

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 102 CASH ASSISTANCE PROGRAMS**  
**PART 500 ELIGIBILITY POLICY - GENERAL INFORMATION**

**8.102.500.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.102.500.1 NMAC - Rp 8.102.500.1 NMAC, 07/01/2001]

**8.102.500.2 SCOPE:** The rule applies to the general public.  
[8.102.500.2 NMAC - Rp 8.102.500.2 NMAC, 07/01/2001]

**8.102.500.3 STATUTORY AUTHORITY:**

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

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

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

**D.** Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and Title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its cash assistance programs.

**E.** In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.500.3 NMAC - Rp 8.102.500.3 NMAC, 07/01/2001; A, 11/15/2007]

**8.102.500.4 DURATION:** Permanent.  
[8.102.500.4 NMAC - Rp 8.102.500.4 NMAC, 07/01/2001]

**8.102.500.5 EFFECTIVE DATE:** July 1, 2001, unless a later date is cited at the end of a section.  
[8.102.500.5 NMAC - Rp 8.102.500.5 NMAC, 07/01/2001; A/E, 10/01/2017; A, 2/01/2018]

**8.102.500.6 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 participating benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.

[8.102.500.6 NMAC - Rp 8.102.500.6 NMAC, 07/01/2001; A, 11/15/2007]

**8.102.500.7 DEFINITIONS:** [RESERVED]  
[8.102.500.7 NMAC - Rp 8.102.500.7 NMAC, 07/01/2001]

**8.102.500.8 GENERAL REQUIREMENTS:**

**A. Need determination process:** Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

(1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;

(2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;

(3) the countable resources owned by and available to the benefit group do not exceed the

\$1,500 liquid and \$2,000 non-liquid resource limits;

(4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

**B. Gross income limits:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

- (a) one person \$1,033
- (b) two persons \$1,397
- (c) three persons \$1,761
- (d) four persons \$2,125
- (e) five persons \$2,490
- (f) six persons \$2,853
- (g) seven persons \$3,217
- (h) eight persons \$3,582
- (i) add \$365 for each additional person.

**C. Eligibility for support services only:** Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

- (1) one person \$1,215
- (2) two persons \$1,644
- (3) three persons \$2,072
- (4) four persons \$2,500
- (5) five persons \$2,929
- (6) six persons \$3,357
- (7) seven persons \$3,785
- (8) eight persons \$4,214
- (9) add \$429 for each additional person.

**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$111 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

- (a) one person \$327
- (b) two persons \$439
- (c) three persons \$549
- (d) four persons \$663
- (e) five persons \$775
- (f) six persons \$887
- (g) seven persons \$999
- (h) eight persons \$1,134
- (i) add \$111 for each additional person.

**E. Special needs:**

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal guardian in benefit group:** Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020; A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E 10/1/2023]

### **8.102.500.9 PROSPECTIVE BUDGETING:**

**A.** Eligibility for cash assistance programs shall be determined prospectively. The benefit group must meet all eligibility criteria in the month following the month of disposition. Eligibility and amount of payment shall be determined prospectively for each month in the certification period.

**B. Simplified reporting:** A benefit group subject to simplified reporting shall be subject to income methodology as specified in Subsection E of 8.102.120.11 NMAC.

**C. Changes in benefit group composition:** A person added to the benefit group shall have eligibility determined prospectively beginning in the month following the month the report is made.

**D. Anticipating income:** In determining the benefit group's eligibility and benefit amount, the income already received and any income the benefit group expects to receive during the certification period shall be used.

(1) Income anticipated during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

(2) Actual income shall be calculated by using the income already received and any other income that can reasonably be anticipated in the calendar month.

(3) If the amount of income or date of receipt is uncertain, the portion of the income that is uncertain shall not be counted.

(4) In cases where the receipt of income is reasonably certain but the amount may fluctuate, the income shall be averaged.

(5) Averaging is used to determine a monthly calculation when there is fluctuating income within the weekly, biweekly, or monthly pay period and to achieve a uniform amount for projecting.

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

**F. Contract income:** A benefit group that derives its annual income in a period of less than one year shall have that income averaged over a 12-month period, provided that the income is not received on an hourly or piecework basis.

**G. Using exact income:** Exact income, rather than averaged income, shall be used if:

(1) the benefit group has chosen not to average income;

(2) income is from a source terminated in the month of application;

(3) employment began in the application month and the income represents only a partial

month;

(4) income is received more frequently than weekly.

**H. Income projection:** Earned income shall be anticipated as described below.

(1) Earned income shall be anticipated based on income received when the following criteria

are met:

(a) the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**I. Unearned income:**

(1) Unearned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

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

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

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

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$0.50 or more are rounded up; amounts resulting in \$0.49 or lower are rounded down.

[8.102.500.9 NMAC - Rp 8.102.500.9 NMAC, 07/01/2001; A 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 04/01/2010; A/E, 10/01/2017; A, 2/01/2018]

**8.102.500.10 DIVERSION PAYMENTS TO A NMW BENEFIT GROUP:**

**A. Purpose:** The diversion payment is a one-time cash assistance payment, that is intended to assist the benefit group alleviate a specific short-term need: to accept a bona fide offer of employment, retain employment, remedy an emergency situation or an unexpected short-term need.

**B. Eligibility criteria:**

(1) **Applicant:** Eligibility for a diversion payment shall be limited to an applicant making an initial application for cash assistance. Initial application shall not include a NMW cash assistance case which is within a six-month mandatory closure because of a third sanction. For the purposes of diversion payments, an initial applicant is one who has never received cash assistance, or one whose cash assistance case has been closed for one or more calendar months.

(a) An applicant for NMW cash assistance who meets all NMW eligibility criteria may volunteer to accept a NMW diversion payment in lieu of monthly cash assistance payments if there is no need for long-term cash assistance to meet basic needs.

(b) The caseworker shall explain the diversion program is not a supplement to other assistance but is in place of it and screen the applicant for eligibility for a diversion payment.

(c) Final approval for all diversion payments shall be made by the county director and documentation submitted to income support division central office.

(2) **NMW eligibility is established:**

(a) The applicant must be otherwise eligible for NMW cash assistance, except that the applicant demonstrates that monthly cash assistance to meet basic needs is not required by the benefit group

because there is a means of on-going financial support, and the applicant chooses to accept a diversion payment in lieu of cash assistance to meet ongoing needs.

**(b)** An applicant who cannot demonstrate that monthly cash assistance to meet basic needs is not needed shall not be eligible for a diversion payment.

**(3) Specific need:** The applicant must make an informed choice whether cash assistance is needed to meet a specific short term need. The applicant may demonstrate a need for a specific item or type of assistance which will allow the applicant to keep a job or accept a bona fide offer of employment, remedy and emergency situation or alleviate a short term need. Such assistance may include, cash, support services, housing, transportation, car repairs, and uniforms.

**(4) Eligibility for support services:** A recipient of a diversion payment shall remain eligible for support services such as child care and transportation until the end of the 12-month lock-out period, until closure of the case is requested or the participant moves out of state. A referral to the NMW work program service provider and to CYFD shall be made after the applicant signs the agreement to accept a diversion payment and payment is authorized.

**(5) Verification and documentation:**

**(a)** The applicant shall be required to provide verification of the specific item or type of assistance which will allow the applicant to meet the basic short-term need.

**(b)** Documentation shall be required to establish that a diversion payment may be authorized in lieu of cash assistance to meet ongoing needs. An agreement signed by the applicant shall include a description of a diversion payment, terms and conditions, lifetime limitations, availability of work program services, reason for accepting a diversion payment, any prior assistance received in or out of the state.

**C. Amounts:** Diversion assistance is a one time, lump sum payment. The amount of the diversion payment is as follows:

**(1) one to three benefit group members:** may be entitled to an amount of up to \$1,500 non-recurring payment; or

**(2) four or more benefit group members:** may be entitled to an amount of up to \$2,500 non-recurring payment.

**D. Countable assistance:** The effects a diversion payment on other categories of assistance is as follows:

**(1)** the receipt of a diversion payment shall be excluded from income considerations in the medicaid program; and

**(2)** categorical eligibility is extended to the food stamp benefit group for the lockout period, unless the benefit group requests closure or moves out of New Mexico; and

**(3)** an applicant who accepts a diversion payment shall be eligible for TANF funded child care assistance for the lockout period, unless the benefit group requests closure or moves out of New Mexico.

**E. Limitations and conditions:** An applicant may receive a diversion payment a maximum of two times during a participant's 60-month term limit.

**(1)** Receipt of a diversion payment does not count toward the NMW 60-month term limit for any adult included in the benefit group, unless the benefit group also receives monthly NMW cash assistance during the period covered by the diversion payment.

**(2)** The acceptance of a diversion payment does not reduce the number of months in a participant's 60-month lifetime limit; however, a diversion payment can only be authorized a maximum of two times during the 60-month lifetime limit. The 60-month lifetime limit began on July 1, 1997 for any adult or minor head of the benefit group, or spouse of the minor, who received TANF since July 1997.

**(3)** A participant who has reached the 60-month lifetime limit is not eligible for a diversion payment. A participant who has never received a month of TANF is eligible for a diversion payment.

**(4) Cash assistance lockout period:**

**(a) Acceptance of a diversion payment:** An applicant who accepts a diversion payment shall be prohibited from participating in the NMW cash assistance program for a period of 12 months beginning in the month the diversion payment is authorized. A written agreement that defines the terms and expectations of the diversion grant; documents the reason why cash assistance to meet basic needs is not required; identifies the need for a specific type of short-term assistance; and describes the support services available to diversion participants must be signed by the participant.

**(b) Receipt of a diversion payment from another state:** An applicant who has accepted a diversion payment in any other state shall be prohibited from receiving NMW cash assistance or a diversion payment in New Mexico for a period of 12 months, beginning in the month the diversion payment in the

other state was authorized, or for the length of the lockout period in the other state, whichever is shorter.

(5) A participant of a diversion payment is not required to comply with work program or child support enforcement requirements.

**F. Re-application:** A participant may apply for cash assistance during the lockout period based on the following criteria.

(1) **Applying during lock-out period:** An applicant who determines an inability to adhere to the terms and conditions for receipt of a diversion payment may apply for cash assistance to meet ongoing basic needs.

(a) An applicant is ineligible for cash assistance payment regardless of good cause within the first four months of receiving a diversion payment.

(b) An applicant is eligible for cash assistance payment if good cause is met at least five months after receipt of diversion payment.

(2) **Good cause:** Good cause must apply in order for an applicant to re-apply for cash assistance during the lockout period. Good cause can only be considered for applicants applying at least five months after initial receipt of a diversion payment. Good cause is not considered to exist for the first four months from initial receipt of a diversion payment. Good cause must be approved by the department and may include, loss of employment, but not a voluntary quit or dismissal due to poor job performance or failure to meet a condition of employment; or use of an illegal substance or other drug; catastrophic illness or accident of a family member which requires an employed participant to leave employment; a victim of domestic violence; or another situation or emergency that renders an employed family member unable to care for the basic needs of the family.

**G. Claims:**

(1) A benefit group that receives monthly cash assistance within the 12-month lock out period shall not be subject to an overpayment if the household meets good cause.

(2) A benefit group may be subject to an overpayment if the diversion payment was issued in error and subject to recoupment as specified in 8.102.640 NMAC.

[8.102.500.10 NMAC - Rp 8.102.500.10 NMAC, 07/01/2001; Repealed, 7/17/2006; 8.102.500.10 NMAC - N, 11/15/2007; A, 08/14/2009; A, 07/01/2013]

**History of 8.102.500 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD FA 420, Standard of Need, 2/10/1988.

ISD FA 440, Determination of Eligibility and Grant, 2/10/1988.

ISD FA 440, Prospective Eligibility and Budgeting, 4/30/1992.

ISD FA 460, Special Payments, 2/10/1988.

**History of Repealed Material:** 8 NMAC 3.FAP, Financial Assistance Program - Repealed, 07/01/1997.

8.102.500 NMAC Eligibility Policy - General Information, - Repealed, 07/01/2001.