

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS**  
**PART 630 DESCRIPTION OF PROGRAM/BENEFITS - CHANGES IN ELIGIBILITY**

**8.106.630.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.106.630.1 NMAC - N, 07/01/2004]

**8.106.630.2 SCOPE:** The rule applies to the general public.  
[8.106.630.2 NMAC - N, 07/01/2004]

**8.106.630.3 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.  
[8.106.630.3 NMAC - N, 07/01/2004]

**8.106.630.4 DURATION:** Permanent.  
[8.106.630.4 NMAC - N, 07/01/2004]

**8.106.630.5 EFFECTIVE DATE:** July 1, 2004, unless a later date is cited at the end of a section.  
[8.106.630.5 NMAC - N, 07/01/2004]

**8.106.630.6 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.  
[8.106.630.6 NMAC - N, 07/01/2004]

**8.106.630.7 DEFINITIONS:** [Reserved]  
[8.106.630.7 NMAC - N, 07/01/2004]

**8.106.630.8 CHANGE PROCESSING STANDARDS:**

**A.** There is a continuing responsibility on the part of both the recipient and the caseworker to make sure that benefits paid to the benefit group correctly reflect the benefit group's circumstances for the certification period.

**B.** A change is considered reported on the date the report of change is received by the project area office or, if mailed, the date of the postmark on the benefit group's report, plus three days mailing time.

**C.** A benefit group will be encouraged to use a change report form to document changes. A change may be reported by mail, by personal visit, by telephone, fax, electronic mail.

**D. Department action on reported changes:** Reported changes shall be evaluated and changes to eligibility, benefit amount, or both shall be acted on within 10 days of receiving the notice of a change.

(1) The change is made as soon as possible but must be effected no later than the end of the month following the month in which the change is reported.

(2) The caseworker shall take action on any change reported by a benefit group, and on any change that becomes known to the department through other sources.

[8.106.630.8 NMAC - N, 07/01/2004; A, 12/01/2009]

**8.106.630.9 CHANGE PROCESSING ACTION:** If, during a certification period, a change occurs that affects eligibility or benefit amount, the caseworker shall take action to adjust the benefit group's eligibility or benefit amount.

**A. Action on changes:** When a benefit group reports a change, the caseworker must take action to

determine the benefit group's eligibility and benefit amount within ten days of the date the notice of change is received by the department.

**B. Reducing the benefit amount:** For changes that result in a reduction of cash assistance benefits, the caseworker shall act on the change as follows.

(1) If a signed written report is provided by the benefit group, action shall be taken for the following month without issuing a notice of adverse action. The benefit group shall be provided with adequate notice. If the benefits will be reduced in the same month in which the certification period will expire, no action shall be required to reduce or terminate benefits.

(2) When a benefit group timely reports a change that will reduce benefits, but does not provide a signed written report, the caseworker shall issue an adverse action notice to the benefit group. If the adverse action time limit expires in the following month, there is no overpayment in that month and the benefit group is entitled to the higher benefit amount. The reduction shall be effective in the month following the month in which the adverse action notice expires.

(3) If the change is reported by any other means, within 10 days the caseworker shall take action to issue a notice of adverse action to reduce or terminate benefits effective the month following the month in which the adverse action time limit expires. If the notice of adverse action time limit will expire in the same month that the benefit group's certification period will expire, no action shall be required to reduce or terminate benefits.

**C. Increased benefit amount:**

(1) If verification of the change is provided at the time the change is reported, the caseworker shall make the change prospective, beginning in the month following the month in which the change was reported.

(2) If verification is not provided at the time the change is reported, the benefit group shall be allowed 13 days from the date a change is reported to provide verification. Benefits shall be increased effective the month following the month in which the verification is provided.

(3) When a benefit group fails to make a timely report of a change that will result in an increased benefit amount, the benefit amount shall increase the month following the month in which the verification is provided. The benefit group is not entitled to an increased benefit amount for any month prior to the month in which the verification is provided.

**D. Termination of benefits:** When the benefit group reports a change that will result in a termination of benefits, and the change is not reported in writing and signed by a benefit group member, the caseworker shall issue an adverse action notice.

(1) If the adverse action time limit expires in the month following the month the notice is mailed, there is no overpayment to the benefit group in the following month and the benefit group shall be entitled to the higher benefit amount. A claim against the benefit group shall not be established.

(2) If the adverse action time limit will expire in the same month in which the certification period ends, or after the certification period ends, no action shall be taken to terminate benefits and the certification period shall be allowed to expire. The caseworker shall document the change in the case record.

**E. No change in benefit amount:** When a reported change will not change the benefit amount, the caseworker shall document the change in the case file and notify the benefit group that the report was received and there is no change in benefits.

**F. Other changes:** All unreported changes of which the caseworker becomes aware must be acted upon. At a minimum, this means documenting changes in the case record. All discrepancies and questionable information shall be resolved to make sure that the correct benefit amount is issued to the benefit group. [8.106.630.9 NMAC - N, 07/01/2004; A, 12/01/2009]

#### **8.106.630.10 CHANGE NOTICES:**

**A. Notice of adverse action:** Prior to any action to reduce or terminate cash assistance benefits within the certification period, the benefit group shall be provided with a notice of an adverse action, unless the change was reported by the benefit group in writing and was signed by a benefit group member. The adverse action notice shall include at least the following information:

- (1) proposed action and reason for the action;
- (2) month in which the change takes effect;
- (3) adjusted benefit amount;
- (4) benefit group's right to request a fair hearing, circumstances under which the benefit group can continue benefits at the greater amount, and deadline dates for requesting a hearing;
- (5) benefit group's liability for any benefits overpaid if the result of the fair hearing is that the

department took the correct action;

(6) general information on whom to contact for additional information, including the right to representation by legal services.

**B. Adequate notice:** If a change was reported by the benefit group in writing, was signed by a benefit group member, and will result in a reduction or termination in benefits, the benefit group shall be provided with advance written notice of the reduction or termination.

(1) The benefit group shall be notified that its benefits are being reduced or terminated no later than the date the benefit group receives, or would have received, its benefits.

(2) Adequate notice shall be provided when changes reported in writing meet the following conditions:

(a) the benefit group provides a written report of the information that results in the reduction or termination and the report is signed by a member of the benefit group;

(b) the caseworker can determine the benefit group's reduced benefit amount or ineligibility based solely on the information provided by the benefit group in the written report; and

(c) the benefit group retains its right to a fair hearing.

**C. Fair hearing rights:** The benefit group retains its right to have continued benefits if the fair hearing is requested within the adverse action time limit and the benefit group requests the higher benefit amount pending the hearing decision. The caseworker shall continue the benefit group's previous benefit amount if required, within five working days of the benefit group's request.

**D. Other changes:** A notice of adverse action shall not be provided when:

(1) there is a mass change in benefits affecting the entire GA program;

(2) the caseworker determines, on the basis of reliable information, that the benefit group has moved out of state;

(3) the caseworker determines on the basis of reliable information that all members of a benefit group have died;

(4) the benefit group has received an increased benefit amount to restore lost benefits, the restoration is complete, and the benefit group has been notified in writing of the date the increased benefit amount will terminate;

(5) the benefit group voluntarily requests in writing, or in the presence of the caseworker, that its participation be terminated; or

(6) the caseworker determines, on the basis of reliable information, that the benefit group has been approved for a concurrent cash assistance program.

[8.106.630.10 NMAC - N, 07/01/2004; A, 12/01/2009]

#### **8.106.630.11 MASS CHANGE NOTICE**

**A. Change in payment amount:** A benefit group's cash assistance payment may be increased or decreased after initial certification.

(1) **Increase in payment amount:** The department shall issue adequate notice to GA recipients regarding an increase in payment amount.

(2) **Decrease in payment amount:** The department shall issue written notice to GA recipients no later than 60 days prior to the change effective date. The notice shall include the citation to the state statute and regulation and fair hearing rights.

**B. Application moratorium:** Public notice shall be issued 60 days prior to the imposition of a moratorium on applications. Applications received during the moratorium shall be processed in accordance with 8.106.110.16 NMAC.

**C. Suspension of program:** The GA payment for all benefit groups may be denied for a designated time period based on unavailable state funds. During program suspension disposition of applications shall be made pursuant to 8.106.110.16 NMAC.

(1) **Payment of assistance:** There shall be no payment to the GA recipient during the designated suspension period and any right to the payment is lost. Retroactive payments for pending applicants shall be authorized for months prior to a designated suspension period.

(2) **Notice to recipient and applicant:** No later than 60 days prior to the effective change the department shall provide GA recipients appropriate notice regarding suspension or restoration of the grant based on the availability of state funds. The notice shall include the citation to the state statute and regulation and fair hearing rights.

**D. Public notice:** The department shall issue a public notice 60 days prior to the changes made based on the availability of state funds in Subsections A - C above. Public notice shall include effective date of change and right to fair hearing consistent with mass change requirements at 8.100.180.15 NMAC. [8.106.630.11 NMAC - N, 07/01/2004; 8.106.630.11 NMAC - N, 12/01/2009]

**8.106.630.12 LATE REPORTING OF CHANGES**

**A.** If the benefit group failed to timely report a change, the caseworker shall verify the change to determine whether the benefit group received benefits to which it was not entitled (an overpayment).

**B. Failure to report changes:** Failure to report any change in a timely manner may result in an underpayment or an overpayment to the benefit group.

(1) The caseworker shall establish a claim against the benefit group for any month in which the benefit group was overpaid benefits.

(2) If the establishment of an overpayment is made within the certification period, the benefit group is entitled to a notice of adverse action that its benefits will be reduced due to the overpayment.

(3) No claim shall be established because of a change in circumstances that a benefit group is not required to report.

**C. Good cause for failure to report a required change:**

(1) If a required change is not reported timely, good cause for not reporting on time is considered to exist if the recipient can show, with appropriate documentation, that the recipient was prevented from reporting by a health problem, including illness, or death of an immediate family member during the time period the individual was required to report.

(2) The health problem or death of an immediate family member must have been of such severity and duration as to effectively prevent the timely reporting by the head of household or unrelated caretaker. The head of household or unrelated caretaker must provide proof of the existence of the health problem and explain exactly how it prevented the recipient from reporting the information to the ISD office.

(3) The determination of good cause shall be made by the caseworker, subject to the review and approval of the county director or the county director's designee. [8.106.630.12 NMAC - Rn, 8.106.630.11 NMAC, 12/01/2009]

**History of 8.106.630 NMAC:** [RESERVED]