

TITLE 8 SOCIAL SERVICES
CHAPTER 102 CASH ASSISTANCE PROGRAMS
PART 611 EDUCATION WORKS PROGRAM

8.102.611.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.102.611.1 NMAC - N, 12/15/2005]

8.102.611.2 SCOPE: The rule applies to the general public.
[8.102.611.2 NMAC - N, 12/15/2005]

8.102.611.3 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. Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act 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, the New Mexico works (NMW) program was created to replace the aid to families with dependent children program.

C. Under authority granted to the governor by the federal Social Security Act, the human services department is designated as the state agency responsible for the TANF program in New Mexico.

D. Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its financial assistance programs, and in accordance with the Education Works Act of 2003 the education works program (EWP) was created.

E. In close 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.

[8.102.611.3 NMAC - N, 12/15/2005]

8.102.611.4 DURATION: Permanent.

[8.102.611.4 NMAC - N, 12/15/2005]

8.102.611.5 EFFECTIVE DATE: December 15, 2005, unless a later date is cited at the end of a section.

[8.102.610.5 NMAC - N, 12/15/2005]

8.102.611.6 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, assisting parents to develop the discipline necessary for self-sufficiency and to improve their self-esteem. The further purpose of the program is to increase family income through family employment and child support and by viewing financial assistance as a support service to enable and assist parents to participate in employment.

B. The objective of the education works program (EWP) is to provide financial assistance to a benefit group where at least one individual 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.

C. The objective of general assistance is to provide financial assistance to dependent needy children and disabled adults who are not eligible for assistance under a federally matched financial assistance program like NMW or the federal program of supplemental security income (SSI).

D. The objective of the supplement for residential care program is to provide a cash assistance supplement to SSI recipients who reside in licensed adult residential care homes.

E. The objective of the burial assistance program is to assist in payment of burial expenses for deceased, low-income individuals.

[8.102.611.6 NMAC - N, 12/15/2005; A, 7/17/2006]

8.102.611.7 DEFINITIONS: [Reserved]

8.102.611.8 EDUCATION WORKS ASSISTANCE PAYMENTS:

A. Method of payment: Cash assistance benefits are paid by deposit of funds into an EBT account. In some circumstances benefits may be issued by warrant.

B. Authorizing payments:

(1) FA benefits are authorized, changed, and terminated through the automated benefit delivery system.

(2) Initial payments are issued on the first mailing day following authorization. In the case of EBT, the transfer of funds takes place on the first working day after the day of authorization.

C. Initiation of payment:

(1) Payment is initiated and prorated from the date of authorization or from the 30th day after the day of application, whichever is earlier.

(2) If the case was eligible in a month prior to the month of approval, but is not eligible for payment in the month following the month of disposition, the benefit group is not eligible for payment in any of these months.

(3) **Payments effective in the current month:** Payments authorized during the month are written the night the information is entered into the computerized system and mailed the first business day following authorization. Cash assistance benefits are deposited into the EBT account the business day after payment is authorized.

(4) **Payments effective in the coming month:**

(a) When authorized, the payment amount remains the same from month to month until changed. Ongoing payments are written or authorized in the regular "monthly check write" process. During the monthly check write, hard copy checks are written the night before the third to the last working day of the month. They are mailed so as to arrive on the first mail delivery day of the month.

(b) EBT deposits are transmitted to the fiscal agent so that the funds are available on the first working day of the month. Payments authorized after the monthly check write are issued on the next nightly benefit write.

D. Change in amount of payment:

(1) Following approval, there is a continuing responsibility on the part of both the recipient and the caseworker to make sure that eligibility and benefit amount are correctly determined. Failure on either side to recognize and carry out this responsibility can result in overpayment to the recipient. Overpayments for any reason are charged to the recipient.

(2) A recipient's assistance grant shall be increased or decreased after receipt of information indicating that changes in a recipient's circumstances may affect the amount of assistance to which the recipient is entitled.

(3) Changes in the payment amount shall be made in accordance with changes in program policy, assistance standards, or adequacy with which need may be met.

E. Regular changes: A change in the benefit group circumstance may change the amount for which the group is eligible.

F. Other changes: If a change occurs which cannot be processed before the benefits issuance run, an overpayment or underpayment may occur. If an underpayment occurs, it shall be corrected by issuing a supplemental payment. In case of an overpayment, an overpayment claim shall be filed and appropriate efforts shall be made to recover the overpayment.

G. Whereabouts unknown: Benefits shall be terminated if the whereabouts of the recipient are unknown to the department for 30 days or more. A recipient's whereabouts shall be considered to be unknown if:

(1) mail sent to the recipient's last known address is returned to the department indicating that the recipient no longer lives at that address; or

(2) the recipient does not make any withdrawals from the recipient's EBT account for 90 days or more.

H. Recovery of unused education works program (EWP) funds: Beginning January 1, 2005, New Mexico will recover EWP funds that remain unused in EBT accounts for over 180 days.

(1) Clients will be notified of the agency's intention to close EWP cases that are not in use at 90 days.

(2) After case closure, the casehead will be notified at 135 days of the department's intention to recover unused EWP funds that remain in inactive accounts for a period of 180 days.

(3) Each complete month of recovered funds will be removed from the 24 months limit for EWP.

[8.102.611.8 NMAC - N, 12/15/2005]

8.102.611.9 SUPPORT SERVICES:

A. Subject to the availability of state and federal funds, a benefit group that has countable gross income that is less than 100% of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services.

B. Any month that an EWP participant receives support services will count towards the 60 month temporary assistance to needy families (TANF) lifetime limit if the EWP benefit group has no earned income in accordance with Paragraph (4) of Subsection A of 8.102.410.17 NMAC.

C. Support services for child care will be issued in accordance with Subsection A of 8.102.620.15 NMAC.

[8.102.611.9 NMAC - N, 12/15/2005]

8.102.611.10 EDUCATION WORKS CASH ASSISTANCE:

A. Subject to the availability of allocated state funds, the education works program (EWP) provides state-funded cash assistance to a benefit group where at least one individual is enrolled in a post-secondary, graduate or post-graduate institution. The applicant or recipient benefit group must be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.

(1) The state-funded benefit amount is determined based on the same determination used to calculate the benefit amount in the NMW cash assistance program.

(2) During the initial application or recertification process, the caseworker shall screen an applicant for eligibility for the EWP. The caseworker shall explain the EWP to applicants who have applied for NMW cash assistance or NMW recipients who are applying for continued assistance. The department's work program contractor may screen recipients of NMW cash assistance for eligibility for participation in the EWP and make a referral to the caseworker for transition to the EWP.

(3) An individual shall not have a month of participation in the EWP applied to the 60-month term limit for receipt of benefits in the state's TANF program.

(4) A benefit group participating in the EWP is considered to meet the categorical eligibility factors for the food stamp program.

(5) A benefit group participating in the EWP shall have its eligibility for medicaid determined. Eligibility shall be based on the rules in place for each medicaid program.

B. Limitations of the education works cash assistance program:

(1) The number of participants in the EWP shall be limited to the number for which state funding is allocated.

(2) Recipients who are actively participating in the NMW cash assistance program, and who meet the requirements for the EWP, shall be given first opportunity to switch programs.

(3) A benefit group shall not participate in the NMW and EWP simultaneously.

(4) A benefit group with income from employment may receive support services funded by the federal TANF block grant. A benefit group that does not have income from employment shall not be eligible to receive support services funded by the TANF block grant.

(5) A recipient may participate in the EWP for no more than twenty-four (24) months, whether or not consecutive, except:

(a) that a recipient may participate in the EWP for one additional academic term following the twenty-four (24) month participation limit if doing so will result in the recipient earning a degree, or

(b) that a recipient may participate in the EWP for two additional academic terms following the twenty-four (24) month participation limit at the discretion of the director if doing so will result in the recipient earning a degree.

(6) A participant must be a full-time student as defined by the educational institution.

C. Eligibility criteria:

(1) **Conditions:** Eligibility for participation in the EWP shall be based on all eligibility criteria for the NMW cash assistance program. As a condition of approval, an applicant or recipient must:

(a) be otherwise eligible for NMW cash assistance;

(b) be in good standing with the department; good standing means that sanctions are not currently applied to the benefit group due to noncompliance with work programs, child support enforcement or reporting requirements;

(c) provide proof that the applicant or recipient has been accepted or is enrolled in a two-or four-year post-secondary, graduate or post-graduate degree education program;

(d) apply for all financial aid available, including grants and scholarships.

- (2) **Level of effort:**
 - (a) A participant must engage in a combination of education, training, study or work-site experience, for an average of 20 hours a week in each month of participation in the EWP.
 - (b) One and one-half hours of study time shall be credited for each hour of class time.
 - (c) Work-site experience includes, but may not be limited to, paid employment, work study, training-related practicums, an internship, a clinical placement, or laboratory or field work, or any other work activity pursuant to the NMW cash assistance program.

D. Satisfactory participation in the education works program:

- (1) To maintain satisfactory participation in the EWP, a participant shall meet all the requirements and standards of the educational institution that the participant attends, including class attendance.
- (2) A participant shall maintain a 2.0 grade point average in each school term.

E. Reporting requirements for recipients:

- (1) A recipient must provide ISD with proof of the recipient's final grades for each school term. Final grades must be provided by the end of the month in which the school term ends.
- (2) A recipient must provide ISD with a copy of all letters relating to the receipt or denial of financial aid.
- (3) A recipient must report to ISD when the recipient intends to drop out of school.
- (4) A recipient must report any circumstance that might affect the recipient's ability to participate in the EWP.
- (5) School attendance and reporting requirements for dependent children apply to the EWP.
- (6) All reporting requirements in the NMW cash assistance program apply to the EWP.

[8.102.611.10 NMAC - Rp, 8.102.610.12 NMAC, 12/15/2005; A, 7/17/2006]

8.102.611.11 WORK PROGRAM REQUIREMENTS:

A. New applicant responsibilities:

- (1) The individual shall have an assessment completed and shall provide verification within 15 days following approval to the EWP.
- (2) The individual shall complete a WPA to enter the EWP for the level of effort required of participants. The WPA shall be submitted to ISD no later than 60 days from the date of approval of assistance.
- (3) ISD and participant shall develop an individual education plan (IEP) in compliance with the EWP cash assistance program's requirements for an IEP. The IEP shall be submitted to ISD no later than 60 days from the date of approval of assistance. The IEP:
 - (a) shall contain documentation, including, but not limited to, acceptance into a particular area of study that supports the recipient's ability to succeed in the educational program that was chosen;
 - (b) shall describe how the degree will increase the individual's ability to engage in full-time paid employment.

(4) **Currently participating in the NMW cash assistance program:** Individuals currently participating in the NMW cash assistance program shall have until the end of the first full month of participation in the EWP to submit a revised WPA and IEP to ISD.

(5) **Two-parent family:** In a two-parent family where only one of the parents is a participant in the EWP, the other parent, if considered as a mandatory participant in the NMW work program, shall be required to participate in qualified work activities for a minimum of 30 hours per week. At least 20 hours a week must be spent in qualified primary work activities.

B. Changes affecting participation in the EWP:

- (1) **Twenty-four-month time limit:** Participation in the EWP shall be limited to twenty four (24) months, whether or not consecutive, except
 - (a) that a recipient may participate in the EWP for one additional academic term following the twenty-four (24) month participation limit if doing so will result in the recipient earning a degree, or
 - (b) that a recipient may participate in the EWP for two additional academic terms following the twenty-four (24) month participation limit at the discretion of the director if doing so will result in the recipient earning a degree; all requests submitted to the director for approval shall include:
 - (i) verification of satisfactory participation in the education works program and
 - (ii) verification that the additional academic terms will lead to a degree.

(2) **Leaving the program:**

- (a) A participant who leaves the program for a good cause reason may resume participation when the individual is able and ready to return to the EWP.

(b) An individual who leaves the program on a voluntary basis, and good cause is not established, is not eligible to resume participation in the EWP.

(3) Unsatisfactory participation:

(a) A participant who falls below the standards set by the educational institution at the end of the school term shall be placed on probationary status for the following semester. The participant shall be required to become compliant with the standards set by the educational institution, including improving grades, during the probationary period.

(b) Where the participant's overall GPA for the school term falls below 2.0, the individual shall be placed on probationary status for the following school term in order to bring the overall GPA to 2.0 or better.

(4) **State funding limitation:** Participation in the EWP may be limited should state funding for the program be reduced or terminated.

(5) **Failure to comply with other requirements:** The benefit group shall be transitioned back to the NMW cash assistance program and appropriate sanctions applied if a participant fails or refuses to comply with child support enforcement, school attendance, and reporting requirements in the NMW cash assistance program. The transition is effective in the month following the month the failure or refusal to comply is established.

C. Establishing good cause for failure to meet requirements:

(1) Good cause for not meeting the requirements for participation in the EWP is determined on an individual basis. Good cause may be applied to the 20-hour-a-week requirement to engage in education activities, or to a situation that causes a participant to leave the program.

(2) Good cause means that there are circumstances in which the required participation would cause the participant to seriously compromise academic performance. Good cause for leaving the EWP includes academic deficiency as long as the student has consulted with the contractor, all options have been discussed, and the contractor and ISD approve of the action.

(3) Good cause includes, but may not be limited to, a verified situation requiring the participant to care for a family member with special needs; a physical or mental health problem; a chronic illness; accident; death; or a serious personal or family problem that necessitates reducing or ending participation in the EWP.

(4) Good cause for failure to meet requirements may be determined by the contractor or ISD. Final approval of good cause is determined by the ISD.

[8.102.611.11 NMAC - Rp, 8.102.610.12 NMAC, 12/15/2005]

8.102.611.12 TERMINATING PARTICIPATION IN THE EDUCATION WORKS PROGRAM:

A. The department shall take action to terminate an individual's participation in the EWP, or to require an individual to apply for NMW cash assistance, by issuing an advance written notice under the following conditions:

- (1) copies of financial aid award or denial letters are not provided;
- (2) copies of final grades are not provided;
- (3) there is a failure or refusal to comply with reporting requirements of the EWP;
- (4) at the end of the probationary period, a participant's grade point average is not 2.0 or better;
- (5) at the end of the probationary period, a participant has failed or refused to comply with the standards set by the educational institution, including class attendance;
- (6) the participant fails or refuses, without good cause, to participate in education activities for at least 20 hours a week averaged over the month;
- (7) funding for the EWP has been exhausted;
- (8) an individual participating in the EWP has received a bachelor's degree.

B. Appeal rights: A participant shall have an opportunity to appeal an adverse action taken by the department in the EWP. Appeals are handled pursuant to the appeal process currently in place for programs administered by the human services department's ISD.

[8.102.611.12 NMAC - Rp, 8.102.610.12 NMAC, 12/15/2005]

HISTORY OF 8.102.611 NMAC:

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

ISD 271.0000, Procedures Applicable to Payment and Related Changes, 5-16-80.

ISD FA 450, Payment, 2-10-88.

History of Repealed Material: 8 NMAC 3.FAP, Financial Assistance Program - Repealed, 07/01/97.

8.102.610 NMAC Description of Program/Benefits - Benefit Delivery - Repealed, 07/01/01.

Other History:

8.102.610 NMAC, Section 12, Education Works Cash Assistance replaced by 8.102.611 NMAC, Education Works Program, effective December 15, 2005.