

This is an amendment to 8.50.100 NMAC, Sections 2, 3, 7, 10, 11, 13, 14, 15, 16, and 17 effective 1/1/2022.

8.50.100.2 SCOPE: To the general public. For use by the Title IV-D agency and recipients of Title IV-D services.

[8.50.100.2 NMAC - Rp, 8.50.100.2 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.3 STATUTORY AUTHORITY: Public Assistance Act, [~~NMSA 1978, Section 27-2-27~~] Section 27-2-27 et seq., NMSA 1978. The human services department is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.).

[8.50.100.3 NMAC - Rp, 8.50.100.3 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.7 DEFINITIONS: Unless otherwise apparent from the context, the following definitions shall apply throughout these regulations.

A. “Account” means a demand deposit account checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

B. “Arrearage” means the amount of support owed that was unpaid and has been consolidated into a judgment. Also referred to as arrears or past-due support.

C. “AFDC” means aid to families with dependent children. AFDC is now replaced by the TANF/ NM works program. Where TANF/ NM works is referenced in these regulations, the provisions apply to AFDC cases.

D. “Authorized representative” means a person acting under the authority of a valid power of attorney (with a general or specific designation regarding a child support case), a guardian ad litem, an attorney representing a person, or the parent of a minor having a child support case. The person will be required to produce documentation of his or her authorized status.

E. “Business day” means a day on which state offices are open for regular business.

F. “CP” means custodial party or custodial parent.

G. “CSED” means the child support enforcement division of the human services department that is the New Mexico Title IV-D agency, designated by [~~NMSA 1978, Section 27-2-27~~] Section 27-2-27 et seq., NMSA 1978, as the single state agency for the enforcement of child, medical, and spousal support obligations pursuant to Title IV-D of the Social Security Act.

H. “CSES” means the child support enforcement system (the computer system for CSED).

I. “Delinquency” means any payment under an order for support that has become due and is unpaid and has not been consolidated into a judgment. This may also be known as overdue support.

J. “Department” means the New Mexico human services department.

K. “Department's records” means all physical and automated records maintained by the department on any person, as well as access to automated and physical records maintained by other persons.

L. [~~“Dependant”~~] “Dependent” means a minor who has not emancipated by age or by court order. This is the same as a “minor child.”

M. “DMSH” means data match specification handbook.

N. “Distribution” means the act of collecting child support payments and disbursing those payments to the proper individual or agency.

O. “District court” means the judicial district courts, family courts, and child support hearing officers having jurisdiction over child support matters in the state of New Mexico.

P. “Employer” means the same as the term in Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

Q. “FIDM” means financial institution data match.

R. “Financial institution” is defined in [~~NMSA 1978, Section 27-1-13~~] Section 27-1-13 et seq., NMSA 1978.

S. “Family violence” means the family violence indicator or non-disclosure indicator on the child support computer system.

T. “Genetic testing” means any testing methodology used to determine parent and child relationship as described in [~~NMSA 1978, Section 40-11A-503~~] Section 40-11A-503 et seq., NMSA 1978.

- U. **“Hearings bureau”** means the Title IV-D hearings bureau.
- V. **“Hearing officer”** means the Title IV-D administrative hearings officer or administrative law judge.
- W. **“HSD”** means the human services department.
- X. **“Location”** means information concerning the physical whereabouts of a person or the person’s employer(s), other sources of income, or assets as appropriate, which is sufficient and necessary to take the next appropriate action in a case.
- Y. **“NCP”** means non-custodial party or non-custodial parent.
- Z. **“Obligee”** means any person who is entitled to receive support under an order for support or that person's legal representative or assignee pursuant to ~~[NMSA 1978, Section 27-2-28]~~ Subsection F of Section 27-2-28 NMSA 1978.
- AA. **“Obligor”** means the person who owes a duty to make payments under an order for support.
- BB. **“Order for support”** means any order that has been issued by any judicial, quasi-judicial or administrative entity of competent jurisdiction of any state, territory, or nation that has entered into a reciprocal agreement for the establishment and enforcement of orders for support with the United States and which order provides for
- (1) periodic payment of funds for the support of a child or a spouse;
 - (2) modification or resumption of payment of support;
 - (3) payment of delinquency; or
 - (4) reimbursement of support.
- CC. **“Payor”** means any person or entity who provides income to an obligor.
- DD. **“Person”** means an individual, corporation, partnership, governmental agency, public office or other entity.
- EE. **“Physical or emotional harm”** means being subjected to: physical acts that resulted in, or threatened to result in, physical injury; sexual abuse; sexual activity involving a dependent child; being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities; threats of, or attempts at, physical or sexual abuse; mental abuse; being subject to a pattern of emotional or psychological attacks that may include embarrassment, isolation, blaming, name-calling, humiliation, threats, shaming, extreme jealousy, gaslighting, intimidation, and manipulation resulting in a range of emotional trauma that may include: confusion, fear, difficulty concentrating, anxiety, social withdrawal, sleep disruption, and depression; or neglect or deprivation of medical care.
- FF. **“Proof of service”** means the completed document demonstrating that service has been completed in accordance with the New Mexico rules of civil procedure at Rule 1-004 NMRA. The documents include, but are not limited to: an affidavit of mailing, acceptance of service, certificate of service, or return of service.
- GG. **“Secretary”** means the secretary of the human services department.
- HH. **“SDU”** means the state disbursement unit that collects and disburses payments in all Title IV-D cases.
- II. **“Service of process”** means:
- (1) service has been accepted by the person signing an acceptance of service; or
 - (2) service performed pursuant to Rule 1-004 NMRA.
- JJ. **“Support order”** means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child or children, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, medical support, or arrearages.
- KK. **“TANF/NM works”** means federally funded temporary assistance to needy families / New Mexico works (see AFDC).
- LL. **“Title IV”** programs mean the various programs operated under the Social Security Act (42 USC Chapter 7, Title IV). IV-A refers to TANF and IV-B or IV-E refers to foster care. See definition below for “IV-D”.
- MM. **“Title IV-D”** or **“Title IV-D agency”** or **“IV-D agency”** means the single and separate state agency authorized by Title IV, Subsection D of the Social Security Act (42 USC 651 et seq.) to operate a child support program. Both states and tribes may administer a Title IV-D program. The New Mexico “Title IV-D” agency is authorized by ~~[NMSA 1978, Section 27-2-27]~~ Section 27-2-27 et seq., NMSA 1978.
- NN. **“Title IV-D agency director”** or **“division director”** means the director of the child support enforcement division of the New Mexico human services department.

OO. “**Title IV-D staff**” or “**IV-D staff**” means employees of the state of New Mexico assigned to operate a child support program to also include any contractors with the IV-D agency.

PP. “**Title XIX**” means medicaid programs that are operated under Title XIX of the Social Security Act.

QQ. “**UIFSA**” means Uniform Interstate Family Support Act (replaces the former Uniform Reciprocal Enforcement of Support Act). A case from another jurisdiction that has not yet adopted UIFSA shall be treated as a New Mexico UIFSA case. [~~(See NMSA 1978, Section 40-6A-101 et. seq.)~~] (See Section 40-6A-101 et seq., NMSA 1978).

[8.50.100.7 NMAC - Rp, 8.50.100.7 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.10 RESPONSIBILITY AND DELEGATION OF AUTHORITY: Pursuant to [~~NMSA 1978, Section 27-2-27~~] Section 27-2-27 et seq., NMSA 1978, the New Mexico human services department’s child support enforcement division (CSED) is the single and separate organizational unit designated to administer Title IV-D of the Social Security Act. It is responsible and accountable for the operation of the child support enforcement program insuring that its functions are being carried out in accordance with the relevant federal and state laws and regulations.

[8.50.100.10 NMAC - Rp, 8.50.100.10 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.11 ATTORNEY REPRESENTATION: Per [~~NMSA 1978, Section 27-2-27(E)~~] Subsection E of Section 27-2-27 et seq., NMSA 1978, the Title IV-D attorneys only represent the human services department. There is no express or implied attorney-client relationship between IV-D attorneys and applicants or recipients of IV-D services. Although applicants and recipients of IV-D services may interact with IV-D attorneys regarding their cases, the interaction with the IV-D attorneys does not indicate any confidential relationship that the person would have with a private attorney. All IV-D applicants and recipients are on notice that information provided to the IV-D agency (either to IV-D staff or attorneys) will not be disclosed to the general public, but may be used to collect support from either parent. The IV-D agency reserves the right to invoke the attorney work product privilege as it pertains to its attorneys and their work for the IV-D agency.

[8.50.100.11 NMAC - Rp, 8.50.100.11 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.13 CONFIDENTIALITY:

A. The Title IV-D agency has access to the entire Title IV-A case file and to material in the medicaid case file. Information contained in the Title IV-A and Title IV-D records is subject to federal and state confidentiality requirements. Federal and state law restrict the use or disclosure of information concerning applicants or recipients of program services to purposes directly connected with the administration of the Title IV-D program. No unauthorized use, dissemination or disclosure of information in the possession of the Title IV-D agency will be made or permitted. (See 42 USC 654 (a) (26) and 45 CFR 303.21). Department records are confidential and may not be released to third parties without a court order or as otherwise provided by federal or state law. Department records include, but are not limited to: address/locate information, audits, correspondence with other state agencies, payment records, distribution records, and employer information.

B. Unless authorized by federal law, no release of information concerning the whereabouts of persons subject to a protective order or about whom the state has reasonable evidence of domestic violence or child abuse shall be made.

C. A non-disclosure indicator will be entered on the child support enforcement system (CSES) and on the physical case file if a protective order or family violence affidavit is submitted. A court order for unsupervised visitation is not generally compatible with a non-disclosure indicator. A non-disclosure indicator will not be entered if a support order or divorce decree provides for unsupervised visitation, unless there is a specific court protective order.

D. The federal government may disclose confidential information on a New Mexico Title IV-D case in accordance with 42 USC 653.

E. All state and local staff and contractors who may have access to or be required to use confidential program data in the computerized support system will:

(1) be informed of applicable requirements and penalties, including those in section 6103 of the Internal Revenue Service Code (26 USC 6103);

(2) be adequately trained in security procedures; and

(3) be subject to have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure, or use of confidential information.

F. The Title IV-D agency will redact personal identifying information to include social security numbers and dates of birth when releasing documents pursuant to a request for information, unless that information is being released pursuant to a specific program operation (i.e. court required information or administrative enforcement).

[8.50.100.13 NMAC - Rp, 8.50.100.14 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.14 AUTHORIZED RELEASE OF INFORMATION: Some information must be released to persons outside the agency. IV-D staff will exercise caution in releasing information on a Title IV-D case. Information should be released only after the identity of the requestor and the right to receive the information is clearly established. The burden of proving the legitimacy of a request is on the requestor.

A. Information may be released to the following parties:

(1) Applicants or recipients of Title IV-D services: Custodial and non-custodial parties of Title IV-D cases, their respective attorney of record, guardian, or power of attorney may obtain information concerning the receipt and distribution of payments, copies of legal documents filed in court on their case, public assistance benefits history, payment records, official notifications for a fee established by HSD, and correspondence from either the custodial or non-custodial party. They are not entitled to receive information that relates to the state's legal strategy or is otherwise protected by federal and state laws.

(2) Information may be released per the operational requirements of the program, subject to federal and state laws on confidentiality. Other agencies/requesters include, but are not limited to: district courts, credit reporting agencies, tax intercept programs, financial institutions, other Title IV agencies, medicaid agencies, authorized government agents (both federal and state authorized government agents must present adequate identification and permission from the individual concerned unless otherwise authorized to receive information), the federal office of child support enforcement and other state governmental bodies that are responsible for issuing licenses or holding money that is collectible by the Title IV-D agency.

(3) Congressional, executive or legislative inquiries - Congressional, executive and legislative inquiries are subject to all regulations governing confidentiality.

(4) Other individuals - Other individuals may obtain information through legal discovery procedures or from the custodial or non-custodial party.

B. Requests for information:

(1) Phone inquiries - Title IV-D staff will not release information on the telephone to anyone other than the custodial party, the non-custodial party, or his or her authorized representative. Requests by a third party for information must be submitted in writing.

(2) Written requests - Written requests for case information shall be screened by the Title IV-D agency to determine what information, if any, will be released.

(3) Walk-in requests - The same precautions applying to phone inquiries shall be used in dealing with walk-in requests for information. If uncertainty exists as to the identity of the requestor, the worker will ask to see identification before providing case information.

(4) Third party requests - The Title IV-D agency will not honor a request for information from a third party without a notarized release from either the custodial party or non-custodial party that specifies the information to be released. A third party may not obtain information pursuant to an authorized release unless the party consenting to the release is entitled to receive the information. The information provided will be in accordance with authorized releases according to federal and state law. The Title IV-D agency reserves the right to provide the requested information directly to either the custodial party or non-custodial party rather than the third party requestor or to redact personal or confidential information, as appropriate. An attorney of record for a custodial or non-custodial party is not considered a third party requestor.

[8.50.100.14 NMAC - Rp, 8.50.100.15 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.15 WRITTEN STATEMENTS OF COLLECTION PROVIDED TO RECIPIENTS OF IV-D SERVICES:

A. General written communication regarding collections: Upon a request from a recipient of Title IV-D services, the Title IV-D agency will make available a written statement, no more than twice a year, of payments made to the obligee by the obligor through the Title IV-D agency pursuant to an order for support, and the amount of any delinquency still owed to the obligee by the obligor.

B. Notice of collection of assigned support: The IV-D agency provides notice to recipients of benefits under Title IV-A of the Social Security Act of the amount of support payments collected for each quarter. No notice will be sent if:

- (1) no collection is made in the quarter;
- (2) the assignment is no longer in effect; and
- (3) there are no assigned arrearages.

[8.50.100.15 NMAC - Rp, 8.50.100.16 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.16 CONTROLS AND REPORTING: The Title IV-D agency maintains records necessary for the proper and efficient operation of the state plan and for the reporting accountability required by the federal office of child support enforcement including records regarding the following:

- A. application for support services available under the state plan;
- B. location of non-custodial parties, action to establish paternity, and obtain and enforce support and the costs incurred in such action;
- C. amount and sources of support collections and the distribution of these collections;
- D. any fees charged or paid for support enforcement services;
- E. administrative costs; and
- F. statistical, fiscal, and other records necessary to the reporting required.

[8.50.100.16 NMAC - Rp, 8.50.100.18 NMAC, 12/30/2010; A, 1/1/2022]

8.50.100.17 CHANGE OF ADDRESS: ~~[All requests for address and phone number changes must be made in writing or made in person with proper identification. If a person changing his or her address on file with the Title IV-D agency is receiving distributions by warrant (check), the request to update an address must be in writing and notarized or made in person with proper identification.]~~ The Title IV-D agency and its representatives must verify an individual's identity prior to changing the address and phone number in agency records. The failure of a custodial party or non-custodial party to maintain a valid address on file with the Title IV-D agency may result in one of the following, as appropriate for that party: further enforcement actions, closure of the Title IV-D case, or the surrender of support that has been determined to be unclaimed property pursuant to 8.50.132 NMAC.

[8.50.100.17 NMAC - N, 12/30/2010; A, 1/1/2022]