

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 105 INTAKE

8.50.105.1 ISSUING AGENCY: New Mexico Human Services Department - Child Support Enforcement Division.

[8.50.105.1 NMAC - Rp, 8.50.105.1 NMAC, 12/30/10]

8.50.105.2 SCOPE: To the general public. For use by the IV-D agency and recipients of IV-D services.

[8.50.105.2 NMAC - Rp, 8.50.105.2 NMAC, 12/30/10]

8.50.105.3 STATUTORY AUTHORITY: Public Assistance Act, NMSA 1978, Section 27-2-27. The human services department is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.).

[8.50.105.3 NMAC - Rp, 8.50.105.3 NMAC, 12/30/10]

8.50.105.4 DURATION: Permanent.

[8.50.105.4 NMAC - Rp, 8.50.105.4 NMAC, 12/30/10]

8.50.105.5 EFFECTIVE DATE: December 30, 2010, unless a later date is cited at the end of a section.

[8.50.105.5 NMAC - Rp, 8.50.105.5 NMAC, 12/30/10]

8.50.105.6 OBJECTIVE: To provide regulations in accordance with federal and state laws and regulations.

[8.50.105.6 NMAC - Rp, 8.50.105.6 NMAC, 12/30/10]

8.50.105.7 DEFINITIONS: [RESERVED]

[See 8.50.100.7 NMAC]

8.50.105.8 PROVISION OF SERVICES: The IV-D agency shall provide services to anyone who has filed a proper application for services.

A. Services to residents and non-residents: Services will be made available to residents of other states on the same terms as to residents of the state of New Mexico. The IV-D agency shall not be required to provide services when neither party resides in the state of New Mexico and the state is not actively seeking reimbursement of public assistance paid. There is no citizenship requirement as a pre-condition for Title IV-D services.

B. Provision of services for recipients of other benefit programs: Federal regulations also require the IV-D agency to provide services equally to intrastate and interstate cases, including IV-D, IV-E, medicaid only, and non-IV-A cases. Information detailing the services offered by the IV-D agency, the responsibilities of the custodial party, the IV-D agency's fee schedule, and requirements to cooperate must be provided to all recipients of IV-A and medicaid benefits within five (5) days of referral to the IV-D agency. The IV-A agency provides this information to all applicants/recipients of IV-A and medicaid benefits when the IV-A case is opened.

C. Provision of services when all dependants are emancipated:

(1) Intrastate cases: The IV-D agency will not accept an application or re-open a closed case for the establishment or enforcement of a support order when all dependants are emancipated. The existence of a public assistance benefit history does not obligate the IV-D agency to pursue or re-open a case when the dependants are emancipated.

(2) Interstate cases: The IV-D agency will not establish paternity or an order of support after all dependants are emancipated. The IV-D agency will, however, enforce an existing order of support when all dependants are emancipated in accordance with NMSA 1978, Section 40-6A-101 et seq.

[8.50.105.8 NMAC - Rp, 8.50.105.8 NMAC, 12/30/10]

8.50.105.9 NON-PUBLIC ASSISTANCE APPLICATIONS: The IV-D agency shall make applications for child support services readily accessible to the public. When an individual requests an application for IV-D services, the application shall be provided on the day the individual makes the request in person. The application shall be sent within no more than five (5) working days of a written or telephone request. An application is considered to be filed on the day it is received by the IV-D agency. The IV-D agency shall not accept applications from individuals seeking to pursue claims of parentage or support against their biological or adoptive parents.

[8.50.105.9 NMAC - Rp, 8.50.105.9 NMAC, 12/30/10]

8.50.105.10 PROCESSING REFERRALS AND APPLICATIONS: For all cases appropriately referred and for all applications, federal regulations mandate that within twenty (20) calendar days of receipt of an appropriate referral or application submitted to the IV-D agency, the IV-D staff opens a case by establishing a case record. Based on an assessment of the case to determine necessary action, within the same twenty (20) calendar days the IV-D agency must:

- A. solicit necessary and relevant information from the custodial party and other relevant sources;
- B. initiate verification of information, which may include interviewing the custodial party to determine the next action on the case; and
- C. if there is inadequate information to proceed, a request for additional information must be made or the case referred for parent location services.

[8.50.105.10 NMAC - Rp, 8.50.105.10 NMAC, 12/30/10]

8.50.105.11 GENERAL REQUIREMENTS FOR APPLICANTS AND RECIPIENTS OF IV-D BENEFITS:

A. Title IV-D applicants and recipients: The state IV-D agency will provide services relating to the establishment of paternity or the establishment, modification, or enforcement of support obligations for a child, as appropriate, under the plan with respect to each child for whom:

- (1) assistance is provided under the state program funded under Title IV-A of the Social Security Act;
- (2) benefits or services for foster care maintenance are provided under the state program funded under Title IV-E of the Social Security Act;
- (3) medical assistance is provided under the state plan approved under Title XIX of the Social Security Act and an assignment of support rights is indicated;
- (4) any other child, if an individual, who is either a biological parent, adoptive parent, or a legal custodian of the child, applies for such services with respect to the child.

B. Title IV-A, IV-E foster care, and medicaid only recipients: Appropriate recipients of Title IV-A, IV-E foster care, and medicaid only (where an assignment of rights is indicated and cooperation is required) are referred to the IV-D program and are eligible for all IV-D services. When a family needs support from a non-custodial parent and is approved for IV-A, IV-E foster care, non-IV-E medicaid, or medicaid benefits, a referral is made to the IV-D regional office. The medicaid only recipient, who has assigned support rights and whose cooperation is required, must receive medical support services but can decline receipt of all other IV-D services. In addition, post-IV-A recipients will continue to receive IV-D services until they inform the division that they no longer desire these services.

C. Non-IV-A applicants: Non-IV-A families can apply for program services through the completion of a non-IV-A application for services.

D. Non-resident applicant: A non-resident applicant who applies for services through the IV-D agency in his/her state of residence is eligible for assistance from the New Mexico IV-D program under applicable laws, so long as the other party resides in the state of New Mexico.

E. Non-custodial parent applicant: The non-custodial parent can apply for program services for the purpose of establishing paternity, child support, medical support, making support payments, or to request a review of an existing child support court order. Any other person or entity who has standing to request an adjustment to the child support order may apply for services.

[8.50.105.11 NMAC - Rp, 8.50.105.11 NMAC, 12/30/10]

8.50.105.12 SUPPORT ASSIGNMENT AND COOPERATION REQUIREMENTS:

A. Cooperation with the IV-D agency is required of all recipients of IV-D services regardless of public assistance benefit status. The IV-D agency pursues sanction and disqualification of recipients of services, as appropriate, and may close any IV-D case for a failure to cooperate. Cooperation includes, but is not limited to:

- (1) providing all information regarding the identity and location of the absent parent (including the names of other persons who may have information regarding the identity or location of the absent parent);
- (2) appearing for scheduled appointments;
- (3) reviewing and signing forms and court documents;
- (4) providing documentation relevant to the claim for an award of support;
- (5) appearing at court or administrative hearings, as required;

(6) immediately notifying the IV-D agency if the dependant(s) is no longer in the care or custody of the custodial party;

(7) reporting all direct payments made to the custodial party prior to and during the provision of services by the IV-D agency;

(8) immediately notifying the IV-D agency if the dependant(s) is involved in adoption proceedings;

(9) keeping the IV-D agency informed of changes in contact information; and

(10) providing all requested information to the IV-D agency in a timely manner.

B. If there is an assignment of support rights pursuant to NMSA 1978, Section 27-2-28, the IV-D agency will request a sanction or disqualification of a member of a public assistance benefit group for noncompliance with IV-D agency cooperation requirements. The IV-D agency will notify the appropriate agency of compliance if the custodial party resolves the issue of noncompliance with the IV-D agency.

(1) IV-A public assistance benefits - referrals for sanctions or disqualifications are sent to and handled by the IV-A agency.

(2) Title XIX medicaid - if there is an assignment of support rights and cooperation is mandated, the IV-D agency will request disqualification of the member that is not cooperating with the IV-D agency. The disqualification status continues until the member cooperates with the IV-D agency.

[8.50.105.12 NMAC - Rp, 8.50.105.12 NMAC, 12/30/10]

8.50.105.13 BENEFITS OF COOPERATION: The establishment of a child's paternity may give the child rights to future social security, veteran's or other government benefits as well as inheritance rights should the non-custodial parent become disabled or deceased. The amount established for child support (with medical support) under child support award guidelines can help provide financially for the child. Medical support in the form of private health insurance can help provide for the medical needs of the child. Pursuant to federal law, the State IV-D agency is required to make determinations related to custodial party cooperation in locating absent and alleged parents, establishing parentage, and establishing and enforcing support obligations in Title IV-A cases.

[8.50.105.13 NMAC - Rp, 8.50.105.13 NMAC, 12/30/10]

8.50.105.14 GOOD CAUSE FOR REFUSAL TO COOPERATE: In some cases it may be determined by the IV-D agency that the IV-A or medicaid applicant recipient's refusal to cooperate is with good cause.

A. Good cause may be claimed when the applicant's/recipient's cooperation in establishing paternity, securing child or medical support or pursuing liability for medical services is reasonably anticipated to result in the following:

(1) physical or emotional harm to the child for whom support is to be sought;

(2) physical or emotional harm to the caretaker/parent with whom the child is living that reduces the capacity to care for the child adequately.

B. Good cause may also be claimed when at least one of the following circumstances exist and the IV-D worker believes that proceeding to establish paternity, secure child or medical support or pursuing liability for medical services would be detrimental to the child for whom assistance is sought:

(1) the child was conceived as a result of incest or rape; or

(2) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) the applicant/recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three (3) months.

C. Any person requesting a good cause exemption to a public assistance benefit requirement to cooperate, must fill out a request for a good cause exemption on a form provided by the IV-D agency and provide any documentation requested by the IV-D agency. The request for a good cause exemption will be reviewed by the IV-D agency and the requestor will be informed of the decision in writing. The requestor's failure to complete the form or provide the requested documentation will result in an automatic denial of the request.

[8.50.105.14 NMAC - Rp, 8.50.105.14 NMAC, 12/30/10]

8.50.105.15 DOMESTIC VIOLENCE AND CHILD ABUSE: The IV-D agency ensures that no information is released that may result in harm to any person related to a case. Reasonable evidence of domestic violence or child abuse is defined as the existence of a protective order or an affidavit completed by the requesting person that indicates there is reasonable evidence that physical or emotional harm will occur if personal and locate information is released in the administration of the case. If there is an order for unsupervised visitation, the requestor

must also demonstrate through documentation that to limit the release of information by presenting a copy of a protective order to the Title IV-D agency. The IV-D agency, however, cannot protect the name of a person(s). A custodial party or a non-custodial party using a substitute address pursuant to NMSA 1978, Section 40-13-11 must inform the Title IV-D agency of his or her current address when he or she is no longer participating in or has been denied the use of the substitute address through the New Mexico secretary of state's office.

[8.50.105.15 NMAC - N, 12/30/10]

History of 8.50.105 NMAC:

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

ISD CSEB 501.1100, State and Local Requirements, 6-23-80.

ISD CSEB 518.0000, Establishing The CSEB Case Record, 6-23-80.

ISD CSEB 522.0000, Non-AFDC Forms, 6-23-80.

ISD CSEB 522.0000, Non-AFDC Forms, 1-20-81.

ISD CSEB 519.0000, Cooperation In Obtaining Support, 6-23-80.

NMAC History:

8 NMAC 5.CSE.000 through 8 NMAC 5.CSE.970, 12-30-94.

History of Repealed Material:

8 NMAC 5.CSE, Child Support Enforcement - Repealed effective 5/31/2001.

8.50.105 NMAC, Intake, filed 5/14/2001 - Repealed effective 12/30/2010.