAC - Rp, 8.139.527.8 NMAC 11/01/2023]

8.139.527.9 GENERAL:
A. The value of assistance to children under P.L. 79/396, Section 12(e) of the National School Lunch Act, as amended by Section 9(d) of P.L. 94/105. This law authorizes the school lunch program, the summer food service program for children, the commodity distribution program, and the child and adult care food program. The exclusion applies to assistance provided to children rather than that paid to providers.

B. The value of assistance to children under P.L. 89/642, Section 11(b) of the Child Nutrition Act of 1966 is not considered income or resources for any purpose. This law authorizes the special milk program, the school breakfast program, and the special supplemental food program for women, infants, and children (WIC).

C. Under WIC demonstration projects, coupons that may be exchanged for food at farmers' markets by P.L. 100/435, Section 501, 9/19/88, which amended Section 17(m)(7) of the Child Nutrition Act of 1966.

D. Reimbursements received under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, P.L. 91/646, Section 216.

E. Any payment under Titles I and II of the Domestic Volunteer Services Act of 1973, P.L. 93/113.

(1) Payments under Title I of the Act, including payments from VISTA, university year for action and the urban crime prevention program, made to volunteers will be excluded for an individual receiving FS benefits or public assistance at the time the individual joined the Title I program, except that households which were receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion.

(2) Temporary interruptions in food stamp participation do not alter the exclusion after an initial determination has been made.

(3) New applicants who were not receiving food stamps at the time they joined VISTA will have their volunteer payments counted as earned income.

(4) Payments to volunteers under Title II, including RSVP, foster grandparents program

and senior companion program, are excluded as income.

F. Payments precipitated by an emergency or major disaster as defined in the Disaster Relief Act of 1974, P.L. 93/288, Section 312(d), as amended by the Disaster Relief and Emergency Assistance Amendments of 1988, P.L. 100/707, Section 105(i). This exclusion applies to federal assistance, including Federal Emergency Management Assistance (FEMA) funds, provided to directly affected individuals and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. Most, but not all FEMA funds are excluded. For example, some payments made to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision. A major disaster is any natural catastrophe such as a hurricane, drought, or, regardless of cause, any fire, flood, or explosion, which the president determines causes damage of enough severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. An emergency is any occasion or instance for which the president determines that federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

G. The amount of any home energy assistance payments or allowances provided directly to, or on behalf of, a household under the Low Income Home Energy Assistance Act, P.L. 99/425, Section (e), 9/30/86. In determining any excess shelter expense deduction, the full amount of such payments or allowances is deemed to be expended by such household for heating or cooling expenses.

H. Amounts made available for tuition and fees, and,

for students attending an institution at least half time, for books, supplies, transportation and miscellaneous personal expenses (other than room, board, and dependent care) provided under Title IV of the Higher Education Act Amendments of 1986, P.L. 99/498, Section 479B, as amended by P.L. 100/50, June 3, 1987, and by the bureau of Indian affairs.

(1) The Higher Education Amendments of 1992, P.L. 102/325, 7/23/92, contain two separate provisions affecting the treatment of payments made under the Higher Education Act. In regard to Title IV, Student Assistance, Part F, Section 479B provides that: Notwithstanding any other provision of law, student financial assistance received under Title IV or under bureau of Indian affairs student assistance programs, will not be counted in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any federal, state, or local program financed in whole or in part with federal funds. Educational assistance authorized under Title IV will be excluded with respect to determinations beginning on or after July 1, 1993.

(2) Excluded educational assistance authorized under Title IV includes the following:

- (a)** basic educational opportunity grants (BEOG or PELL);
- (b)** presidential access scholarships (super PELL grants);
- (c)** supplemental educational opportunity grants (SEOG);
- (d)** state student incentives grants (SSIG);
- (e)** federal direct student loan programs (FDSLPL) (formerly GSL and FFELP);
- (i)** federal direct supplemental loan program (provides loans to students);
- (ii)** federal direct PLUS program (provides loans to parents);

(iii) federal direct Stafford loan program;	(4) Section 480(b) of Title IV provides that the changes made in part F of Title IV of the Act by the amendment made by this section shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.	(iii) sex equity program;
(iv) federal consolidated loan program;		(iv) programs for criminal offenders;
(f) direct loans to students in institutions of higher education (Perkins loans, formerly NDSL);		(v) secondary school vocational education program;
(g) federal work study funds (not all federal work study funds come under Title IV of the Higher Education Act);	(5) Under Title XIII, Indian Higher Education Programs, Part E//Tribal Development Student Assistance Revolving Loan Program, under the Tribal Development Student Assistance Act, Section 1343(c) provides that for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other federal law, and may not penalize students in determining eligibility for other funds. The Part E exclusion was effective October 1, 1992.	(vi) postsecondary and adult vocational education program;
(h) TRIO grants (to organizations or institutions for students from disadvantaged backgrounds);		(vii) state assistance for vocational education support programs by community based organizations;
(i) upward bound (some stipends go to students);		(viii) consumer and homemaking education program;
(i) student support services;		(ix) comprehensive career guidance and counseling program;
(ii) Robert E. McNair post/baccalaureate achievement;		(x) business/labor/education partnership for training program.
(iii) Robert C. Byrd honors scholarship program.	(6) Payments received under the Carl D. Perkins Vocational Education Act, Section 507, P.L. 98/524, as amended by P.L. 101/392, 9/25/90, Section 501 and 701 of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, are excluded.	(d) national tech/prep education program;
(j) college assistance migrant program (CAMP) for students whose families are engaged in migrant and seasonal farm work;		(e) state/administered tech/prep education program;
(k) high school equivalency program (HEP);	(7) Amounts made available for tuition and fees, and for students attending an institution at least half time, books, supplies, transportation, dependent care, and miscellaneous personal expenses (other than room and board) are excluded. This provision was effective July 1, 1991. The programs under the Carl D. Perkins Act include the following:	(f) supplementary state grants for facilities and equipment and other program improvement activities;
(l) national early intervention scholarship and partnership program.		(g) community education employment centers program;
(3) There is only one BIA student assistance program per se. It is the higher education grant program, which is sometimes called the scholarship grant program. Education or training assistance received under any BIA program must be excluded. There is an adult education program providing money to adults to get a GED, attend technical schools, and to receive job training. There is also an employment assistance program. In addition, education and training may be made available under separate programs like the Indian child and family programs. Each tribe has a BIA agency that may be contacted for more information about education and training assistance.	(a) Indian vocational education program;	(h) vocational education lighthouse schools program;
	(b) native Hawaiian vocational education program;	(i) tribally controlled postsecondary vocational Institutions program;
	(c) state vocational and applied technology education program, which contains the:	(j) vocational education research program;
	(i) state program and state leadership activities;	(k) national network for curriculum coordination in vocational and technical education;
	(ii) program for single parents, displaced homemakers, and single pregnant women;	(l) national center or centers for research in vocational education;
		(m) materials development in telecommunications program;
		(n) demonstration centers for the training of dislocated workers program;

(o) vocational education training and study grants program;

(p) vocational education leadership development awards program;

(q) vocational educator training fellowships program;

(r) internships for gifted and talented vocational education students program;

(s) business and education standards program;

(t) blue ribbon vocational education program;

(u) educational programs for federal correctional institutions;

(v) model programs of regional training for skilled trades;

(w) demonstration projects for the integration of vocational and academic learning program;

(x) cooperative demonstration programs;

(y) bilingual vocational training program;

(z) bilingual vocational instructor training program;

(aa) bilingual materials, methods, and techniques program;

(8) Federal Perkins Loans authorized under Part E of Title IV of the Higher Education Act must be handled in accordance with other Title IV income.

(9) Section 5(d)(3) of the Food Stamp Act, as amended by P.L. 101/624, Food Agriculture, Conservation and Trade Act of 1990, Title XVIII, Mickey Leland Memorial Domestic Hunger Relief Act, 11/28/90, and P.L. 102/237, Food, Agriculture, Conservation, and Trade Act Amendments of 1991, Section 903, provide that educational monies are excluded from income:

(a) when they are awarded to a person

enrolled at a recognized institution of post/secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent of (GED);

(b) to the extent that they do not exceed the amount used for or made available as an allowance determined by the school, institution, program, or other grantor, for tuition, mandatory fees, including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved, books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses) of the student incidental to attending such school, institution, or program; and

(c) to the extent loans include any origination fees and insurance premiums.

I. Payments, allowances, and earnings to individuals participating in programs under the Job Training Partnership Act (JTPA) of 1982, P.L. 97/300 except for on/the/job training payments provided under section 204(5) of Title II of the JTPA to dependents 19 years of age or older.

J. Payments, allowances, and earnings of individuals participating in projects conducted under Title I of the National and Community Services Act of 1990. Such projects were considered to be conducted under the JTPA, per P.L. 101/610, Section 117(d), 11/16/90, which clarified Section 142(b) of the JTPA. There are about 47 different NCSA programs, and they vary by state.

K. Funds received by individuals 55 and older under the Senior Community Service Employment Program under Title V of the Older Americans Act, P.L. 100/175, Section 166, 11/29/87. Each state and eight organizations receive Title V funds. The eight organizations that receive Title V funds are:

(1) green thumb;

(2) national council on aging;

(3) national council of senior citizens;

(4) American association of retired persons;

(5) U.S. forest service;

(6) national association for Spanish speaking elderly;

(7) national urban league;

(8) national council on black aging.

L. Any amount by which the basic pay of an individual is reduced under P.L. 99/576, Veteran's Benefits Improvement and Health Care Authorization Act of 1986, Section 303(a)(1), 8/7/86, which amended Section 1411(b) and 1412(c) of the Veterans Educational Act of 1984 (GI Bill), which will revert to the treasury. Title 38 of the USC, Chapter 30, Section 1411 refers to basic educational assistance entitlement for service on active duty, and Section 1412 refers to basic educational assistance entitlement for service in the selected reserve. Section 216 of P.L. 99/576 authorized stipends for participation in study of Vietnam/era veterans' psychological problems. These payments are not excluded by law.

M. P.L. 100/242, Section 126(c)(5)(A), 11/6/87, the Housing and Community Development Act of 1987, excludes most increases in earned income of a family residing in certain housing while participating in HUD demonstration projects authorized by Section 126. Demonstration projects are authorized by this law for Charlotte, NC, and ten additional locations. The affected regional offices are contacted individually regarding these projects.

N. P.L. 101/625, Section 522(i)(4), 11/28/90, Cranston/Gonzales National Affordable Housing Act, excludes most increases in the earned income of a family residing in certain housing while participating in HUD demonstration projects authorized by this public law.

Demonstration projects are authorized by this law for Chicago, IL, and three other locations. The affected regional offices are contacted individually regarding these projects.

O. The value of any payment made under the Family Support Act, P.L. 100/485, Section 301, which amended Section 402 (g) (1)(E) of the Social Security Act, including payments made under Title IV/A of the Social Security Act, and including transitional payments (entitlement payments).

P. "At risk" block grant payments are excluded by P.L. 101/508, Section 5801, which amended Section 402(i) of the Social Security Act (11/5/1990). No deduction may be allowed for any expense covered by such payments.

Q. The value of any provided or arranged, or any amount received as payment for such care or reimbursement for costs incurred for such care is excluded by P.L. 102/586, Section 8, signed 11/4/1992, which amended the Child Care and Development Block Grant Act Amendments of 1992 by adding section 658S. The value or amount of is excluded from income for purposes of any federal or federally/assisted program that bases eligibility or amount of benefits on need. These payments are made under the Social Security Act, as amended.

R. A payment made to a participant for costs that are necessary and directly related to participation in a work program. Such costs include, but are not limited to, dependent care costs, transportation, expenses related to work, training or education, such as uniforms, personal safety items, other necessary equipment, and books or training manuals. Such costs may not include the cost of meals away from home. In addition, the value of dependent care services provided for or arranged for are excluded.

S. The full amount of any public assistance (PA) or general assistance (GA) housing assistance payment made to a third party on behalf of a household residing in transitional housing for the homeless by P.L. 103/66, the Mickey Leland

Childhood Hunger Relief Act, 1993, which revised Section 5(k)(2)(F) of the Food Stamp Act. The exclusion is effective 9/1/1994.

T. Payments made under the Radiation Exposure Compensation Act, P.L. 101/426, Section 6 (h)(2), 10/15/1990.

U. All payments from the agent orange settlement fund or any other fund established pursuant to the settlement in the agent orange product liability litigation retroactive to January 1, 1989, in accordance with the Agent Orange Compensation Exclusion Act, P.L.101/201, 12/6/1989. An agent orange disabled veteran receives yearly payments. Survivors of deceased disabled veterans receive a lump/sum payment. These payments are disbursed by the AETNA insurance company.

(1) P.L. 101/239, signed 12/19/1989, the Omnibus Budget Reconciliation Act of 1989, Section 10405, also excluded payments made from the agent orange settlement fund or any other fund established pursuant to the settlement in the **In re: agent orange product liability litigation**, M.D.L. No. 381 (E.D.N.Y.) from income and resources in determining eligibility for the amount of benefits under the food stamp program.

(2) P.L. 102/4, Agent Orange Act of 1991, 2/6/1991, authorized veterans' benefits to some veterans with service/connected disabilities resulting from exposure to agent orange. Such VA payments are not excluded by law.

V. Any earned income tax credit is excluded from is not taken into account in determining resources for the month of receipt and the following month, under P.L. 101/508, 11/5/1990, the Omnibus Budget Reconciliation Act of 1990, Title XI Revenue Provisions, Section 11111, Modifications of Earned Income Tax Credit, subsection (b). This provision is effective for taxable years beginning after December 31, 1990. Subsequently, the September 1988 amendments to the Food Stamp Act require the exclusion from income of any payment made to a

household under Section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit). The August 1993 amendments to the Food Stamp Act require the exclusion from resources of any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in the program continuously during the 12 month period. The 1993 amendments are to be implemented September 1, 1994.

W. Payments made to individuals because of their status as victims of Nazi persecution per P.L. 103/286, August 1, 1994. The exclusion is effective for eligibility and benefit determinations made on or after August 1, 1994, and excludes payments made before, on or after August 1.

X. Combat related military pay if the pay is the result of deployment to or service in a combat zone and was not received immediately prior to serving in combat zone.

Y. Guaranteed Basic Income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program. Income from this program is exempt when any funding comes from a private source.

Z. Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to every individual or household to meet basic needs. [8.139.527.9 NMAC - Rp, 8.139.527.9 NMAC 11/01/2023]

8.139.527.10 AMERICAN INDIAN OR ALASKA NATIVE:

A. Payments to the Turtle Mountain Band of Chippewas, Arizona (P.L. 97/403).

B. Payments to the Blackfeet, Gros Ventre, and Assiniboine tribes (Montana) and the Papago, Arizona tribe per P.L. 97/408.

C. Per capita and interest payments made to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and to the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana under P.L. 98/124, Section 5. Funds were awarded in docket 10/81L.

D. Funds awarded in docket number 15/72 of the United States Court of Claims and distributed to members of the Red Lake Band of Chippewas in accordance with P.L. 98/123, Section 3, 10/13/1983.

E. Payments to the Saginaw Chippewa Indian Tribe of Michigan under P.L. 99/346, Section 6 (b)(2).

F. Per capita payments distributed to, or held in trust for, the Chippewas of the Mississippi in accordance with P.L. 99/377, Section 4(b), 8/8/1986. The judgments were awarded in Docket Number 18/S. The funds are divided by reservation affiliation for the Mille Lac, White Earth, and Leech Lake Reservations, all of Minnesota.

G. All compensation, including cash, stock partnership interest, land, interest in land, and other benefits received under the Alaska Native Claims Settlement Act, P.L. 92/203, Section 29, dated 1/2/1976 and the Alaska Native Claims Settlement Act Amendments of 1987, P.L. 100/241, Section 15, 2/3/1988.

H. In accordance with 25 USCS 1407, Judgment Funds, as amended by P.L. 93/134 and P.L. 97/458, funds appropriated in satisfaction of judgments of the Indian claims commission or claims court in favor of any Indian tribe, band, etc. which:

(1) are distributed per capita or held in trust pursuant to a plan approved under the provisions of this Act (25 USCS Subsections 1401 et seq), or

(2) on the date of enactment of this act (January 12, 1983), are to be distributed per capita, or are held in trust pursuant to a plan approved by congress prior to the date of enactment of this Act (January 12, 1983), or

(3) were distributed pursuant to a plan approved by congress after December 31, 1981, but prior to the date of enactment of this act (January 12, 1983), and any purchases made with such funds, including all interest and investment income accrued thereon while such funds are so held in trust, except for per capita payments in excess of \$2,000. The \$2,000 amount applies to each payment made to each person. Initial purchases made with exempt payments distributed between January 1, 1982, and January 12, 1983 are excluded from resources to the extent that excluded funds were used.

I. Per capita payments from funds which are held in trust by the secretary of the interior (trust fund distributions) for an Indian tribe per P.L. 98/64, 8/2/83, which applied the exclusion in 25 USC 1407. Per capita payments may be authorized for specific tribes under other public laws.

J. Relocation assistance payments to members of the Navajo and Hopi tribes under P.L. 93/531, section 22.

K. Income derived from certain submarginal land held in trust for certain Indian tribes under P.L. 94/114, section 6, 10/17/1975. The tribes that may benefit are the:

(1) Bad River band of the Lake Superior tribe of Chippewa Indians of Wisconsin;

(2) Blackfeet tribe;

(3) Cherokee nation of Oklahoma;

(4) Cheyenne River Sioux tribe;

(5) Crow Creek Sioux tribe;

(6) lower Brule Sioux tribe;

(7) Devils Lake Sioux tribe;

(8) Fort Belknap Indian community;

(9) Assiniboine and Sioux tribes;

(10) Lac Courte Oreilles band of Lake Superior Chippewa Indians;

(11) Keweenaw bay Indian community;

(12) Minnesota Chippewa tribe;

(13) Navajo tribe;

(14) Oglala Sioux tribe;

(15) Rosebud Sioux tribe;

(16) Shoshone/Bannock tribes;

(17) Standing Rock Sioux tribe.

L. Payments from the disposition of funds to the Grand River Band of Ottawa Indians, per P.L. 94/540.

M. Indian claims commission payments made to the confederated tribes and bands of the Yakima Indian Nation and the Apache tribe of the Mescalero reservation under P.L. 95/433, Section 2.

N. Payments made to the Passamaquoddy tribe, the Penobscot nation, and the Houlton Band of Maliseet under the Maine Indian Claims Settlement Act of 1980, P.L. 96/420, Section 9(c), 10/10/1980.

O. Funds made to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act, under P.L. 98/500, Section 8, 10/17/1984, except for per capita shares in excess of \$2,000.

P. Funds distributed per capita to the Sac and Fox Indians or held in trust per P.L. 94/189, Section 6, 12/31/1975. The funds are divided between members of the Sac and Fox tribe of Oklahoma and the Sac and Fox tribe of the Mississippi in Iowa. The judgments were awarded in Indian claims commission dockets numbered 219, 153, 135, 158, 231, 83, and 95.

Q. Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior in accordance with P.L. 99/146, Section 6(b), 11/11/1985. Judgments were awarded in dockets numbered 18/S, 18/U, 18/C, and 18/T. Dockets 18/S and 18/U are divided among the following reservations:

(1)

Wisconsin: Bad River reservation, Lac du Flambeau reservation, Sokaogon Chippewa community, Red Cliff reservation, St. Croix reservation.

(2) **Michigan:**

Keweenaw Bay Indian community, (l'Anse, Lac Vieux Desert, and Ontonagon Bands).

(3)

Minnesota: Fond du Lac reservation, Grand Portage reservation, Nett Lake reservation (including Vermillion Lake and Deek creek), White Earth reservation.

(4) Under

Dockets 18/C and 18/T, funds are given to the Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians of the Lac Courte Oreilles reservation of Wisconsin, the Bad River Band of the Lake Superior tribe of Chippewa Indians of the Bad River reservation, the Sokaogon Chippewa community of the Mole Lake Band of Chippewa Indians, and the St. Croix Chippewa Indians of Wisconsin.

R. Monies paid to the White Earth Band of Chippewa Indians in Minnesota, under the White Earth Reservation Land Settlement Act of 1985, per P.L. 99/264, Section 16, 3/24/1986.

S. Funds, assets, or income from the trust fund established and paid to the Puyallup tribe in the state of Washington will not affect the eligibility or benefit amount of its members for any federal program, per P.L. 101/41, 6/21/1989, Section 10(b), of the Puyallup tribe of Indians Settlement Act of 1989. Section 10(c) provides that none of the funds, assets, or income from the trust fund established in Section 6(b) shall at any time be used a basis for denying or reducing funds to the tribe or its members under any federal, state or local program.

T. Funds appropriated in satisfaction of judgments awarded to the Seminole Indians in Dockets 73, 151, and 73/A of the Indian claims commission, except for per capita payments in excess of \$2,000 under P.L. 101/277, 4/30/1990. Payments

were allocated to the Seminole nation of Oklahoma, the Seminole tribe of Florida, the Miccosukee tribe of Indians of Florida, and the independent Seminole Indians of Florida.

U. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 in accordance with P.L. 101/503, Section 8(b), dated November 3, 1990.

V. Interests of individual Indians in trust or restricted lands, and up to \$2,000 per year of income received by individual Indians that is derived from such interests under 25 USCS 1408, as amended by P.L. 93/134, Section 8, 10/19/73, P.L. 97/458 and P.L. 103/66, Section 13736, 10/7/93. Interests include an Indian's right to or legal share of the trust or restricted lands and any income accrued from the funds in trust or the restricted lands. The exclusion applies to each individual Indian with an interest. The income exclusion applies for both eligibility and benefit amount purposes in the food stamp program. The income exclusion applies to calendar years and is effective beginning January 1, 1994.

W. Grant programs for child and family services on or near reservations in preparation for and implementation of child welfare codes under 25 USC 1931 Indian Child Welfare, P.L. 95/608, 11/8/1978), subparagraph (a). Such programs may include, but are not limited to, family assistance, including homemaker and home counselors, day care, after school care, and employment, recreational activities, and respite care; home improvement; the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters; and education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs. Subparagraph (b) provides that assistance under 25 USCS 1901 et seq. shall not be a basis for the denial or reduction of any assistance

otherwise authorized under any federally assisted programs. [8.139.527.10 NMAC - Rp, 8.139.527.10 NMAC 11/01/2023]

HISTORY OF 8.139.527 NMAC:

Pre/NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives: ISD 440.0000, Eligibility Criteria / Financial, 8/15/1980. ISD 440.0000, Eligibility Criteria / Financial, 10/24/1980. ISD/Rule 428.0000, Food Assistance / Resources, 11/4/1982. ISD/Rule 428.0000, Food Assistance / Resources, 2/14/1983. ISD/Rule 428.0000, Food Assistance / Resources, 1/12/1984. ISD/Rule 428.0000, Food Assistance / Resources, 5/1/1986. ISD FS 410, Food Stamp Resources, 3/1/1988.

History of Repealed Material:
[RESERVED]

History of Repealed Material:
8.139.527 NMAC, Food Stamp Program - Food Stamp Program/ Income And Resources Excluded By Federal Law filed 4/26/2001 repealed effective 11/1/2023.

Other: 8.139.527 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law filed 4/26/2001 - was Replaced by 8.139.527 NMAC, Food Stamp Program - Food Stamp Program/ Income And Resources Excluded By Federal Law, effective 11/1/2023.

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

This is an amendment to 8.102.520 NMAC, Section 9 effective 11/1/2023.

8.102.520.9 EXEMPT INCOME: The following income sources are not considered available for the gross income test, the net

income test, and the cash payment calculation:

- A. medicaid;
- B. food stamp benefits;
- C. government-subsidized foster care, if the child for whom the payment is received is not included in the benefit group;
- D. SSI;
- E. government-subsidized housing or a housing payment; government includes any federal, state, local or tribal government or a private non-profit or for profit entity operating housing programs or using governmental funds to provide subsidized housing or to make housing payments;
- F. income excluded by federal law (described in 8.139.527 NMAC);
- G. educational payments made directly to an educational institution;
- H. government-subsidized child care;
- I. earned income that belongs to a child 17 years of age or younger who is not the head of household; only earned income paid directly to the child is considered as belonging to the child;
- J. up to \$50.00 child support disregard and \$100.00 for one child and \$200 for two or more children per month, child support pass-through distributed to the benefit group by the CSED;
- K. an emergency one-time only payment made by other agencies or programs;
- L. reimbursements for past or future identified expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the benefit group, such as expenses for job or job training related activities, travel, per diem, uniforms, transportation costs to and from the job or training site, and medical or dependent care reimbursements and any reimbursement for expenses incurred while participating in NMW work program activities; reimbursements for normal living expenses, such as rent, mortgage, clothing or food eaten at home are not excluded;

- M. utility assistance payments such as from low-income home energy assistance program (LIHEAP), low-income assistance program (LITAP), or similar assistance programs.
- N. ~~[subsidized private-sector employment as outlined at Subsection B of 8.102.461.12-NMAC]~~ guaranteed basic income: Any payments that is funded solely with private funds or mixture of private and public funds will be excluded income.
- O. universal basic income: Any payments that is funded solely with private funds or mixture of private and public funds will be excluded income.

[8.102.520.9 NMAC - Rp 8.102.520.8.I NMAC, 07/01/2001; A, 11/15/2007; A, 07/15/2010; A, 1/1/2023; A, 11/1/2023]

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department repealed its emergency rule 6.19.8 NMAC School Improvement Designations, filed 5/23/2023, and replaced it with a new rule entitled School Differentiation and Support, 6.19.8 NMAC, adopted 10/12/2023 and effective 10/24/2023.

PUBLIC EDUCATION DEPARTMENT

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY
PART 8 SCHOOL DIFFERENTIATION AND SUPPORT**

6.19.8.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.19.8.1 NMAC - Rp, 6.19.8.1 NMAC, 10/24/2023]

6.19.8.2 SCOPE: This rule shall apply to all public schools in New Mexico. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.
[6.19.8.2 NMAC - Rp, 6.19.8.2 NMAC, 10/24/2023]

6.19.8.3 STATUTORY AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-1 through 22-2C-13, and 22-2F-1 through 22-2F-3 NMSA 1978; 20 USC 6303.
[6.19.8.3 NMAC - Rp, 6.19.8.3 NMAC, 10/24/2023]

6.19.8.4 DURATION: Permanent.
[6.19.8.4 NMAC - Rp, 6.19.8.4 NMAC, 10/24/2023]

6.19.8.5 EFFECTIVE DATE: October 10, 2023, unless a later date is cited at the end of a section.
[6.19.8.5 NMAC - Rp, 6.19.8.5 NMAC, 10/24/2023]

6.19.8.6 OBJECTIVE: This rule provides for the recognition of high-performing schools and schools that have exited categories of improvement or intervention, and for the designation of schools needing improvement or intervention. This rule complies with requirements for statewide accountability systems based on challenging academic standards for language arts and mathematics and for school improvement designations and actions of the department as detailed by the state's system of annual meaningful differentiation and by the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).
[6.19.8.6 NMAC - Rp, 6.19.8.6 NMAC, 10/24/2023]

6.19.8.7 DEFINITIONS:

- A. **“Annual meaningful differentiation”** means the state system of accountability for defining school performance and categorizing schools in compliance

with 20 USC 6303. Performance indicators for all schools include academic proficiency, progress toward English language proficiency for English learners, and at least one measure of school quality and student success. Performance indicators for elementary schools include student growth. Performance indicators for high schools include graduation rate.

B. “Chronically absent” means a student who missed ten percent or more of school days in which they were enrolled during the school year.

C. “College and career readiness indicator” means an indicator calculated for high schools consisting of the participation rate and success rate of students in college and career readiness opportunities, as defined by the department.

D. “Consistently underperforming” means a priority group index score below the threshold determined by department for two of the most recent three years.

E. “ESSA plan” means the most recent state plan and any addendums issued by the department pursuant to ESEA, as amended by ESSA, and approved by the United States department of education in accordance with 20 USC 6303.

F. “Evidence-based practices” means activities, strategies, and interventions informed and supported by rigorous research that demonstrate consistent, positive impacts on student outcomes.

G. “Graduation rate” means an indicator equal to the percentage of students in an assigned cohort who earned a diploma within a specified number of years.

(1) Four-year cohort graduation rate means the percentage of students in the four-year cohort who earned a diploma within four years.

(2) Five-year cohort graduation rate means the percentage of students in the five-year cohort who earned a diploma within five years.

(3) Six-year cohort graduation rate means the percentage of students in the six-year cohort who earned a diploma within six years.

H. “Identification cycle” means the timeframe determined by the department after which school identification categories shall be reevaluated.

I. “Local education agency” or “LEA” means a school district or a state-chartered charter school.

J. “Priority group” means a subgroup of students defined in USC 20 6311(c)(2) as economically disadvantaged students, students from major racial and ethnic groups; children with disabilities, or English learners.

K. “Priority group index score” means the total score for each priority group in the school based on the accountability model methodology described in department guidance.

L. “Resource inequity” means difference in levels of resources, including funding and expenditures, instructional materials, administration, student-teacher ratios, teacher experience and credentials, or caseloads for noninstructional staff. Resource inequities may be between schools or between student priority groups within a school.

M. “School index score” means the total score a school earns on all required measures as defined by the department according to the state’s system for annual meaningful differentiation detailed in the state’s ESSA plan.

N. “Statewide assessment” means the collection of instruments administered annually that assess students’ academic performance and students’ progress toward meeting content standards in kindergarten through grade 12.

O. “Supplemental accountability model school” or “SAM school” means a school for which the department uses alternate school quality and student success indicators for differentiation as defined in the ESSA plan subject

to a federally approved waiver and in which, based on the 40th day reporting, the following categories of students total thirty percent or more of the student population:

- (1) students age 19 or older;
- (2) non-gifted students who require class C or D special education programs;
- (3) pregnant or parenting teens; or
- (4) return-to-school students who are currently enrolled in school but have been chronically absent from school or have earned fewer than the minimum required units typical for their age and are off track to graduate.

P. “Support threshold” means the school index score differentiating the lowest performing group of schools as defined by the department in each identification cycle.-
[6.19.8.7 NMAC - Rp, 6.19.8.7 NMAC, 10/24/2023]

6.19.8.8 [RESERVED]
[6.19.8.8 NMAC - Repealed, 10/24/2023]

6.19.8.9 DETERMINATION OF A SCHOOL INDEX SCORE:

A. Each public school shall earn a school index score as calculated by the department according to the state’s system for annual meaningful differentiation detailed in the state’s ESSA plan or department guidance. The school’s index score and priority group index scores will be used to annually differentiate schools and to identify schools in need of comprehensive support and improvement as specified in this rule.

B. All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate state assessment, including the state-approved alternate assessment when applicable. At least ninety-five percent of all eligible students shall participate in statewide assessment.
[6.19.8.9 NMAC - Rp, 6.19.8.9 NMAC, 10/24/2023]

6.19.8.10 PRIORITIZATION OF RESOURCES: Pursuant to Sections 22-8-11 and 22-8-18 NMSA 1978, the department may disapprove or make corrections, revisions, or amendments to the budget of a school district or charter school that does not prioritize resources toward evidence-based practices, interventions, and methods required by department guidance and linked to improved student achievement.
[6.19.8.10 NMAC - Rp, 6.19.8.10 NMAC, 10/24/2023]

6.19.8.11 ANNUAL DIFFERENTIATION CYCLE: Pursuant to 20 USC 6303, the department shall annually differentiate categories for school support and improvement. School designation categories differentiated annually include spotlight schools, traditional support schools, schools in need of targeted support and improvement (TSI), and schools in need of additional targeted support and improvement (ATSI).

A. Spotlight school identification. A school shall be identified as a spotlight school if its school index score is above the seventy-fifth percentile of all public schools and the school is not in need of improvement or intervention due to specific priority group index scores. Spotlight schools shall develop and implement school-level plans in accordance with department guidance.

B. Traditional support school identification. A school shall be identified as a traditional support school if the school index score is above the support threshold, at or below the seventy-fifth percentile, and does not meet criteria for TSI or ATSI schools. Traditional support schools shall develop and implement school-level plans in accordance with department guidance.

C. TSI school identification. A school shall be identified as a TSI school if one or more priority groups meet the department’s definition of consistently underperforming. A TSI school

shall develop and implement a school-level, targeted support and improvement plan that includes evidence-based practices and is in accordance with department guidance.

D. ATSI school identification. A Title I school shall be identified as an ATSI school if one or more priority groups has an index score that falls below the support threshold. An ATSI school shall develop and implement a school-level targeted support and improvement plan that includes evidence-based practices, identifies resource inequities to be addressed through implementation of the plan, and is in accordance with department guidance.
[6.19.8.11 NMAC - Rp, 6.19.8.11 NMAC, 10/24/2023]

6.19.8.12 MULTI-YEAR IDENTIFICATION CYCLE: In a multi-year identification cycle, using the system of annual meaningful differentiation, the department shall designate cohorts of schools in the following categories: comprehensive support and improvement (CSI), and more rigorous interventions (MRI). For each CSI and MRI school, an LEA shall submit to the department a school improvement plan. The school improvement plan shall follow department guidance and be submitted in a format and on a due date specified by the department. Improvement plans shall include but not be limited to a description of how the LEA will monitor improvement, an assurance that funds will not be supplanted, and a description of a rigorous review process to recruit, screen, select, and evaluate any external partners for school improvement.

A. CSI school identification. A school shall be identified as a CSI school if the school:

- (1) is a Title I school that has not improved sufficiently to exit ATSI status in the previous identification cycle;
- (2) is a Title I school that has a school index score below the support threshold; or
- (3) has a four-year graduation rate less than or equal

to sixty-six and two-thirds percent for two of the most recent three years;

B. CSI school exit criteria. A CSI school may exit CSI status in the next identification cycle by attaining the following improvements:

(1) Title I schools identified as CSI schools due to insufficient priority group scores may exit CSI status when all the school’s priority group index scores exceed the support threshold.

(2) Title I schools with school index scores previously below the support threshold may exit CSI status by raising the school index score above the support threshold.

(3) High schools identified due to low graduation rates may exit CSI status by increasing the four-year graduation rate above sixty-six and two-thirds percent for two of the previous three years.

C. MRI school identification. A school shall be identified as an MRI school if by the end of an identification cycle it has not demonstrated sufficient improvement to exit CSI status as described in Subsection B of this section.

D. MRI school plans. The LEA shall submit to the department an MRI school intervention plan to significantly restructure and redesign the school. Interventions for restructure and redesign shall be evidence-based and include significant restructure and redesign through:

- (1) implementation of evidence-based strategies;
- (2) restart; or
- (3) school closure.

E. MRI plan approval. If an LEA does not identify and obtain department approval for a school’s intervention plan, the department will select the intervention for the school. The department may approve or deny any MRI plan chosen and developed by an LEA. The department may monitor and require

execution of the approved MRI plan for the duration of the identification cycle.

F. MRI exit criteria.

An MRI school shall exit MRI status in the next identification cycle upon attaining improvements defined in Subsection B of this section for CSI school exit criteria.
[6.19.8.12 NMAC - Rp, 6.19.8.12 NMAC, 10/24/2023]

6.19.8.13 SUPPLEMENTAL ACCOUNTABILITY MODEL:

When calculating a SAM school index score, the department may include the rate of senior completion in the four-year graduation cohort and may include additional department-approved assessments in the college and career readiness indicator. Schools eligible for SAM school status remain subject to the assessment participation requirement described in 6.19.8.9 NMAC.
[6.19.8.13 NMAC - Rp, 6.19.8.13 NMAC, 10/24/2023]

6.19.8.14 [RESERVED]

[6.19.8.14 NMAC – N/E, 6.19.8.14 NMAC, 5/23/2023; Repealed, 10/24/2023]

6.19.8.15 OVERSIGHT AND SUPPORT FOR CSI AND MRI SCHOOLS:

CSI and MRI schools may exit department oversight before the end of a multi-year identification cycle by meeting exit criteria described in Section 12 of this rule, but shall continue to receive support from the department for the remainder of the identification cycle, at which time they may exit CSI or MRI status.

A. For oversight of schools designated CSI or MRI, the department may require LEAs to:

(1) implement the use of department-approved, high-quality instructional materials, best practices, and evidence-based programs;

(2) conduct department-approved LEA support and readiness assessments and publicly post summary findings;

(3) conduct department-approved school support and readiness assessments and publicly post summary findings;

(4) participate in department monitoring and technical assistance visits;

(5) require schools to redirect or repurpose funds in accordance with their department-approved CSI or MRI plan;

(6) for MRI schools, require a department-provided transformational coach; or

(7) for MRI schools, require restart or closure of an MRI school that has failed to exit MRI status within three school years.

B. The department will continue to provide the support to CSI and MRI schools until the end of the multi-year identification cycle as described in department guidance and ESSA plan.

[N 6.19.8.15 NMAC, 10/24/2023]

HISTORY OF 6.19.8 NMAC:

6.19.8 NMAC – Grading of Public Schools, filed 12/31/2018 was repealed and replaced via emergency rulemaking, by 6.19.8 NMAC – School Improvement Designations, effective 5/23/2023.

6.19.8 NMAC – School Improvement Designations, filed 5/23/2023 was repealed and replaced by 6.19.8 NMAC – School Differentiation and Support, effective 10/24/2023.

History of Repealed Material:

6.19.8.8 NMAC, filed 12/31/2018 was repealed via emergency rulemaking, effective 5/23/2023.

6.19.8.14 NMAC, filed via emergency rulemaking on 5/23/2023 was repealed, effective 10/24/2023.

PUBLIC REGULATION COMMISSION

This is an amendment to 18.3.14.11 NMAC, Section 11 effective 10/24/2023.

18.3.14.11 MINIMUM PERSONNEL REQUIREMENTS:

A. Ambulances:

(1) A minimum of two [(2)] licensed EMTs from the ambulance service shall be present at the scene of the emergency, except that two [(2)] EMTs need not be present at the scene for prearranged transfers of a stable patient or in those [unusual] situations where there are overlapping calls, disasters, or similar [unforeseen]-circumstances which result in an insufficient number of EMTs being available.

(2) A minimum of one [(+)] EMT shall be in the patient compartment at all times during patient care and transport.

B. Exceptions:

(1) An EMT is required to be aboard the ambulance but is not required in the patient compartment of the ambulance when a member of a neonatal intensive care team is attending a patient in a self-contained newborn intensive care isolette.

(2) Subject to the policies of the service, additional non-EMT medical personnel, functioning within the scope of their licensure and the scope of skills and medications approved for the service by the EMS Bureau and EMS medical direction committee, may accompany a patient in an ambulance patient compartment, as long as one [(+)] EMT is also present in the patient compartment.

(3) For ambulances with special skill approval as critical care units, one [(+)] special skill critical care certified paramedic must be in the patient compartment along with at least one [(+)] other advanced provider; the second advanced provider may be:

(a) a special skill critical care paramedic; or

(b) a nurse with appropriate training as approved by the EMS agency medical director for the scope of skills and medications listed in the critical care special skills application; or

(c) other advanced care provider, such as a physician, certified nurse practitioner, physician

assistant, respiratory therapist, or other specially trained advanced caregiver appropriate for the care being delivered, as approved by the ambulance service medical director for the scope of skills and medications listed in the critical care special skills application.

(4) For EMS bureau approved community EMS or advanced paramedic practice programs, at least one [(+)] caregiver with the appropriate training and certification as determined by the EMS bureau and approved by the service medical director must attend and assess the patient.

C. Training coordinator required. Each ambulance service shall designate an individual who shall coordinate the availability of appropriate training programs and continuing education for ambulance service personnel.

D. Medical director required: Each ambulance service shall designate a medical director, working under agreement or contract, who is trained and meets the requirements for a medical director prescribed in 7.27.3 NMAC, Medical Direction for Emergency Medical Services. If an ambulance service is temporarily without a medical director, it shall make arrangements to establish temporary medical direction with a local, regional or state EMS medical director. The service shall be limited to the skills and medications allowed to be administered without medical direction by the EMS scope of practice (7.27.11 NMAC) until appropriate medical direction is established.

[18.3.14.11 NMAC - Rp, 18.3.14.11 NMAC, 2/13/2015; A,10/24/2023]

**TRANSPORTATION,
DEPARTMENT OF**

This is an amendment to 18.11.10 NMAC, Section 8, effective 10/24/2023.

18.11.10.8 ELIGIBILITY FOR ASSISTANCE: Applicants

shall meet the following minimum criteria to be eligible for a grant:

A. the municipality or county shall have a minimum population of 20,000 persons residing within a 50 mile radius of the airport unless the municipality or county has existing scheduled air service;

B. the aircraft to be used to service proposed new air routes served by the rural air service enhancement grant program shall have a passenger capacity of not more than [30] 100 persons;

C. the route or routes to be served by the program shall be a new air route or routes that were not served at the time the grant was made; and

D. the selected air carrier must be licensed by the state. [18.11.10.8 NMAC - N, 10/26/2021; A, 2/14/2023; A, 10/24/2023]

End of Adopted Rules

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Submittal Deadlines and Publication Dates

Volume XXXIV, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 5	January 18
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	May 4	May 16
Issue 10	May 18	May 31
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	July 7	July 18
Issue 14	July 20	July 31
Issue 15	August 3	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 10
Issue 20	October 12	October 24
Issue 21	October 26	November 7
Issue 22	November 9	November 21
Issue 23	November 22	December 5
Issue 24	December 7	December 19

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