

This is an amendment to 8.100.130 NMAC, Section 22 effective 4/1/2022.

8.100.130.22 NON-FINANCIAL VERIFICATION STANDARDS - OTHER:

A. Fraud conviction for dual state receipt of benefits: The existence of a fraud conviction for simultaneous receipt of benefits from two states is determined based upon client statement on the application form. If ISD receives other information indicating the existence of a dual state benefit fraud conviction, ISD shall verify it by contacting the appropriate authorities.

B. Fleeing felon, probation or parole violator:

(1) Fleeing felon: An individual determined to be a fleeing felon shall be an ineligible household member. To establish an individual as a fleeing felon ISD must verify that an individual is a fleeing felon. A federal, state, or local law enforcement officer acting in his or her official capacity must present an outstanding felony arrest warrant that conforms to one of the following national crime information center uniform offense classification codes, to the department to obtain information on the location of and other information about the individual named in the warrant:

- (a) escape (4901); or
- (b) flight to avoid prosecution, confinement, etc (4902); or
- (c) flight-escape (4999).

(2) Probation or parole violator: An individual determined a parole or probation violator shall not be considered to be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by ISD, must determine that the individual violated a condition of his or her probation or parole imposed under federal or state law and that federal, state, or local law enforcement authorities are actively seeking the individual to enforce the conditions of the probation or parole. Actively seeking is defined as:

- (a) a federal, state, or local law enforcement agency informs ISD that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within 20 days of submitting a request for information about the individual to ISD; or
- (b) a federal, state, or local law enforcement agency presents a felony arrest warrant as provided in Paragraph (1) of Subsection B of this section; or
- (c) a federal, state, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within 30 days of the date of a request from ISD about a specific outstanding felony warrant or probation or parole violation.

(3) Certain convicted felons: An individual who is or has been determined to be convicted on or before February 7, 2014, as an adult of the following crimes shall not be eligible for inclusion in the cash assistance benefit group:

- (a) aggravated sexual abuse under section 2241 of title 18, United States Code;
- (b) murder under section 1111 of title 18, United States Code;
- (c) an offense under chapter 110 of title 18, United States Code;
- (d) a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or
- (e) an offense under state law determined by the attorney general to be substantially similar to an offense described in clause (i), (ii), or (iii); and
- (f) the individual is not in compliance with the terms of the sentence of the individual or the restrictions under 8.139.400.12 C NMAC.

~~(3)~~ (4) Response time: ISD shall give the law enforcement agency 20 days to respond to a request for information about the conditions of a felony warrant or a probation or parole violation, and whether the law enforcement agency intends to actively pursue the individual. If the law enforcement agency does not indicate that it intends to enforce the felony warrant or arrest the individual for the probation or parole violation within 30 days of the date of ISD's request for information about the warrant, ISD shall determine that the individual is not a fleeing felon or a probation or parole violator and document the household's case file accordingly. If the law enforcement agency indicates that it does intend to enforce the felony warrant or arrest the individual for the probation or parole violation within 30 days of the date of ISD's request for information, ISD will postpone taking any action on the case until the 30-day period has expired. Once the 30-day period has expired, ISD shall verify with the law enforcement agency whether it has attempted to execute the felony warrant or arrest the probation or parole violator. If it has, ISD shall take appropriate action to deny an applicant or terminate a participant who has

been determined to be a fleeing felon or a probation or parole violator. If the law enforcement agency has not taken any action within 30 days, ISD shall not consider the individual a fleeing felon or probation or parole violator, shall document the case file accordingly, and take no further action.

~~[(4)]~~ **(5) Application processing:** ISD shall continue to process the application while awaiting verification of fleeing felon or probation or parole violator status. If ISD is required to act on the case without being able to determine fleeing felon or probation or parole violator status in order to meet the time standards in 7 CFR 273.2(g) or 273.2(i)(3), ISD shall process the application without consideration of the individual's fleeing felon or probation or parole violator status.

[8.100.130.22 - Rp, 8.100.130.13 NMAC, 8/1/2008; A, 3/1/2017; A, 12/1/2018; A, 4/1/2022]