

TITLE 8 SOCIAL SERVICES
CHAPTER 1 SOCIAL SERVICES GENERAL PROVISIONS
PART 2 GENERAL OPERATING PROCEDURE FOR THE OFFICE OF INSPECTOR GENERAL

8.1.2.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.1.2.1 NMAC - N, 11/01/2018]

8.1.2.2 SCOPE: The rule applies to the general public.
[8.1.2.2 NMAC - N, 11/01/2018]

8.1.2.3 STATUTORY AUTHORITY:

A. Sections 27-1-2 and 27-1-3 NMSA 1978 provides for the department to “adopt, amend and repeal bylaws, rules and regulations.” It also provides for administration of public assistance programs.

B. The Office of Inspector General (OIG) of the Human Services Department (HSD) was created by the secretary under authority granted by Paragraph (3) of Subsection B of Section 9-8-6 NMSA 1978.
[8.1.2.3 NMAC - N, 11/01/2018]

8.1.2.4 DURATION: Permanent.
[8.1.2.4 NMAC - N, 11/01/2018]

8.1.2.5 EFFECTIVE DATE: November 1, 2018, unless a later date is cited at the end of a section.
[8.1.2.5 NMAC - N, 11/01/2018]

8.1.2.6 OBJECTIVE: The objective of these regulations is to provide general operating policy for the Office of Inspector General (OIG).
[8.1.2.6 NMAC - N, 11/01/2018]

8.1.2.7 DEFINITIONS: The following words and terms, when used in this section, shall have the following meanings, unless the text clearly indicates otherwise:

A. **“Abuse”** means to make excessive or improper use of a thing, or to employ it in a manner contrary to the material or legal rules for its use; to make an extravagant or excessive use, as to abuse one's authority. Abuse may also occur through expressive carelessness in following written instructions or policy or in failing to take proper action that results in improper payments for public assistance, food benefits, vendor payments, or claims processing. Abuse through expressive carelessness may occur in eligibility determination, supervision review, data processing, claims processing, or program interpretation.

B. **“Fraud”** is an intentional misappropriation, deception or misrepresentation made by a person(s) or entities with knowledge that the deception could result in some unauthorized benefit to the person(s), entity, other entity or some other person(s). The term includes any act that constitutes fraud under applicable federal or state laws, regulations, or rules.

C. **“Waste”** means not receiving reasonable value for money in connection with any government funded activities due to an inappropriate act or omission by person(s) or entities with control over or access to government resources (e.g., executive, judicial or legislative branch employees, grantees or other recipients). Waste goes beyond fraud and abuse and does not involve a violation of law. Waste relates primarily to mismanagement, inappropriate actions and inadequate oversight.
[8.1.2.7 NMAC - N, 11/01/2018]

8.1.2.8 MISSION STATEMENT: [RESERVED]
[8.1.2.8 NMAC - N, 11/01/2018]

8.1.2.9 RESPONSIBILITIES: Generally, the OIG, is responsible for conducting independent audits, reviews, and investigations of HSD programs and operations, while detecting and preventing fraud, waste, and abuse. Through audits and reviews, the OIG promotes accountability, efficiency, economy, and integrity through research and analysis, and by providing recommendations for improvement to HSD's secretary, leadership and management. The OIG conducts investigations into public assistance, i.e. medicaid, supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), etc., fraud, and HSD contractor and internal employee fraud. If potential fraud is identified, the OIG, when appropriate, will pursue prosecutive

remedies and, in coordination with HSD, administrative remedies. Nothing in this section shall prohibit law enforcement agencies from pursuing claims for alleged violations of criminal conduct or other governmental entities from seeking all rights and remedies as permitted by law and regulations.

[8.1.2.9 NMAC - N, 11/01/2018]

8.1.2.10 Authority: In conjunction with federal and state law, rules and regulations that apply to HSD programs, the OIG is authorized:

A. To audit, review, inspect, evaluate, and investigate activities, records, electronic media, and individuals affiliated with contracts and procurements undertaken by HSD and any other official act or function of HSD.

B. To have access to all records, reports, audits, reviews, documents, papers, electronic media, recommendations, or other material available to the individual or entity which relate to HSD's programs and operations with respect to which the OIG has responsibility.

C. To conduct criminal, civil, and administrative investigations.

D. To engage in prevention activities, including but not limited to; review of legislation; review of rules, regulations, policies; procedures, and transactions; training and education.

E. To refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies.

F. To refer matters to other law enforcement agencies, when appropriate.

G. To conduct joint investigations and projects with other oversight or law enforcement agencies.

H. To establish guidelines and procedures to guide functions and processes conducted by the OIG.

I. To recoup the cost of investigations from nongovernmental entities as permitted by law.

J. To administer to or take from any person an oath, affirmation, affidavit or sworn statement, whenever necessary in the performance of the OIG functions assigned by this code.

K. To request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this code from any federal, state, or local governmental agency or unit thereof.

L. Access to HSD's secretary, leadership and management when necessary for any purpose pertaining to the OIG's responsibilities.

[8.1.2.10 NMAC - N, 11/01/2018]

8.1.2.11 Powers: The OIG is granted the following powers;

A. Access to all records maintained by or available to any governmental entity relating in any way to the OIG's duties and responsibilities.

B. Access to testimony or documents from any individual, firm, or nongovernmental entity relating to the duties and responsibilities of the OIG.

C. Require HSD employees to report to the OIG information regarding fraud, waste, corruption, illegal acts, and abuse.

[8.1.2.11 NMAC - N, 11/01/2018]

8.1.2.12 Confidentiality: The OIG shall maintain confidentiality of records and, to the extent practicable, the identities of individuals who provide information to the OIG, except as authorized or required by law.

[8.1.2.12 NMAC - N, 11/01/2018]

8.1.2.13 Cooperation: In accordance with federal and state laws and regulations and, if applicable, collective bargaining agreements, all HSD employees shall cooperate fully and promptly with requests from the OIG for information and data relating to HSD programs and operations. All HSD employees shall also comply with requests for interviews and briefings and must provide affidavits or sworn statements, if so requested by an employee of the OIG so designated to take affidavits or sworn statements. The OIG is not required to give advanced notice before conducting audits, reviews or investigations. When possible, supervisors will be informed in advance if their areas of responsibility that are to be audited. Because some OIG investigations may involve allegations of criminal misconduct, circumstances will dictate whether, and what type of, notice will be given, if any. HSD employees must not impede or hinder other employees' cooperation with the OIG. In accordance with Act 10-16C-1 through 10-16C-6 NMSA 1978, HSD managers shall prohibit reprisals against employees who cooperate with or disclose information to the OIG or other lawfully appropriate authority. HSD will also take administrative action against employees who take reprisals against employees who have cooperated with the OIG or other lawful

appropriate authority to include, but is not limited to, counsel, reprimand, suspension, or termination. 8.1.2.13 NMAC, must be applied to all HSD contracts, replacing “HSD” with “contractor”, where applicable. [8.1.2.13 NMAC - N, 11/01/2018]

HISTORY OF 8.1.2 NMAC: [RESERVED]