

TITLE 8 SOCIAL SERVICES
CHAPTER 119 REFUGEE RESETTLEMENT PROGRAM
PART 410 RECIPIENT POLICIES -GENERAL RECIPIENT REQUIREMENTS

8.119.410.1 ISSUING AGENCY: New Mexico Human Services Department.
[7/1/1997; 8.119.410.1 NMAC - Rn, 8 NMAC 3.RRP.000.1, 3/14/2001]

8.119.410.2 SCOPE: The rule applies to the general public.
[7/1/1997; 8.119.410.2 NMAC - Rn, 8 NMAC 3.RRP.000.2, 3/14/2001]

8.119.410.3 STATUTORY AUTHORITY:

A. The refugee resettlement program (RRP) is authorized under Title IV of the Immigration and Nationality Act of 1980. The act designates the federal department of health and human services (DHHS) as the federal administering agency. RRP regulations are issued by DHHS in the Code of Federal Regulations, Title 45, Part 400, which is supplemented by administrative and program instructions issued by the federal department from time to time.

B. In accordance with authority granted to the department by NMSA 1978, section 27-1-3(J), and pursuant to executive order No. 80-62, dated 10/01/81, the governor of the state of New Mexico has designated the human services department as the single state agency responsible for administering the program in New Mexico.
[7/1/1997; 8.119.410.3 NMAC - Rn, 8 NMAC 3.RRP.000.3, 3/14/2001; A, 11/1/2013]

8.119.410.4 DURATION: Permanent.
[7/1/1997; 8.119.410.4 NMAC - Rn, 8 NMAC 3.RRP.000.4, 3/14/2001]

8.119.410.5 EFFECTIVE DATE: July 1, 1997.
[7/1/1997; 8.119.410.5 NMAC - Rn, 8 NMAC 3.RRP.000.5, 3/14/2001]

8.119.410.6 OBJECTIVE: The objective of the RRP is to assist refugees to become self-sufficient by providing a program of financial and medical assistance while, supportive services are provided, to ensure the effective resettlement of refugees in the state of New Mexico through programs designed to assist with integration, promotion of economic self-sufficiency, and protecting refugees and communities from infectious diseases and other health related issues. HSD has agreed to administer this program subject to the receipt of federal funds. Under the RRP, sponsors(s) and VOLAGs work closely with the federal government to coordinate support services authorized under the program. The RRP includes the provision of refugee cash assistance (RCA), refugee medical assistance (RMA), refugee social services (RSS) and additional support services funded by the office of refugee resettlement (ORR).
[7/1/1997; 8.119.410.6 NMAC - Rn, 8 NMAC 3.RRP.000.6, 3/14/2001; A, 11/1/2013]

8.119.410.7 DEFINITIONS: [RESERVED]
[7/1/1997; 8.119.410.7 NMAC - Rn, 8 NMAC 3.RRP.000.7, 3/14/2001]

8.119.410.8 GENERAL RECIPIENT REQUIREMENTS:

- A. Citizenship**
- (1) To be eligible for inclusion in the RCA benefit group, the applicant must be classified as a “refugee.”
 - (2) To be eligible for inclusion in the RRP benefit group the individual must provide proof, in the form of documentation issued by USCIS, of one of the following statuses under the INA as a condition of eligibility:
 - (a) paroled as a refugee or asylee under section 212(d)(5) of INA; or
 - (b) admitted as a refugee under section 207 of the INA; or
 - (c) granted asylum under section 208 of the INA; or
 - (d) Cuban and Haitian entrants including:
 - (i) any individual granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and
 - (ii) any other national of Cuba or Haiti who was paroled into the U.S. and

has not acquired any other status under the INA; is the subject of exclusion or deportation proceedings under the INA; or has an application for asylum pending with the INS; and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or

(e) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts 1989 (Public Law 100-461 as amended)); or

(f) admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(3) An applicant for asylum is not eligible for assistance under title IV of the INA unless otherwise provided by federal law.

B. Time limits

(1) Eligibility for RCA is limited to 12 months from the date of entry, date of asylum, or date deportation was withheld.

(2) For refugee assistance cases involving U.S. born children, the eligibility for RCA for the child expires when the refugee parent who last arrived in the U.S. has been in the country for eight months.

C. General eligibility requirements

(1) RCA eligibility is limited to those who are ineligible for TANF. The benefit groups' eligibility for TANF must be determined before determining eligibility for RCA.

(2) An individual who is enrolled full-time in an institution of higher education will be ineligible to participate in the RCA program except where such enrollment has been approved as part of the individual's individual employability plan (IEP) and in which the enrollment will last for a period of less than one year.

(a) An individual is considered to be enrolled in an institution of higher education, if the individual is enrolled in a business, technical, trade or vocational school, that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

(b) The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days.

(3) A refugee must provide the name of the resettlement agency which was responsible for his or her resettlement.

(4) Possession of a social security number is not a requirement of eligibility for RCA. [7/1/1997; 8.119.410.8 NMAC - Rn, 8 NMAC 3.RRP.412, 3/14/2001; A, 11/1/2013; A, 11/1/2022]

8.119.410.9 RESIDENCY: To be eligible of assistance under this program, the refugee(s) must be physically present in New Mexico on the date of application or final determination of the eligibility and demonstrate intent to remain in the state.

[7/1/1997; 8.119.410.9 NMAC - Rn, 8 NMAC 3.RRP.413, 3/14/2001]

8.119.410.10 NON-CONCURRENT RECEIPT OF ASSISTANCE: To be eligible for inclusion in the RCA benefit group, the refugee(s) may not be receiving cash assistance under any other HSD program of cash assistance or SSI.

[7/1/1997; 8.119.410.10 NMAC - Rn, 8 NMAC 3.RRP.414, 3/14/2001; A, 11/1/2013]

8.119.410.11 EMPLOYMENT TRAINING AND WORK REGISTRATION:

A. Requirement

(1) All employable refugees who receive RCA, and all employable members of the assistance group of which they are part, must register for employment with an appropriate agency providing employment services or the department of workforce solutions (NMDWS), and must accept an employment or training opportunity from any source which is determined appropriate for that refugee by HSD.

(2) Refugees may register for employment services with the contracted provider of the RSS program. As a condition of eligibility each employable member of the benefit group must complete, and comply

with, an IEP with the contracted RSS provider. Failure to comply with the IEP may result in disqualification from RCA.

(3) As a condition for receipt of RCA a refugee who is not otherwise exempt, or does not demonstrate good cause, must:

(a) go to job interviews that are arranged by HSD, the contracted RSS provider, or the resettlement agency which was responsible for the initial resettlement of the refugee;

(b) accept at any time an offer of employment, determined to be appropriate by HSD, the contracted RSS provider, or the resettlement agency which was responsible for the initial resettlement of the refugee; and

(c) participate in any employability services program which provides job or language training in the area in which the refugee resides, as deemed to be appropriate by HSD, the contracted RSS provider, or the resettlement agency which was responsible for the initial resettlement of the refugee.

(4) The ISD office shall contact the local sponsor or resettlement agency to determine if the refugee has refused, within 30 days of application, an offer of employment or has voluntarily quit a job without good cause.

B. Appropriateness of placement:

(1) Employment placements must be within the scope of the individual's IEP; the plan may be modified to reflect changes in services or employment conditions.

(2) Services and employment must be related to the capability of the individual to perform the task on a regular basis. Claims, by the individual, of adverse effect on physical or mental health must be based on medical verification from a physician or licensed or certified psychologist;

(3) The total daily commuting time to and from home to the service or employment site must not normally exceed 2 hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance or time is generally accepted in the community, in which case the round trip commuting time must not exceed the generally accepted community standards.

(4) When childcare is required, the care must meet the standards normally required by the state for NMW recipients.

(5) The service or employment site to which the individual is assigned must not be in violation of applicable federal, state, or local health and safety standards.

(6) Assignments may not be made that are discriminatory in terms of age, sex, race, creed, color, or national origin.

(7) Appropriate employment placements may be temporary, permanent, full-time, part-time, or seasonal employment if such employment meets the other standards of this section.

(8) The service or work site must comply with all applicable federal, state, and local labor laws and regulations.

(9) The wage shall meet or exceed the federal or state minimum wage, whichever is applicable, or if such laws are not applicable, the wage shall not be substantially less favorable than the wage normally paid for similar work in that labor market.

(10) The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation.

(11) No individual may be required to accept employment if:

(a) the position offered is vacant due to a strike, lockout, or other bona fide labor dispute; or

(b) the individual would be required to work for an employer contrary to the conditions of his existing membership in the union governing that occupation; however, employment not governed by the rules of a union in which he or she has membership may be deemed appropriate.

(12) In addition to meeting the other criteria of this paragraph, the quality of training must meet local employers' requirements so that the individual will be in a competitive position within the labor market; the training must be likely to lead to employment which will meet the appropriate work criteria.

(13) If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the U.S., the training may consist of full-time attendance in a college or professional training program, provided that such training:

(a) is approved as a part of the individual's employability plan by the state agency;

(b) does not exceed one year's duration (including any time enrolled in such program in the U.S. prior to the refugee's application for assistance);

(c) is specifically intended to assist the professional in becoming relicensed in his or

her profession; and if completed,

- (d) can realistically be expected to result in such relicensing; and
- (e) may only be made available to individuals who are employed.

C. Job offers: A job offer, if determined appropriate under the requirements of this section, must be accepted by the refugee without regard to whether such job would interrupt a program of services planned or in progress.

D. Failure or refusal to carry out job search or to accept employability services of employment.

(1) **Voluntary registrants:** Voluntary registrants are recipients of refugee cash assistance who are exempt from registration for training and employment services. When a voluntary registrant fails or refuses to participate in appropriate employability services, to carry out job search, or to accept an appropriate offer of employment, the state agency, may remove the individual from the registry for up to 90 days from the date of determination that such failure or refusal has occurred, but the individual's cash assistance may not be affected.

(2) **Mandatory registrants:** A mandatory registrant - i.e., an employable recipient of refugee cash assistance who is not exempt from registration, who has failed or refused without good cause to meet the requirements or has voluntarily quit a job, will be disqualified as outlined in paragraph G below.

E. Work requirements - exemptions

(1) An individual is considered employable unless he or she is a minor dependent child. A minor unmarried parent, acting as a head of household, is not considered to be a "dependent child," and is subject to participation as an adult.

(2) Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs, carrying out job search, and acceptance of appropriate offers of employment.

F. Refusal to accept or termination of employment

(1) **Applicants:** An applicant is not eligible if 30 consecutive calendar days immediately prior to the receipt of aid, he or she has voluntarily quit a job without good cause, refused to apply for, or accept an appropriate offer of employment, as determined by HSD. The dependent family of such an ineligible applicant may, however, remain eligible for RCA.

(2) **Recipients:** An employable recipient must not have refused, without good cause, to go to a job interview which is arranged by the RSS provider or have, without good cause, voluntarily quit a job, or have refused to apply for or accept an appropriate offer of employment.

(3) **Job search:** An employable recipient shall attend job interviews, register for employment and comply with the terms of his or her IEP. Termination of employment, by a recipient, shall only be with good cause. Refusal by a recipient to fulfill the job search requirement, or termination of employment without good cause is noncompliance.

(4) **Good cause:** Determination of good cause for noncompliance is made by the HSD case worker and is based on the following documented circumstances:

- (a) court required appearance or incarceration;
- (b) an individual is already engaged in employment consistent with the work plan;
- (c) a pregnant woman, starting with the 4th month of pregnancy, provided that the pregnancy and the expected date of birth have been medically verified;
- (d) medically verified illness of the participant or his/her infant child. An infant child is defined as a child under 12 months of age.

(5) The refugee must participate in the employment program once good cause for noncompliance has been remedied.

G. Disqualification: Disqualification will follow the procedures set forth below.

(1) **Cause for disqualification:** A refugee recipient, who refuses an offer of employment, voluntarily quits employment without good cause, as determined by HSD, or fails to comply with his or her IEP is eligible for disqualification.

(2) The refugee shall be provided with a notice of adverse action not less than 13 days prior to the termination date. Additionally, the refugee's sponsor or resettlement agency will be notified of the action taken. The notice of adverse action will follow the policy outlined in 8.100.180.10 NMAC. The notice may include more than one instance of noncompliance or there may be separate notices for each instance of noncompliance. Each instance of noncompliance must be either resolved in a timely manner or a disqualification may occur.

(3) If the refugee regains compliance within the 30 day period after the initial date for noncompliance, assistance shall be continued without interruption so long as the refugee continues to meet the requirements of continued assistance.

(4) A disqualification consists of termination of assistance beginning 30 days after the date of the noncompliance. An employable RRP recipient is ineligible for benefits for the following periods when assistance is terminated due to noncompliance;

(a) for three payment months for the first occurrence.

(b) for six payment months for the second and subsequent occurrences.

[7/1/1997; 8.119.410.11 NMAC - Rn, 8 NMAC 3.RRP.415, 3/14/2001; A, 11/1/2013]

History of 8.119.410 NMAC:

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

ISD-IPP 81-8, Limiting Assistance to 36 Months After Arrival into U.S. to Refugees (ISD Categories 19 and 49), 4/10/1981.

ISD-IPP 82-7, Limiting Refugee Assistance to 18 Months After Refugee's Arrival into U.S., 3/15/1982.

ISD 281.0000, Refugee Eligibility Conditions, 6/29/1982.

ISD FA 610, Refugee Resettlement Program, 2/11/1988.

ISD FA 610, Refugee Resettlement Program, 7/2/1990.

History of Repealed Material: 8 NMAC 3.RRP, Refugee Resettlement Program - repealed, 7/1/1997.