

This is an amendment to 8.139.410 NMAC Section 9 effective 6/1/2025.

**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.]

E. Lawfully present and exempt from five-year bar: Effective December 27, 2020, per section 208 of the Consolidated Appropriations Act, 2021 individuals who are considered compact of free association migrants (COFA) are also referred to as compact citizens. COFA is an agreement between the United States and the three Pacific Island sovereign states of federated states of Micronesia, the republic of the Marshall Islands, and the republic of Palau known as freely associated states.

F. 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).

G. 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; A, 6/1/2025]