

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 115 EXPEDITED PROCESSES AND ADMINISTRATIVE EXPEDITED PROCESS

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

[8.50.115.1 NMAC - Rp, 8.50.115.1 NMAC, 12/30/10]

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

[8.50.115.2 NMAC - Rp, 8.50.115.2 NMAC, 12/30/10]

8.50.115.3 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.).

[8.50.115.3 NMAC - Rp, 8.50.115.3 NMAC, 12/30/10]

8.50.115.4 DURATION: Permanent.

[8.50.115.4 NMAC - Rp, 8.50.115.4 NMAC, 12/30/10]

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

[8.50.115.5 NMAC - Rp, 8.50.115.5 NMAC, 12/30/10]

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

[8.50.115.6 NMAC - Rp, 8.50.115.6 NMAC, 12/30/10]

8.50.115.7 DEFINITIONS: [RESERVED]

[See 8.50.100.7 NMAC]

8.50.115.8 EXPEDITED PROCESSES: Expedited processes are the administrative and judicial processes that increase program effectiveness and meet the processing time specified. The following timeframes apply to the IV-D agency.

A. In IV-D cases needing support order establishment, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following time frames:

- (1) seventy-five percent (75%) of cases within six (6) months; and
- (2) ninety percent (90%) of cases within twelve (12) months.

B. In IV-D cases where a support order has been established, the IV-D agency must:

- (1) monitor compliance with the support obligation;
- (2) identify a delinquency on the date the obligor fails to make payments in an amount equal to the support payable for one (1) month, or on an earlier date in accordance with state law; and

(3) enforce the obligation by:

- (a) initiating income withholding;
- (b) taking any appropriate enforcement action (except income withholding and federal and state tax intercepts):

(i) unless service of process is necessary, within no more than thirty (30) calendar days of either identifying a delinquency or other support related non-compliance with the order, or the location of the delinquent parent, whichever occurs later; or

(ii) if service of process is necessary prior to taking an enforcement action, service must be completed (or unsuccessful attempts, despite diligent efforts to serve process, must be documented) and enforcement action taken if process is served, within sixty (60) calendar days of identifying a delinquency or other support related non-compliance with the order, or the location of the delinquent parent, whichever occurs later; diligent efforts consist of a minimum of two separate attempts to complete service; the attempts must be made at different locations, or if at the same location, on different days;

(iii) submitting once a year all cases that meet the certification requirements for federal and state tax offset; and

(iv) in cases in which enforcement attempts have been unsuccessful, at the time an attempt to enforce fails, examining the reason the enforcement attempt failed and determining when it would be appropriate to take an enforcement action in the future, and taking an enforcement action in accordance with the requirements of this section at that time.

C. In cases where the IV-D agency uses long-arm jurisdiction and disposition occurs within twelve (12) months of service of process on non-custodial parent, the case may be counted as a success within the six (6) month tier of the time frame.

[8.50.115.8 NMAC - Rp, 8.50.115.8 NMAC, 12/30/10]

8.50.115.9 HEARING OFFICERS AND EXPEDITED PROCESSES: Child support hearing officers contribute to expedited processes by handling child support cases that would otherwise be heard by a state district court judge. Cases assigned to a child support hearing officer are expedited for hearings, as necessary. The child support hearing officer program is operated by the courts in accordance with NMSA 1978, Section 40-4B-1 et seq.

[8.50.115.9 NMAC - Rp, 8.50.115.9 NMAC, 12/30/10]

8.50.115.10 SERVICE OF PROCESS: Service of process may be required, depending upon the type of action the IV-D agency is pursuing. Any action initiated by the IV-D agency involving a court proceeding will include service of process on all appropriate parties in accordance with New Mexico law regarding service of process. Any administrative action taken by IV-D agency that requires notice or service of process will be in accordance with New Mexico law including the New Mexico administrative code, as appropriate.

[8.50.115.10 NMAC - Rp, 8.50.115.10 NMAC, 12/30/10]

8.50.115.11 ADMINISTRATIVE EXPEDITED PROCESS: The IV-D agency is authorized to take administrative action without the need to seek a judicial order. Those actions include:

- A. issuing administrative subpoenas that carry a possible penalty under 8.50.131 NMAC in addition to any court imposed sanctions;
- B. accessing information regarding employment compensation from any entity in the state; and
- C. obtaining records from:
 - (1) automated databases of certain governmental agencies;
 - (2) private entities to include last known address; and
 - (3) financial institutions.

[8.50.115.11 NMAC - Rp, 8.50.115.11 NMAC, 12/30/10]

8.50.115.12 ADMINISTRATIVE ORDERS: In accordance with state and federal laws, the IV-D agency may issue administrative orders for the following:

- A. genetic testing for the purposes of establishing paternity;
- B. changing the payee to the IV-D agency, when there has been an assignment from a IV-A or Title XIX program, or payment is to be made to the state disbursement unit;
- C. requiring income withholding for any IV-D case in which there is not an automatic wage withholding already in effect and there is no judicial or administrative order to the contrary;
- D. securing assets to satisfy an obligor's arrearage; and
- E. increasing payments toward arrearages, as appropriate.

[8.50.115.12 NMAC - Rp 8.50.115.12 NMAC, 12/30/10]

8.50.115.13 FAILURE TO COMPLY WITH ADMINISTRATIVE SUBPOENA OR ORDER:

- A. Upon failure to comply with an order or subpoena issued hereunder, the IV-D agency may pursue one or more of the following:
 - (1) administer the penalties pursuant to 8.50.131 NMAC;
 - (2) commence appropriate enforcement action with the court;
 - (3) seek sanctions against a person who is required to cooperate pursuant to an assignment of rights pursuant to NMSA 1978, Section 27-2-28; or
 - (4) close the case for non-cooperation.

B. Stay: Upon receipt of an appeal, written notice, or a request from a person or entity that the IV-D agency's administrative order be stayed, the IV-D agency may, for good cause, stay the order, revoke the order, or seek appropriate enforcement. The IV-D agency will notify the parties regarding any stay of an administrative order

via written notification sent by first class US mail to the last address of record with the IV-D agency. Appeals shall be scheduled for hearing in accordance with 8.50.130 NMAC.
[8.50.115.13 NMAC - Rp, 8.50.115.19 NMAC, 12/30/10]

8.50.115.14 PROVIDE UPDATED INFORMATION: Any party to a paternity or child support proceeding shall provide, and update as needed, the following information: social security number; residential and mailing addresses; telephone number; driver's license number; name, address, and telephone number of all employers. All court orders obtained or modified by the IV-D agency will contain language requiring that both the obligor and the obligee provide the IV-D agency, in writing, with any and all changes to this information.
[8.50.115.14 NMAC - Rp, 8.50.115.21 NMAC, 12/30/10]

8.50.115.15 DUE PROCESS SAFEGUARDS: The IV-D agency has due process safeguards related to the issuance and enforcement of administrative orders and subpoenas. In all instances where the IV-D agency issues an administrative order or administrative subpoena, the administrative order or administrative subpoena will not be considered properly served unless the service requirements for each type of administrative order or administrative subpoena are met pursuant to New Mexico law, to include New Mexico administrative law. The IV-D agency will maintain a copy of the proof of service for each service of process in the IV-D agency's records, and will produce the proof of service at the request of the judicial or administrative tribunal. Each administrative order or administrative subpoena, as described in these regulations, will provide instructions on the procedure to be followed to contest the action of the IV-D agency. These instructions will specify that the proper tribunal for appeal of the IV-D agency's administrative orders and administrative subpoenas is the state district court of New Mexico.
[8.50.115.15 NMAC - Rp, 8.50.115.23 NMAC, 12/30/10]

History of 8.50.115 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.

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.

8.50.115 NMAC, Expedited Processes and Administrative Expedited Process, filed 5/14/2001 - Repealed effective 12/30/2010.