

TITLE 8 SOCIAL SERVICES
CHAPTER 102 CASH ASSISTANCE PROGRAMS
PART 460 RECIPIENT POLICIES - COMPLIANCE REQUIREMENTS

8.102.460.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.102.460.1 NMAC - Rp, 8.102.460.1 NMAC, 04/01/2012]

8.102.460.2 SCOPE: The rule applies to the general public.
[8.102.460.2 NMAC - Rp, 8.102.460.2 NMAC, 04/01/2012]

8.102.460.3 STATUTORY AUTHORITY:

A. New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

B. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, NMSA 1978, Section 27-2B-1, et seq., the New Mexico works program was created.

C. In coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.460.3 NMAC - Rp, 8.102.460.3 NMAC, 04/01/2012]

8.102.460.4 DURATION: Permanent.

[8.102.460.4 NMAC - Rp, 8.102.460.4 NMAC, 04/01/2012]

8.102.460.5 EFFECTIVE DATE: April 1, 2012, unless a later date is cited at the end of a section.

[8.102.460.5 NMAC - Rp, 8.102.460.5 NMAC, 04/01/2012]

8.102.460.6 OBJECTIVE:

A. The purpose of the New Mexico works (NMW) program is to improve the quality of life for parents and children by increasing family income, resources and support. Family income is increased through family employment and child support and by utilizing cash assistance as a support service to enable and assist parents to participate in employment.

B. The objective of education works program (EWP) is to provide cash assistance to a benefit group where at least one participant is enrolled in a post-secondary, graduate or post-graduate institution. Education and training are essential to long-term career development. The applicant or recipient benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.

[8.102.460.6 NMAC - Rp, 8.102.460.6 NMAC, 04/01/2012]

8.102.460.7 DEFINITIONS: [Reserved]

8.102.460.8 [Reserved]

8.102.460.9 NMW COMPLIANCE REQUIREMENTS: Work program requirements apply to each adult and minor head of households benefit group member whether the benefit group is a two-parent or single-parent benefit group.

A. All adult and minor head of household participants are required to complete an assessment, individual responsibility plan (IRP), work participation agreement (WPA) applicable work requirement hours and timely submission of documentation showing completion of required work hours.

B. Non-compliance with the NMW requirements: Participants who are in non-compliance with any of the NMW requirements are subject to conciliation and sanction as outlined at 8.102.620 NMAC.

[8.102.460.9 NMAC - Rp, 8.102.460.12 NMAC, 04/01/2012; A, 07/01/2013]

8.102.460.10 ORIENTATION:

A. General:

(1) Participants of NMW shall be provided a work program orientation, which explains the work program and its objectives to the participant.

(2) Participants shall be given information concerning their rights, supportive services provided during participation, and transitional services available after the NMW case closes because of earnings from employment.

(3) Participants shall be informed of their responsibilities for complying with work program requirements and that failure to do so, without good cause, shall result in the reduction or loss of NMW benefits.

B. Elements: The orientation session provides each participant with the following information:

(1) an explanation that NMW is a temporary program intended to briefly assist the family while preparing themselves for employment;

(2) an explanation of the opportunities available to the participant through the program, including education, training, work experience, and help in job search;

(3) reminder of participant's rights and responsibilities, program regulations and requirements, and the consequences for failure to meet requirements;

(4) overview of supportive services currently available;

(5) explanation of participant's obligation to obtain an assessment from the NMW service provider and return it to ISD within 15 days of the date of approval of application;

(6) explanation of participant's obligation to request approval in writing of participant's work participation activities and secure approval of activities by the department or the NMW service provider; and

(7) overview of transitional services available to participants whose NMW case closes due to employment/earnings.

[8.102.460.10 NMAC - Rp, 8.102.460.18 NMAC, 04/01/2012]

8.102.460.11 ASSESSMENT:

A. Requirements: No later than 15 calendar days after an application is approved, participants shall have an assessment done by the NMW service provider of their education, skills, prior work experience, barriers, and employability. The assessment is a necessary pre-cursor to the IRP, development of WPA, and is a crucial and necessary element in meeting work program requirements. The assessment is also used in making determinations for requests for limited participation status. Failure to participate in or to complete the assessment may result in work program noncompliance and payment sanctions, unless good cause exists.

B. Elements: The assessment includes the following elements:

(1) a referral by the caseworker to a local agency or agencies that act on behalf of the department to carry out the assessment; and

(2) a face-to-face meeting between the participant and the agency no later than 15 calendar days following approval of assistance for the participant in which the assessment is carried out; there are a variety of assessment tools and forms that may be used, provided that they address the participant's education, skills, prior work experience and employability.

C. Participants must provide a copy of the assessment or a certification of completion of the assessment to the department by the expiration of the 15 day time period.

[8.102.460.11 NMAC - Rp, 8.102.460.14 NMAC, 04/01/2012]

8.102.460.12 INDIVIDUAL RESPONSIBILITY PLAN (IRP):

A. Requirement: All participants are required to develop an IRP with the assistance of the NMW service provider no later than 15 days from the date of approval of assistance.

B. General purpose: The IRP is:

(1) a personal planning tool, intended to assist the participant in long-term career planning, address barriers and secure and maintain employment;

(2) intended to assist the participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals;

(3) not intended to fulfill the limited purpose of identifying work activities which will meet NMW work program participation requirements; the participant is encouraged to use the IRP to choose work activities which will meet work program participation requirements and, at the same time, will assist in setting long-term employment goals; and

(4) designed to move the participant into whatever employment the participant is capable of handling, and to provide the support services necessary to increase the responsibility and amount of work the participant will

handle over time.

C. Elements: The IRP shall include the following:

- (1) a specific achievable employment goal or goals and a plan for securing and maintaining employment;
- (2) commitments by the participant which will assist in meeting long-term goals; such commitments may include, but are not limited to: school attendance, maintaining certain grades, keeping school-age children in school, immunizing children, undergoing substance abuse treatment, or any other activity that will help the participant become and remain employed;
- (3) a signature by the participant acknowledging the importance of the IRP, the identified activities and goals which will assist in achieving self-sufficiency and the commitment to participate in activities which will achieve the stated goals; and
- (4) a signature by the department's representative certifying that there was a discussion of the activities and goals with the participant, and that the department shall provide on-going support services as needed so that the participant may achieve the participant's stated goals.

D. IRP reviews: The department, the NMW service provider and the participant shall review and update the IRP at least every six months. The review consists of a meeting to review the activities and goals set forth in the IRP, to review and document the participant's progress in achieving the stated goals, and to amend activities and goals as determined necessary and appropriate by the participant. The participant and NMW service provider must initial or sign the updated IRP.

E. Conciliation and sanction: Failure or refusal to develop, sign or attend the six-month review of the IRP may result in conciliation or sanction, unless good cause exists. See 8.102.620 NMAC.

F. HUD family self-sufficiency agreements: Some housing authorities administer self-sufficiency programs under which residents develop a self-sufficiency plan and agreement with the housing authority. A participant with a HUD family self-sufficiency plan may use the plan for his or her IRP. The participant must supply a copy of the plan to the department.

[8.102.460.12 NMAC - Rp, 8.102.460.15 NMAC, 04/01/2012]

8.102.460.13 WORK PARTICIPATION AGREEMENT (WPA):

A. General: The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet the standard or limited work requirement hours and the participant is referred to receive all available support services.

B. Contents of the agreement: At a minimum, the WPA shall:

- (1) list the participant's proposed work activities;
- (2) list the level of effort for each activity;
- (3) list the support services to be provided by the department;
- (4) list the reasonable accommodations that may be necessary to ensure meaningful engagement;
- (5) be signed by the participant; and
- (6) upon approval of the activities and support services, signed by the NMW service provider.

C. Submission of a WPA: The participant must submit a WPA, as developed with the NMW service provider and signed by the participant to the department, its contractor or its designee:

- (1) no later than 15 calendar days from date of approval for benefits; or
- (2) prior to requesting support services associated with such activity;
- (3) no later than 30 calendar days from approval for benefits only if good cause criteria applies to untimely completion; or
- (4) no later than five days after the expiration of an existing WPA.

D. Limited work participation status requests: Participants requesting a limited work participation status must submit a preliminary WPA to the IRU in accordance with regulation 8.102.420.11 NMAC.

E. Conciliation and sanction: Failure or refusal to develop, sign or meet the activities outlined in the WPA may result in conciliation or sanction, unless good cause exists. See 8.102.620 NMAC.

F. Reopened cases: A participant whose NMW/TANF case is approved for benefits with less than a 12-month break in certification, shall have his or her case reopened and shall be required to:

- (1) submit a revised WPA within 15 calendar days of approval for benefits;
- (2) be engaged in an allowable work activity as specified on the participant's WPA at the participation standard specified in 8.102.460.14 or 8.102.460.15 NMAC within 15 calendar days of approval for benefits; and

(3) submit the participation report to the NMW service provider no later than the fifth calendar day of the month following the month in which the 15-day time limit expires.
[8.102.460.13 NMAC - Rp, 8.102.460.16 NMAC, 04/01/2012]

8.102.460.14 NMW STANDARD WORK PARTICIPATION HOURS: The following work participation requirement hours apply to all participants unless the participant is granted limited work participation status.

A. General: Participation activities may be met through those activities listed in 8.102.461 NMAC.

(1) A parent subject to participation shall maintain the participation standards based on their status and provide verification of participation at a rate at least equaling the applicable participation standard.

(2) Participants granted a limited work participation status must meet the limited work participation requirement hours on their WPA and provide verification of participation.

B. Two-parent participation requirement hours: Two parent families must meet the all family and two parent participation requirement hours to avoid being subject to conciliation or sanction. If the benefit group does not meet the federal work program definition of a two parent benefit group, then both parents must meet the standard work participation hours for a single parent benefit group.

(1) **Two-parent family receiving CYFD child care:** Listed below are the family's total monthly work participation hours that are required in a two parent family to be considered meeting the two parent rate. This standard work participation rate also applies to families where one participant is disqualified, sanctioned, or granted a limited work participation status.

(a) total combined monthly hours: 237

(b) minimum core hours: 215

(2) **All family rate:** Individual monthly work participation hours are required in a two participant family to be considered meeting the all family rate.

(a) total combined monthly hours: 129

(b) minimum core hours: 86

(3) **Two-parent family not receiving CYFD child care:** Listed below are the family's total monthly work participation hours that are required in a two parent family to be considered meeting the two parent rate. This standard applies to families where one parent is disqualified, sanctioned, or granted limited work participation requirements by the IRU or NMW.

(a) total combined monthly hours: 151

(b) minimum core hours: 129

(4) **All family rate:** Individual monthly work participation hours are required in a two parent family to be considered meeting the all family rate.

(a) total combined monthly hours: 129

(b) minimum core hours: 86

(5) **Two parent family not meeting the definition of two parent:** A two-parent family where one parent receives SSI, is an ineligible alien, or is a caretaker for a household member as determined by the IRU, must meet the work participation standard as prescribed by the single parent work participation hours based on the age of the child.

(6) **Two parent family where both parents are under age 20:** The participation standard shall be met for each parent if the parent is maintaining satisfactory attendance in secondary school or its equivalent during the month. Satisfactory attendance shall be based on the requirements of the school and on enrollment in sufficient course work to assure completion of secondary education before turning age 20. Compliance with attendance requirements is deemed during school breaks lasting no longer than four consecutive weeks.

C. Single-parent benefit group: The parent in a single-parent or caretaker relative benefit group shall participate in work activities as prescribed below or be subject to conciliation or sanction.

(1) **Single parent with a child age six or older:**

(a) total monthly hours: 129

(b) minimum core hours: 86

(2) **Single parent with a child under age six:**

(a) total monthly hours: 86

(b) minimum core hours: 86

(3) **Single parent under age 20:** A single parent under age 20 shall meet the single parent's total program participation standard, as outlined above when the parent:

(a) is enrolled in school with enough hours to ensure graduation prior to turning age 18; and

(b) reports on a monthly basis attendance at a secondary school or in a GED program; or

(c) participates in education directly related to employment for at least the average number of hours per week specified above based on the child's age.

(d) Compliance with attendance requirements is deemed during school breaks lasting no longer than four consecutive weeks.

[8.102.460.14 NMAC - Rp, 8.102.460.13 NMAC, 04/01/2012]

8.102.460.15 LIMITED WORK PARTICIPATION STATUS: A participant may request a limited work participation status reducing their individual standard work participation to no less than one hour per week, as determined by the department at 8.102.420 NMAC. Individuals who demonstrate extraordinary circumstances may be granted a zero hour limited work participation status. Participants granted a limited work participation status are required to meet the NMW compliance requirements as indicated at 8.102.460.9 NMAC. Failure to complete the assessment, IRP and WPA may be considered non-compliance with program requirements.

[8.102.460.15 NMAC - N, 04/01/2012]

8.102.460.16 CALCULATING HOURS:

- A. Total monthly hours are calculated by a weekly average of core and non-core hours.
- B. Time spent traveling to and from the work-site, location where child care is provided, or both, do not count as hours of participation.
- C. For paid work activities:
 - (1) paid leave and holiday time count as actual hours;
 - (2) hours shall be anticipated prospectively and verification provided no more than every six months.
- D. For non-paid activities allowable excused absences count as actual hours when:
 - (1) the absence occurs on a day that the participant is scheduled to participate in an activity; and
 - (2) is considered excused by the institution or sponsoring agency.
- E. For non-paid activities allowable holiday absences count as actual hours when:
 - (1) the absence scheduled holiday occurs on a day that the participant would have been scheduled to participate in an activity; and
 - (2) the absence is a scheduled holiday as recognized by the department and determined at the beginning of each federal fiscal year.
- F. A participant may be granted no more than 80 hours of excused absences within a 12 month period and no more than 16 hours in any one month. Any excused absence cannot exceed the number of hours the participant was scheduled to work during the period of the absence.
- G. Non-paid work experience and community service participation hours are limited to the Fair Labor Standards Act (FLSA) rules. The FLSA is used to determine the maximum number of hours the department can require a participant to meet. Upon receipt and verification of meeting the maximum number of hours required by the FLSA calculation and the number is less than the core work hour requirement, the remaining hours may be deemed up to the core hour requirement. The maximum amount of weekly hours required by the FLSA is calculated as follows:
 - (1) **Single parent:** Add the monthly TANF cash assistance grant amount (prior to any reductions) to the monthly food stamp benefit and divide by the federal or state minimum wage, whichever is higher, and divide by 4.3.
 - (2) **Two-parent:** The calculation of participation requirement hours is the same as a single parent.

[8.102.460.16 NMAC - N, 04/01/2012]

HISTORY OF 8.102.460 NMAC:

NMAC History:

8 NMAC 3.FAP.460, Work Program Activities, filed 06/16/1997.

8 NMAC 3.FAP.460, Work Program Activities, filed 06/16/1998.

History of Repealed Material:

8.102.460 NMAC, Recipient Policies - Defining Group Work Program Activities, filed 03/02/2001 - Repealed effective 07/01/2001.

8.102.460 NMAC, Recipient Policies - Defining Group Work Program Activities, filed 06/18/2001 - Repealed effective 07/16/2007.

8.102.460 NMAC, Recipient Policies - Defining Group Work Program Activities, filed 07/02/2007 - Repealed effective 04/01/2012.