

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 132 UNCLAIMED CHILD, SPOUSAL OR MEDICAL SUPPORT

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

[8.50.132.1 NMAC - Rp, 8.50.132.1 NMAC, 12/30/10]

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

[8.50.132.2 NMAC - Rp, 8.50.132.2 NMAC, 12/30/10]

8.50.132.3 STATUTORY AUTHORITY: Public Assistance Act, NMSA 1978, Section 27-2-27 (A)(5). 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.).

[8.50.132.3 NMAC - Rp, 8.50.132.3 NMAC, 12/30/10]

8.50.132.4 DURATION: Permanent.

[8.50.132.4 NMAC - Rp, 8.50.132.4 NMAC, 12/30/10]

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

[8.50.132.5 NMAC - Rp, 8.50.132.5 NMAC, 12/30/10]

8.50.132.6 OBJECTIVE: To provide regulations in accordance with federal and state law and regulations.

[8.50.132.6 NMAC - Rp, 8.50.132.6 NMAC, 12/30/10]

8.50.132.7 DEFINITIONS: For purposes relating to unclaimed child, spousal or medical support payments the following definitions will apply.

A. "Department" is the New Mexico human services department, child support enforcement division (also known as the Title IV-D agency or IV-D agency).

B. "Owner" means a person who has a legal interest in property. In cases where support is due and owing, the owner is the custodial party. In cases where support is fully satisfied and the IV-D agency has excess funds on hold, the owner is the obligor. If support is received from an employer, and there is no information regarding the custodial or non-custodial party, the owner is the employer until such time that a custodial or non-custodial party can be identified.

C. "Support" means money (including a check, draft, deposit, interest, overpayment, refund or credit), real or personal property, or other assets held, received, or seized pursuant to an order to pay child support, spousal support (alimony) or medical support.

D. "Unclaimed" means that no person to whom to deliver the support received or seized by the department can be located or identified. "Unclaimed" also includes situations when the custodial party, non-custodial party, or child(ren) are deceased and no claimant comes forward after notice is sent to the last known address or last known employer of the custodial party and non-custodial party. Money distributed to a custodial party via electronic funds transfer is not subject to being unclaimed property in possession of the IV-D agency once it is distributed to an account.

[8.50.132.7 NMAC - Rp, 8.50.132.7 NMAC, 12/30/10]

8.50.132.8 EFFORTS TO LOCATE: Before support may be declared unclaimed by the department, the department shall make reasonable attempts to locate the owner. These attempts shall include the following:

A. If there is no case or payee identified in the support transmittal, the department shall attempt to ascertain the case to which property should be applied through any documents accompanying the payment.

B. If unable to ascertain the case to which the support should be applied, the department shall attempt to contact the person, if any, named in the return address on the mailing envelope by mailing a notice of intent to declare property unclaimed to the return address.

C. If the owner has moved or support cannot be delivered to the owner's last known address on file with the IV-D agency, the IV-D agency will utilize standard locate resources (per 8.50.106 NMAC) to determine if

a current address or employer can be obtained for the owner. If use of standard locate resources is unsuccessful, the department shall mail notice of intent to declare support unclaimed to the owner's last known home and employer's address, if the address is on file with the department.

[8.50.132.8 NMAC - Rp, 8.50.132.8 NMAC, 12/30/10]

8.50.132.9 NOTICE OF ABANDONMENT OF UNCLAIMED SUPPORT:

A. If, after thirty six (36) months from the date the support is paid to the department, the department is unable to disburse a payment to the owner because of failure to locate, the department shall send a notice indicating that the unclaimed support shall revert to the department unless the owner files a claim within thirty (30) days from the date of the notice.

B. Support not claimed within the timeframe described in subsection A above will be deemed as "unclaimed" support and will be distributed to the department. In cases where the custodial party is owed the support and fails to claim the support, the non-custodial party will receive credit for the amount of support paid.

[8.50.132.9 NMAC - Rp, 8.50.132.9 NMAC, 12/30/10]

8.50.132.10 RECOVERY BY PERSON TO WHOM SUPPORT IS OWED: The department may make payment or return support to a person reasonably appearing to be entitled to payment, if the support has not already been disbursed to the department as unclaimed property. The owner should immediately contact the department as indicated below in 8.50.132.11 NMAC to establish a claim for the undistributed support. When the owner's identity is verified, the department will distribute the support to the owner so long as the owner made his or her claim within the appropriate timeframes.

[8.50.132.10 NMAC - Rp, 8.50.132.10 NMAC, 12/30/10]

8.50.132.11 FILING CLAIM WITH DEPARTMENT; HANDLING OF CLAIMS BY DEPARTMENT:

A person, claiming they are owed money or property from the department under this rule, may file a claim on a form prescribed by the department and verified under oath or affirmation by the claimant.

A. Within thirty (30) days after a claim is filed, the department shall allow or deny the claim and give written notice of the decision to the claimant.

B. A person whose claim has not been acted upon within thirty (30) days after its filing may immediately file an administrative appeal to establish the claim.

C. A person adversely affected by a decision of the department may, within thirty (30) days after notice of the decision, file an administrative appeal in accordance with 8.50.130 NMAC.

[8.50.132.11 NMAC - Rp, 8.50.132.12 NMAC, 12/30/10]

History of 8.50.132 NMAC:

History of Repealed Material:

8.50.132 NMAC, Unclaimed Child, Spousal, or Medical Support, filed 5/3/2004 - Repealed effective 12/30/2010.