

TITLE 8 SOCIAL SERVICES
CHAPTER 150 LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
PART 520 INCOME

8.150.520.1 ISSUING AGENCY: New Mexico Human Services Department.
[7-1-95, 11-1-95; 8.150.520.1 NMAC - Rn, 8 NMAC 22.LHP.000.1, 10-1-01]

8.150.520.2 SCOPE: The rule applies to the general public.
[7-1-95, 11-1-95; 8.150.520.2 NMAC - Rn, 8 NMAC 22.LHP.000.2, 10-1-01]

8.150.520.3 STATUTORY AUTHORITY: 27 NMSA 1978 (1992 Repl.) provides for the department to "...adopt, amend and repeal bylaws, rules and regulations...". It also provides for administration of public assistance programs.
[7-1-95, 11-1-95; 8.150.520.3 NMAC - Rn, 8 NMAC 22.LHP.000.3, 10-1-01]

8.150.520.4 DURATION: Permanent.
[7-1-95, 11-1-95; 8.150.520.4 NMAC - Rn, 8 NMAC 22.LHP.000.4, 10-1-01]

8.150.520.5 EFFECTIVE DATE: November 15, 1996, unless a different date is at the end of a section or paragraph.
[7-1-95, 11-1-95; 1-15-96, 8.150.520.5 NMAC - Rn, 8 NMAC 22.LHP.000.5, 10-1-01]

8.150.520.6 OBJECTIVE: The objective of these regulations is to provide policy and procedures for the administration of the low income home energy assistance program.
[7-1-95, 11-1-95; 8.150.520.6 NMAC - Rn, 8 NMAC 22.LHP.000.6, 10-1-01]

8.150.520.7 DEFINITIONS: [RESERVED]

8.150.520.8 EARNED GROSS INCOME:

A. Definitions: Earned gross income is defined as income received in the form of wages paid on a predetermined regular basis, pay received irregularly for work performed irregularly, or income resulting from self-employment activities. Income from rental property, if 20 hours or more per week are spent working as a landlord, is also countable as earned income.

B. Exclusions: The following are not counted as gross income:
(1) in-kind benefits: (i.e. good or services realized, provided or exchanged for non-monetary compensation);

(2) vendor payments: (i.e. payments made on behalf of a household to a third party);
(3) lump sum payments: see food stamp regulations on lump sum payments in 8.139.520.9

NMAC;

(4) loans;
(5) charitable contributions from nonprofit agencies to meet household expenses;
(6) earned income tax credits;
(7) value of food stamps;
(8) TANF annual clothing allowance;
(9) monies received for the care of a third party beneficiary who is not a household member;

and

(10) monies excluded by federal statute, a listing of which can be found in food stamp policy citation 8.139 NMAC.

[7-1-95, 11-1-95, 11-15-96, 10-15-98, 10-1-99, 10-1-00; 8.150.520.8 NMAC - Rn, 8 NMAC 22.LHP.520.2, 10-1-01; A, 10-1-06; A, 10-1-12]

8.150.520.9 SELF EMPLOYMENT GROSS INCOME:

A. Definition: Ongoing self-employment income intended to support the household through the year, that is averaged over a 12 month period, even if the household earns the money in a concentrated period. Self-employment income intended to support the household only for a portion of the year must be averaged over the months it is intended to provide support.

B. Verification sources: Monthly business records detailing profits and expenses or the household's federal income tax return are needed to annualize the household's self-employment income.

C. Gross income calculation: For self-employment income, the net income of the business activity is considered the gross income of the household member. The net income of the business is derived by subtracting the allowable costs of doing business from the business's gross income.

D. Business expenses:

(1) Allowable costs are, generally, those required to produce the business's gross income. These include, but are not limited, to: raw materials, stock, labor, insurance premiums, interest paid on income producing property, taxes paid on income-producing property, transportation for business purposes.

(2) Costs specifically not allowed are payments on the principal of the purchase price of income-producing property, assets, equipment, or machinery, net losses from previous periods, personal income taxes, money set aside for personal expenses, transportation to and from work, charitable contributions, entertainment, and depreciation.

E. Annualizing income: From gross self-employment income, subtract allowable expenses to derive the net self-employment income. Divide the net self-employment income by 12 to produce a monthly (average) figure. This figure is the countable monthly gross income. To determine the household's total gross, this figure must be added to any other income the household receives.

[7-1-95, 11-1-95, 11-15-96; 8.150.520.9 NMAC - Rn, 8 NMAC 22.LHP.520.3, 10-1-01; A, 10-1-12]

8.150.520.10 GROSS INCOME OF INELIGIBLE ALIENS: The gross income received by any ineligible alien household member must be prorated and counted to establish the benefit amount.

A. Definition: If any member of the household providing income to the household is an ineligible alien for TANF purposes, that member's income is not counted in its entirety but is prorated. Prorating results in excluding a portion of the ineligible alien household member's income from consideration because the ineligible alien is not a recipient of public assistance benefits.

B. Proration calculation: Calculate the gross income of the ineligible alien and divide the total by the number of members, eligible and ineligible, in the household. The resulting figure is the pro-rata portion of the income for each member, eligible and ineligible. To determine the portion of the income to be counted, multiply the pro rata portion by the remaining number of eligible household members.

[7-1-95, 11-1-95, 11-15-96; 8.150.520.10 NMAC - Rn, 8 NMAC 22.LHP.520.4, 10-1-01; A, 10-1-06; A, 10-1-12]

8.150.520.11 GROSS INCOME OF MIGRANT HOUSEHOLDS:

A. Definition: A migrant household is a group that travels away from home on a regular basis with a group of laborers to seek employment in an agriculturally related activity.

B. Verification sources: The household's federal income tax return is needed to annualize the household's income.

C. Calculation: The household's annual income reported on their federal income tax return should be divided by 12 to determine the household's average monthly income.

[10-15-98; 8.150.520.11 NMAC - Rn, 8 NMAC 22.LHP.520.5, 10-1-01; A, 10-1-12]

8.150.520.12 GROSS INCOME DETERMINATION: Gross income of the household member is defined as all income received prior to deductions, including taxes, garnishments, whether voluntary or involuntary and net business income.

A. **Income sources:** Gross income includes income from both earned and unearned sources.

B. **Countable income:** The gross unearned income of all household members is counted in its entirety, and the gross earned income of all household members over the age of 18 is counted in its entirety, unless:

(1) the income is specifically exempted; or

(2) the income is self-employment, in which case the income is annualized (see LIHEAP 8.150.520.9 NMAC); or

(3) the income is that of an ineligible alien, in which case the income is prorated (see LIHEAP policy 8.150.520.10 NMAC);

(4) the income is a full month's income and is anticipated to be received on a weekly or biweekly basis; in these circumstances, the income shall be converted to a monthly amount as follows:

(a) income received on a weekly basis is averaged and multiplied by 4.0;

(b) income received on a biweekly basis is averaged and multiplied by 2.0;

(c) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

C. **Gross income receipt period:** HSD shall establish income by utilizing the gross income of the household for the 30 day period immediately preceding the date on which LIHEAP eligibility is determined by ISD.

D. **Current income verified in other public assistance programs:** Current income that has been verified by ISD in another active public assistance programs may be used to verify income for the LIHEAP application, unless deemed questionable.

[8.150.520.12 NMAC - Rn, 8.150.500.10 NMAC & A, 10-1-12]

8.150.520.13 UNEARNED INCOME:

A. Definition: Unearned income is income received in the form of entitlement, disability, retirement, unemployment benefits or payments, including but not limited to the following:

- (1) child support;
- (2) alimony;
- (3) temporary assistance to needy families (TANF) benefits;
- (4) general assistance (GA) payments;
- (5) royalties;
- (6) dividends and interest; or
- (7) tribal benefits.

B. Gross unearned income: The gross amount of the benefit or payment must be counted. In the case of OASDI benefits, the gross amount of the benefit includes the amount deducted for the medicare premium, if applicable.

C. Real estate contracts: Monthly payments resulting from the sale of property and contributions from family or friends are also countable unearned income.

D. Exclusions: The following are not counted as income:

- (1) in-kind benefits (i.e. goods or services realized, provided or exchanged for non-monetary compensation);
- (2) vendor payments (i.e. payments made on behalf of a household to a third party);
- (3) lump sum payments: as defined in food stamp regulations at 8.139.520.9 NMAC;
- (4) loans;
- (5) charitable contributions from nonprofit agencies to meet household expenses;
- (6) earned income tax credits;
- (7) value of food stamps;
- (8) TANF annual clothing allowance;
- (9) monies received for the care of a third party beneficiary who is not a household member;

and

- (10) monies excluded by federal statute, as listed at 8.139.527 NMAC.

[8.150.520.13 NMAC - Rn, 8.150.522.8 NMAC & A, 10-1-12]

8.150.520.14 TOTAL GROSS INCOME: The household's total gross income is determined by adding countable earned and unearned income. Income received from self-employment and by ineligible aliens is not counted in full. The income of migrant households may be annualized and averaged. The household's total gross income must be equal to or less than income standards published annually in the LIHEAP state plan.

[8.150.520.14 NMAC - Rn, 8.150.524.8 NMAC & A, 10-1-12]

8.150.520.15 INCOME STANDARD: Income guidelines for eligibility will be updated at the beginning of each federal fiscal year as required by federal statute. The guidelines will be effective for the entire federal fiscal year beginning October 1 and ending September 30. The income guidelines will be determined by the secretary of the human services department before the beginning of the new federal fiscal year and published annually in the LIHEAP state plan.

[8.150.520.15 NMAC - Rn, 8.150.524.9 NMAC & A, 10-1-12]

8.150.520.16 CRISIS INTERVENTION STANDARDS: Households who are over the income standards but meet the crisis intervention requirements may be eligible for a crisis LIHEAP benefit. If a household is over the income standards, HSD staff should explore the household's financial circumstances and take into account any

financial crisis in the household that may have resulted in the household's inability to meet its utility or fuel expenses in the past 30 days. In these cases, the household's net income, rather than gross income, may be considered to determine income eligibility for LIHEAP benefits.

[8.150.520.16 NMAC - Rn, 8.150.500.9 NMAC & A, 10-1-12; A, 10-1-15]

8.150.520.17 NET INCOME:

A. Definition: Net income, except for net business income, for the purposes of LIHEAP policy, is not gross income minus deductions. Rather, it is gross income minus household emergency expenses incurred and paid in 30 days prior to the application date or the initial payment, during that period, of a bill resulting from a recent household emergency.

B. Calculation: To determine the net income for a household, subtract any allowable household emergency expenses from the household's gross income.

C. No emergency expenses: If the household did not incur and pay household emergency expenses or an initial payment for a recent household emergency in the 30 days prior to the application date for LIHEAP benefits, gross income is to be used to make the determination of eligibility.

[8.150.520.17 NMAC - Rn, 8.150.526.9 NMAC & A, 10-1-12]

8.150.520.18 HOUSEHOLD EMERGENCY EXPENSES:

A. Definition: Household emergency expenses are defined as expenses incurred and paid in full or in part by the household in the 30 days prior to the application date.

B. Examples of emergency expenses include:

- (1) hospital, ambulance, doctor and dental bills;
- (2) laboratory and other testing bills;
- (3) prescriptions and non-prescription items ordered by a licensed health care professional;

and

- (4) services provided or ordered by a licensed health care professional; or
- (5) non-elective medical expenses;
- (6) emergency medical expenses, such as:
- (7) hospital bills; and
- (8) ambulance bills;
- (9) expenses resulting from the death of a household member or other major household

crisis; or

- (10) repair or replacement of the household's primary vehicle.

C. Licensure exemption: Native American practitioners (medicine men), though not licensed by the state, are specifically recognized by HSD as health care providers under this policy.

[8.150.520.18 NMAC - Rn, 8.150.526.10 NMAC & A, 10-1-12]

8.150.520.19 VERIFICATION: To be considered, the household must provide proof of the incurred expense(s) and proof of payment.

[8.102.520.19 NMAC - Rn, 8.150.526.11 NMAC & A, 10-1-12]

HISTORY OF 8.150.520 NMAC:

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

ISD 600.0000, Energy Assistance Programs, 11-12-82.

ISD 600.0000, Low Income Energy Assistance Program, 1-9-84.

ISD 710.0000, Energy Assistance Programs, 11-15-85.

ISD 620.0000, Crisis Intervention Assistance, 11-12-82.

ISD 620.0000, Energy Crisis Intervention Assistance, 12-27-83.

ISD 714.0000, Energy Crisis Intervention, 11-20-85.

ISD 630.0000, Program Administration, 11-12-82.

ISD 630.0000, Program Administration, 12-27-83.

ISD 715.0000, Administration of Energy Assistance Programs, 11-20-85.

ISD FA 710, Energy Assistance Programs, 12-5-89.

ISD CAS 700, Energy Assistance Program, 11-13-91.

ISD CAS 700, Energy Assistance Program, 11-10-92.

ISD/CACB/LHP 700, Low Income Home Energy Assistance Program, 5-6-94.
ISD/CACB/LHP 700, Low Income Home Energy Assistance Program, 7-28-94.

History of Repealed Material: [RESERVED]