

TITLE 8 SOCIAL SERVICES
CHAPTER 10 CHILD PROTECTIVE SERVICES
PART 6 IN-HOME SERVICES

8.10.6.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD), Protective Services Division (PSD).
[8.10.6.1 NMAC - Rp, 8.10.6.1 NMAC, 03/15/16]

8.10.6.2 SCOPE: Protective services division employees and the general public.
[8.10.6.2 NMAC - Rp, 8.10.6.2 NMAC, 03/15/16]

8.10.6.3 STATUTORY AUTHORITY: Children, Youth and Families Department Act, Subsection D of 9-2A-7 NMSA 1978; New Mexico Children's Code, Section 32A-1-1 NMSA 1978.
[8.10.6.3 NMAC - Rp, 8.10.6.3 NMAC, 03/15/16]

8.10.6.4 DURATION: Permanent.
[8.10.6.4 NMAC - Rp, 8.10.6.4 NMAC, 03/15/16]

8.10.6.5 EFFECTIVE DATE: March 15, 2016, unless a later date is cited at the end of a section.
[8.10.6.5 NMAC - Rp, 8.10.6.5 NMAC, 03/15/16]

8.10.6.6 OBJECTIVE: To establish guidelines for the provision of in-home services to families at high or moderate risk, or with a child under the age of three, to reduce risk of maltreatment and to promote the continued safety of children.
[8.10.6.6 NMAC - Rp, 8.10.6.6 NMAC, 03/15/16]

8.10.6.7 DEFINITIONS:

A. "Abused child" as defined in the Children's Code, Subsection B of 32A-4-2 NMSA 1978, means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child.

B. "Case management" is a service provided to the clients that includes, but is not limited to, assessment of needs, reports, monitoring of progress, coordination of services, facilitation of inter-agency collaboration and documentation of efforts to meet the client's needs.

C. "Client" means a person who is receiving services from PSD.

D. "Community resources" are agencies, contractors, individuals, and community organizers that deliver services or other support for clients during and after PS involvement.

E. "Conditionally safe" means that one or more safety threats have been identified that places the child in present or impending danger of serious harm, however one or more protective capacities has been identified to offset, mitigate or control the threat of present or impending danger of serious harm.

F. "Custodian" as defined in the Children's Code, Subsection E of 32A-1-4 NMSA 1978, means an adult with whom the child lives who is not a parent or guardian of the child.

G. "CYFD" refers to the New Mexico children, youth and families department.

H. "Direct service" is a service provided by PSD staff to an individual or family that supports one or more goals in the family plan.

I. "Emergency discretionary funds (EDF)" are funds used to secure services or items necessary to achieve goals of the family plan.

J. “**Engagement**” refers to the family’s commitment to the PSD intervention and subsequent involvement of the family with PSD and community resources throughout the case.

K. “**FACTS**” refers to the family automated client tracking system (FACTS), the official data management system for CYFD.

L. “**Family assessment**” is a collaborative effort between PSD workers and the family to assess the family’s needs and protective capacities based upon identified safety threats and risk factors.

M. “**Family centered meeting**” is a facilitated meeting where PSD workers and supervisors meet with parents, guardians and others for the purpose of safety planning, case planning and decision making.

N. “**Family plan**” is a plan developed by PSD in collaboration with each household member, based on the information collected through the family assessment, which identifies the specific changes in behaviors and circumstances that are expected as a result of the in-home services intervention.

O. “**Foster care candidate**” is a child who is at serious risk of removal from home where PSD is either pursuing the child’s removal from the home or making reasonable effort to prevent the child’s removal from the home.

P. “**Guardian**” as defined in the Children’s Code, Subsection I of 32A-1-4 NMSA 1978, means a person appointed as guardian by a court or Indian tribal authority or a person authorized to care for the child by a parental power of attorney as permitted by law.

Q. “**Impending danger**” is when a child is living in a state of danger or position of continual danger due to a family circumstance or behavior. The threat caused by the circumstance or behavior is not presently occurring, but it can be anticipated to have severe effects on a child at any time.

R. “**In-home services**” (IHS) are services provided without court intervention that are expected to enhance the family’s ability to function independently of PSD, improve safety for children, create stability within the home, and develop healthy and supportive on-going community relationships.

S. “**Neglected child**” as defined in the Children’s Code, Subsection E of 32A-4-2 NMSA 1978, means a child:

- (1) who has been abandoned by the child’s parent, guardian or custodian;
- (2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child’s well-being because of faults or habits of the child’s parent, guardian or custodian, or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;
- (3) who has been physically or sexually abused, the child’s parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;
- (4) whose parent, guardian or custodian is unable to discharge that person’s responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or
- (5) who has been placed for care of adoption in violation of the law; provided that nothing in the Children’s Code, Section 32A-1-1 NMSA 1978, shall be construed to imply that a child who is being provided with treatment by spiritual needs alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children’s Code; and further provided that no child shall be denied the protection afforded to all children under the Children’s Code.

T. “**Parent**” as defined in the Children’s Code, Subsection O of 32A-1-4 NMSA 1978, includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child.

U. “**Placement**” is an out of home residential arrangement for the care of children in PSD custody, which may include, but is not limited to family foster care, relative foster care and treatment foster care, or a facility such as residential treatment center, group home, or emergency shelter.

V. “**Present danger**” means immediate, significant and observable severe harm or threat of severe harm that is presently occurring to a child and requiring an immediate protective services response.

W. “**Protective capacities**” are those assets possessed by the parent or guardian that help reduce, control or prevent present or impending danger of serious harm to a child.

X. “**Protective services division (PSD)**” refers to the protective services division of the children, youth and families department, and is the state’s designated child welfare agency.

Y. “**Risk**” is the term used to describe PSD’s assessment, based on established criteria, of the likelihood that child will be abused or neglected by his or her parent, guardian, or custodian.

Z. “**Safe**” as used in this policy means that there are no safety threats placing the child in present or impending danger of serious harm.

AA. “Safety plan” is a document that identifies the strategy or group of strategies implemented to control a safety threat. It is the intrusion into family life in the form of ongoing assessment and specific strategies designed to match the duration and level of the safety threat up to including the removal of the child from the home.

BB. “Structured decision making (SDM) instruments” are standardized assessments located in FACTS that the worker completes to determine the child’s safety and risk of abuse or neglect based upon the application of pre-determined criteria.

CC. “Unsafe” means that one or more safety threats have been identified that place the child in present or impending danger of serious harm and there are not sufficient protective capacities to offset, mitigate or control the threat of present or impending danger of serious harm.

DD. “Voluntary service intake (VSI)” is the category under which an IHS case is opened in FACTS. [8.10.6.7 NMAC - Rp, 8.10.6.7 NMAC, 03/15/16]

8.10.6.8 PURPOSE OF IN-HOME SERVICES:

A. The purpose of IHS is to promote the safety of children and reduce the risk of the recurrence of abuse or neglect of children by their parents, guardians or custodians without the intervention of the courts.

B. A child may not be determined to be safe or conditionally safe solely on the basis of the provision of IHS.

[8.10.6.8 NMAC - Rp, 8.10.6.8 NMAC, 03/15/16]

8.10.6.9 ELIGIBILITY:

A. A family is eligible to receive IHS without regard to income.

B. A family may be eligible to receive IHS when:

(1) the child has been determined to be conditionally safe and the risk of child abuse or neglect has been determined to be moderate or high; or

(2) the child has been determined to be unsafe and the risk of child abuse or neglect has been determined to be very low, low, moderate, or high.

C. Parents who are involved in an active legal case through an abuse or neglect petition or a voluntary placement are ineligible for IHS.

[8.10.6.9 NMAC - Rp, 8.10.6.9 NMAC, 03/15/16]

8.10.6.10 FOSTER CARE CANDIDACY DETERMINATION:

A. The IHS practitioner shall make a foster care candidacy determination for each child in a family receiving IHS. A child may be considered a foster care candidate when a child is determined to be conditionally safe and the risk of maltreatment is moderate or high, or when a child is determined to be unsafe.

B. A child may be determined to be a foster care candidate at any point during the IHS case when there has been a change in a family’s circumstances that affects the safety of a child.

C. Once a child has been initially determined a foster care candidate, then the foster care candidacy is re-determined for the child every six months.

[8.10.6.10 NMAC - Rp, 8.10.6.10 NMAC, 03/15/16]

8.10.6.11 CASE TRANSFER TO IN-HOME SERVICES:

A. IHS are assigned within five calendar days of the disposition of the investigation.

B. The investigation is closed within five calendar days of case transfer to an IHS practitioner.

[8.10.6.11 NMAC - Rp, 8.10.6.11 NMAC, 03/15/16]

8.10.6.12 DURATION OF SERVICE DELIVERY: IHS case interventions are provided for a maximum of 180 days, unless the IHS practitioner requests the county office manager grant a 45 day extension. The IHS practitioner documents that an extension of services would assist the family in achievement of goals, reduce the risk of recurrent abuse or neglect, and ensure the child is safe, conditionally safe. No more than three 45 day extensions will be granted.

[8.10.6.12 NMAC - N, 03/15/16]

8.10.6.13 PROVISION OF SERVICES:

A. No waiting list is established or maintained for IHS.

B. Families participate in safety related IHS without court intervention.

C. Services are provided to the family based on assessment of safety of the child and risk of abuse or neglect to the child by the parent, guardian or custodian. Services provided to the family utilize family strengths, family resources, community resources, and PSD resources.

D. PSD favors the use of family and community services over direct services whenever possible and appropriate.

E. IHS are delivered as a collaborative effort between PSD, the family, and community partners.
[8.10.6.13 NMAC - Rp, 8.10.6.12 NMAC, 03/15/16]

8.10.6.14 FAMILY CONTACT:

A. The IHS practitioner schedules the initial face-to-face contact with the family within 72 hours from transfer of the case to IHS.

B. The IHS practitioner shall meet with the family at least weekly through the duration of the case.

C. When determining the meeting frequency and other types of intervention, safety of the child is always the first consideration.

D. If the IHS practitioner identifies a non-participating or absent parent, guardian or custodian the practitioner shall meet with their supervisor.

[8.10.6.14 NMAC - Rp, 8.10.6.13 NMAC, 03/15/16]

8.10.6.15 IN-HOME FAMILY ASSESSMENT, SAFETY AND FAMILY PLANS:

A. The IHS practitioner, in collaboration with the family, completes a family assessment and develops a safety plan and family plan.

B. The IHS practitioner, in collaboration with the family, reviews and updates the family's safety plan, addressing all individuals in the family.

C. The IHS practitioner completes a family assessment and family plan for all IHS cases.

[8.10.6.15 NMAC - Rp, 8.10.6.14 NMAC, 03/15/16]

8.10.6.16 CASE STAFFING AND ON-GOING ASSESSMENT: IHS practitioners utilize staffing and conferences to develop, assess, or review plans and to review services and the safety of a child.

[8.10.6.16 NMAC - Rp, 8.10.6.15 NMAC, 03/15/16]

8.10.6.17 EMERGENCY DISCRETIONARY FUNDS (EDF): PSD may use EDF to assist the family with the goals identified in the family plan to reduce safety and risk factors for children in the home. EDF, when related to safety and risk, can be used to purchase products or services such as rent or rent deposits, utilities, clothing, transportation, food, home or car repair, and appliance repair. EDF are dispersed according to the emergency discretionary fund manual.

[8.10.6.17 NMAC - Rp, 8.10.6.16 NMAC, 03/15/16]

8.10.6.18 SUBSEQUENT REPORTS OF ABUSE OR NEGLECT: If a report is made to statewide central intake when there is reason to believe abuse or neglect has occurred subsequent to the original report that resulted in providing IHS, then a new investigation will occur. A new investigation does not disqualify a family from receiving IHS. PSD may continue to provide IHS during and after an investigation resulting from additional child abuse or neglect allegations if the safety of a child can be ensured.

[8.10.6.18 NMAC - Rp, 8.10.6.17 NMAC, 03/15/16]

8.10.6.19 FAMILY REFUSAL OF IN-HOME SERVICES: A decision by the family to refuse or withdraw from services does not constitute abuse or neglect. When the family refuses IHS, the IHS practitioner, in consultation with the supervisor, reviews the results of the safety and risk assessments as well as other pertinent information to determine if PSD should pursue involuntary service through a court order.

[8.10.6.19 NMAC - Rp, 8.10.6.18 NMAC, 03/15/16]

8.10.6.20 FAMILY WITHDRAWAL FROM IN-HOME SERVICES: When the family withdraws after beginning IHS, the practitioner shall conduct a safety assessment and a risk assessment and review the results. The practitioner also considers information from the investigation, as well as other pertinent information, to determine an appropriate course of action. Action may include, but is not limited to:

A. revision of the IHS family plan;

B. report of the family to statewide central intake (SCI);

- C. case closure; or
 - D. pursuit of involuntary services through a court order.
- [8.10.6.20 NMAC - Rp, 8.10.6.18 NMAC, 03/15/16]

8.10.6.21 CASE CLOSURE: IHS cases may be closed with no further intervention from PSD when the structured decision making instruments are completed and:

- A. the safety assessment instrument documents that the child is safe, or conditionally safe;
- B. the safety assessment and risk assessment instruments document either no escalation of risk, or a decrease in the risk level;
- C. the goals of the family plan have been achieved; or
- D. the family withdraws from services.

[8.10.6.21 NMAC - Rp, 8.10.6.20 NMAC, 03/15/16]

8.10.6.22 CASE DOCUMENTATION: Case plans, case contracts, and supervisory consultations are documented in FACTS.

[8.10.6.22 NMAC - Rp, 8.10.6.21 NMAC, 03/15/16]

HISTORY OF 8.10.6 NMAC:

Pre-NMAC History: [RESERVED]

History of Repealed Material:

8 NMAC 10.6, Family Preservation Services, filed 6/16/97 - Repealed effective 11/15/05.

8.10.6 NMAC, In-Home Services, filed 11/1/2005 - Repealed effective 10/30/08.

8.10.6 NMAC, In-Home Services, filed 10/30/08 - Repealed effective 3/15/16.