



# State of New Mexico Health Care Authority **Register**

## **I. DEPARTMENT**

NEW MEXICO HEALTH CARE AUTHORITY

## **II. SUBJECT**

ANNUAL ADJUSTMENTS TO INCOME LIMITS

## **III. PROGRAM AFFECTED**

NEW MEXICO WORKS (NMW) CASH ASSISTANCE PROGRAM  
SUPPORT SERVICES  
EDUCATION WORKS PROGRAM  
GENERAL ASSISTANCE PROGRAMS  
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

## **IV. ACTION**

TEMPORARY EMERGENCY AMENDMENTS

## **V. BACKGROUND SUMMARY**

The Health Care Authority (HCA) Income Support Division (ISD) will implement a temporary emergency rule effective October 1, 2026.

Each year the Authority is required to make changes to the income and resource eligibility standards and the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Administration (FNA).

The Authority received notification of the adjusted amounts on August 21, 2026, and will make the adjustments effective October 1, 2026, for Federal Fiscal Year (FFY) 2027 to comply with federal law and regulations.

The Authority received the notice of the federal Cost-of-Living Adjustments (COLA) with less than sixty days to implement the changes to be effective on October 1 and has insufficient time

to follow the regular rulemaking process. The Authority is implementing an emergency rule to remain federally compliant as failure to implement beyond October 1 would place the Authority in violation of Federal law.

The emergency rule will amend the New Mexico Administrative Code (NMAC) sections: 8.102.500 NMAC, 8.106.500 NMAC, 8.139.120 NMAC, 8.139.500 NMAC:

**8.102.500**

Section 8:

- Updating Subsection B. Gross income limits to include the language: “The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.” And the gross income table will be removed.
- Updating Subsection C. Eligibility for support services to include the language: “The income eligibility limits are revised and adjusted annually in October. The Authority will publish the federal poverty guidelines annually on the HCA website.”
- The gross income table is being removed from the rule as well.
- Updated Subsection D. Standard of Need table “three persons” to reflect correct amount of \$550.
- No other language in section 8 is under review at this time.

**8.106.500**

Section 8:

- Updating Subsection D. Gross income test to include the language: “The income eligibility limits are revised and adjusted annually in October. The Authority will publish the federal poverty guidelines annually on the HCA website.”
- The gross income table is being removed from the rule as well.
- No other language in section 8 is under review at this time.

**8.139.120**

Section 9:

- Updating subsection E (1) with the amount of \$150.
- Updating subsection E (3) (b) with the amount of \$150.

**8.139.500**

Section 8:

- Updated Subsection D (2) the FNS link with new FNA link and updated.
- Updated Subsection E (2) with the language: The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.
- Updated the FNS link with new FNA link and updated the HCA new link.
- No other language in section 8 is under review at this time.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations necessary to carry out the duties of the Authority and its divisions.

## **VI. CONCISE EXPLANATORY STATEMENT**

Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299 and 7 CFR 270-282. Administration of the Health Care Authority (HCA), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

The Department must promulgate these emergency rules and make them effective no later than October 1, 2026, to be in compliance with Federal law. The emergency rulemaking process is necessary to avoid placing HCA in violation of federal law.

## **VII. RULE**

The register and rule language is available on the HCA website at:

<https://www.hca.nm.gov/lookingforinformation/income-support-division-registers-2/> .

If you do not have internet access, a copy of the register and rules may be requested by contacting HCA Office of the Secretary at (505) 827-7750.

## **VIII. PUBLICATION DATE**

September 22, 2026

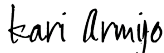
## **IX. EFFECTIVE DATE**

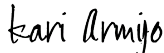
October 1, 2026

## **X. PUBLICATION**

Publication of this rule is approved by:

DocuSigned by:



  
KARI ARMIJO, SECRETARY  
NEW MEXICO HEALTH CARE AUTHORITY

**This is an emergency amendment to 8.102.500 NMAC section 8 effective 10/1/2026**

**8.102.500.8 GENERAL REQUIREMENTS:**

**A. Need determination process:** Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

- (1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;
- (2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;
- (3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;
- (4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

**B. Gross income limits:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group. The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

~~[(1) Income eligibility limits are revised and adjusted each year in October.]~~

~~[(2) The gross income limit for the size of the benefit group is as follows:~~

|                |                                                   |                    |
|----------------|---------------------------------------------------|--------------------|
| <del>(a)</del> | <del>one person</del>                             | <del>\$1,109</del> |
| <del>(b)</del> | <del>two persons</del>                            | <del>\$1,499</del> |
| <del>(c)</del> | <del>three persons</del>                          | <del>\$1,888</del> |
| <del>(d)</del> | <del>four persons</del>                           | <del>\$2,278</del> |
| <del>(e)</del> | <del>five persons</del>                           | <del>\$2,667</del> |
| <del>(f)</del> | <del>six persons</del>                            | <del>\$3,057</del> |
| <del>(g)</del> | <del>seven persons</del>                          | <del>\$3,447</del> |
| <del>(h)</del> | <del>eight persons</del>                          | <del>\$3,836</del> |
| <del>(i)</del> | <del>add \$390 for each additional person.]</del> |                    |

**C. Eligibility for support services only:** Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website. ~~[The gross income guidelines for the size of the benefit group are as follows:~~

|                |                                                   |                    |
|----------------|---------------------------------------------------|--------------------|
| <del>(1)</del> | <del>one person</del>                             | <del>\$1,305</del> |
| <del>(2)</del> | <del>two persons</del>                            | <del>\$1,763</del> |
| <del>(3)</del> | <del>three persons</del>                          | <del>\$2,221</del> |
| <del>(4)</del> | <del>four persons</del>                           | <del>\$2,680</del> |
| <del>(5)</del> | <del>five persons</del>                           | <del>\$3,138</del> |
| <del>(6)</del> | <del>six persons</del>                            | <del>\$3,596</del> |
| <del>(7)</del> | <del>seven persons</del>                          | <del>\$4,055</del> |
| <del>(8)</del> | <del>eight persons</del>                          | <del>\$4,513</del> |
| <del>(9)</del> | <del>add \$459 for each additional person.]</del> |                    |

**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$111 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

|     |               |                                 |
|-----|---------------|---------------------------------|
| (a) | one person    | \$327                           |
| (b) | two persons   | \$439                           |
| (c) | three persons | <del>[\$549]</del> <u>\$550</u> |
| (d) | four persons  | \$663                           |

- (e) five persons \$775
- (f) six persons \$887
- (g) seven persons \$999
- (h) eight persons \$1,134
- (i) add \$112 for each additional person.

**E. Special needs:**

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal guardian in benefit group:** Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020; A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E 10/1/2023; A, 3/1/2025; A/E 10/1/2025; A, 3/24/2026; A/E 10/1/2026]

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 102    CASH ASSISTANCE PROGRAMS CASH ASSISTANCE PROGRAM**  
**PART 500        ELIGIBILITY POLICY - GENERAL INFORMATION**

**8.102.500.1        ISSUING AGENCY:** New Mexico Health Care Authority.  
[8.102.500.1 NMAC - Rp 8.102.500.1 NMAC, 07/01/2001; A/E 10/1/2025; A, 3/24/2026]

**8.102.500.2        SCOPE:** The rule applies to the general public.  
[8.102.500.2 NMAC - Rp 8.102.500.2 NMAC, 07/01/2001]

**8.102.500.3        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 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 health care authority 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 cash assistance programs.
- 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.
- [8.102.500.3 NMAC - Rp 8.102.500.3 NMAC, 07/01/2001; A, 11/15/2007; A/E 10/1/2025; A, 3/24/2026]

**8.102.500.4        DURATION:** Permanent.  
[8.102.500.4 NMAC - Rp 8.102.500.4 NMAC, 07/01/2001]

**8.102.500.5        EFFECTIVE DATE:** July 1, 2001, unless a later date is cited at the end of a section.  
[8.102.500.5 NMAC - Rp 8.102.500.5 NMAC, 07/01/2001; A/E, 10/01/2017; A, 2/01/2018]

**8.102.500.6        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. The further purpose of the program is to increase family income 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 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 participating benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.
- [8.102.500.6 NMAC - Rp 8.102.500.6 NMAC, 07/01/2001; A, 11/15/2007]

**8.102.500.7        DEFINITIONS: [RESERVED]**  
[8.102.500.7 NMAC - Rp 8.102.500.7 NMAC, 07/01/2001]

**8.102.500.8        GENERAL REQUIREMENTS:**

- A.        Need determination process:** Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:
- (1)        the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;
  - (2)        the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;
  - (3)        the countable resources owned by and available to the benefit group do not exceed the

\$1,500 liquid and \$2,000 non-liquid resource limits;

(4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

**B. Gross income limits:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group. The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

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**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$111 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

|     |                                       |         |
|-----|---------------------------------------|---------|
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| (b) | two persons                           | \$439   |
| (c) | three persons                         | \$550   |
| (d) | four persons                          | \$663   |
| (e) | five persons                          | \$775   |
| (f) | six persons                           | \$887   |
| (g) | seven persons                         | \$999   |
| (h) | eight persons                         | \$1,134 |
| (i) | add \$112 for each additional person. |         |

**E. Special needs:**

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal guardian in benefit group:** Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020;

A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E 10/1/2023; A, 3/1/2025; A/E 10/1/2025; A, 3/24/2026; A/E 10/1/2026]

**8.102.500.9 PROSPECTIVE BUDGETING:**

**A.** Eligibility for cash assistance programs shall be determined prospectively. The benefit group must meet all eligibility criteria in the month following the month of disposition. Eligibility and amount of payment shall be determined prospectively for each month in the certification period.

**B. Simplified reporting:** A benefit group subject to simplified reporting shall be subject to income methodology as specified in Subsection E of 8.102.120.11 NMAC.

**C. Changes in benefit group composition:** A person added to the benefit group shall have eligibility determined prospectively beginning in the month following the month the report is made.

**D. Anticipating income:** In determining the benefit group's eligibility and benefit amount, the income already received and any income the benefit group expects to receive during the certification period shall be used.

(1) Income anticipated during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

(2) Actual income shall be calculated by using the income already received and any other income that can reasonably be anticipated in the calendar month.

(3) If the amount of income or date of receipt is uncertain, the portion of the income that is uncertain shall not be counted.

(4) In cases where the receipt of income is reasonably certain but the amount may fluctuate, the income shall be averaged.

(5) Averaging is used to determine a monthly calculation when there is fluctuating income within the weekly, biweekly, or monthly pay period and to achieve a uniform amount for projecting.

**E. Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly is determined by dividing the total income by the number of months the income is intended to cover. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not actually have a contract.

**F. Contract income:** A benefit group that derives its annual income in a period of less than one year shall have that income averaged over a 12-month period, provided that the income is not received on an hourly or piecework basis.

**G. Using exact income:** Exact income, rather than averaged income, shall be used if:

(1) the benefit group has chosen not to average income;

(2) income is from a source terminated in the month of application;

(3) employment began in the application month and the income represents only a partial month;

(4) income is received more frequently than weekly.

**H. Income projection:** Earned income shall be anticipated as described below.

(1) Earned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**I. Unearned income:**

(1) Unearned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**J. Use of conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

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

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

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$0.50 or more are rounded up; amounts resulting in \$0.49 or lower are rounded down.

[8.102.500.9 NMAC - Rp 8.102.500.9 NMAC, 07/01/2001; A 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 04/01/2010; A/E, 10/01/2017; A, 2/01/2018]

#### **8.102.500.10 DIVERSION PAYMENTS TO A NMW BENEFIT GROUP:**

**A. Purpose:** The diversion payment is a one-time cash assistance payment, that is intended to assist the benefit group alleviate a specific short-term need: to accept a bona fide offer of employment, retain employment, remedy an emergency situation or an unexpected short-term need.

**B. Eligibility criteria:**

(1) **Applicant:** Eligibility for a diversion payment shall be limited to an applicant making an initial application for cash assistance. Initial application shall not include a NMW cash assistance case which is within a six-month mandatory closure because of a third sanction. For the purposes of diversion payments, an initial applicant is one who has never received cash assistance, or one whose cash assistance case has been closed for one or more calendar months.

(a) An applicant for NMW cash assistance who meets all NMW eligibility criteria may volunteer to accept a NMW diversion payment in lieu of monthly cash assistance payments if there is no need for long-term cash assistance to meet basic needs.

(b) The caseworker shall explain the diversion program is not a supplement to other assistance but is in place of it and screen the applicant for eligibility for a diversion payment.

(c) Final approval for all diversion payments shall be made by the county director and documentation submitted to income support division central office.

(2) **NMW eligibility is established:**

(a) The applicant must be otherwise eligible for NMW cash assistance, except that the applicant demonstrates that monthly cash assistance to meet basic needs is not required by the benefit group because there is a means of on-going financial support, and the applicant chooses to accept a diversion payment in lieu of cash assistance to meet ongoing needs.

(b) An applicant who cannot demonstrate that monthly cash assistance to meet basic needs is not needed shall not be eligible for a diversion payment.

(3) **Specific need:** The applicant must make an informed choice whether cash assistance is needed to meet a specific short term need. The applicant may demonstrate a need for a specific item or type of assistance which will allow the applicant to keep a job or accept a bona fide offer of employment, remedy and emergency situation or alleviate a short term need. Such assistance may include, cash, support services, housing, transportation, car repairs, and uniforms.

(4) **Eligibility for support services:** A recipient of a diversion payment shall remain eligible for support services such as child care and transportation until the end of the 12-month lock-out period, until closure of the case is requested or the participant moves out of state. A referral to the NMW work program service provider and to CYFD shall be made after the applicant signs the agreement to accept a diversion payment and payment is authorized.

(5) **Verification and documentation:**

(a) The applicant shall be required to provide verification of the specific item or type of assistance which will allow the applicant to meet the basic short-term need.

(b) Documentation shall be required to establish that a diversion payment may be authorized in lieu of cash assistance to meet ongoing needs. An agreement signed by the applicant shall include a description of a diversion payment, terms and conditions, lifetime limitations, availability of work program services, reason for accepting a diversion payment, any prior assistance received in or out of the state.

C. **Amounts:** Diversion assistance is a one time, lump sum payment. The amount of the diversion payment is as follows:

(1) **one to three benefit group members:** may be entitled to an amount of up to \$1,500 non-recurring payment; or

(2) **four or more benefit group members:** may be entitled to an amount of up to \$2,500 non-recurring payment.

D. **Countable assistance:** The effects a diversion payment on other categories of assistance is as follows:

(1) the receipt of a diversion payment shall be excluded from income considerations in the medicaid program; and

(2) categorical eligibility is extended to the food stamp benefit group for the lockout period, unless the benefit group requests closure or moves out of New Mexico; and

(3) an applicant who accepts a diversion payment shall be eligible for TANF funded child care assistance for the lockout period, unless the benefit group requests closure or moves out of New Mexico.

E. **Limitations and conditions:** An applicant may receive a diversion payment a maximum of two times during a participant's 60-month term limit.

(1) Receipt of a diversion payment does not count toward the NMW 60-month term limit for any adult included in the benefit group, unless the benefit group also receives monthly NMW cash assistance during the period covered by the diversion payment.

(2) The acceptance of a diversion payment does not reduce the number of months in a participant's 60-month lifetime limit; however, a diversion payment can only be authorized a maximum of two times during the 60-month lifetime limit. The 60-month lifetime limit began on July 1, 1997 for any adult or minor head of the benefit group, or spouse of the minor, who received TANF since July 1997.

(3) A participant who has reached the 60-month lifetime limit is not eligible for a diversion payment. A participant who has never received a month of TANF is eligible for a diversion payment.

(4) **Cash assistance lockout period:**

(a) **Acceptance of a diversion payment:** An applicant who accepts a diversion payment shall be prohibited from participating in the NMW cash assistance program for a period of 12 months beginning in the month the diversion payment is authorized. A written agreement that defines the terms and expectations of the diversion grant; documents the reason why cash assistance to meet basic needs is not required; identifies the need for a specific type of short-term assistance; and describes the support services available to diversion participants must be signed by the participant.

(b) **Receipt of a diversion payment from another state:** An applicant who has accepted a diversion payment in any other state shall be prohibited from receiving NMW cash assistance or a diversion payment in New Mexico for a period of 12 months, beginning in the month the diversion payment in the other state was authorized, or for the length of the lockout period in the other state, whichever is shorter.

(5) A participant of a diversion payment is not required to comply with work program or child support enforcement requirements.

F. **Re-application:** A participant may apply for cash assistance during the lockout period based on the following criteria.

(1) **Applying during lock-out period:** An applicant who determines an inability to adhere to the terms and conditions for receipt of a diversion payment may apply for cash assistance to meet ongoing basic needs.

(a) An applicant is ineligible for cash assistance payment regardless of good cause within the first four months of receiving a diversion payment.

(b) An applicant is eligible for cash assistance payment if good cause is met at least five months after receipt of diversion payment.

(2) **Good cause:** Good cause must apply in order for an applicant to re-apply for cash assistance during the lockout period. Good cause can only be considered for applicants applying at least five months after initial receipt of a diversion payment. Good cause is not considered to exist for the first four months from initial receipt of a diversion payment. Good cause must be approved by the department and may include, loss of employment, but not a voluntary quit or dismissal due to poor job performance or failure to meet a condition of

employment; or use of an illegal substance or other drug; catastrophic illness or accident of a family member which requires an employed participant to leave employment; a victim of domestic violence; or another situation or emergency that renders an employed family member unable to care for the basic needs of the family.

**G. Claims:**

(1) A benefit group that receives monthly cash assistance within the 12-month lock out period shall not be subject to an overpayment if the household meets good cause.

(2) A benefit group may be subject to an overpayment if the diversion payment was issued in error and subject to recoupment as specified in 8.102.640 NMAC.

[8.102.500.10 NMAC - Rp 8.102.500.10 NMAC, 07/01/2001; Repealed, 7/17/2006; 8.102.500.10 NMAC - N, 11/15/2007; A, 08/14/2009; A, 07/01/2013]

**History of 8.102.500 NMAC:**

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

ISD FA 420, Standard of Need, 2/10/1988.

ISD FA 440, Determination of Eligibility and Grant, 2/10/1988.

ISD FA 440, Prospective Eligibility and Budgeting, 4/30/1992.

ISD FA 460, Special Payments, 2/10/1988.

**History of Repealed Material:** 8 NMAC 3.FAP, Financial Assistance Program - Repealed, 07/01/1997.

8.102.500 NMAC Eligibility Policy - General Information, - Repealed, 07/01/2001.

**This is an emergency amendment to 8.106.500 NMAC section 8 effective 10/1/2026****8.106.500.8 GA - GENERAL REQUIREMENTS:**

**A.** Limited state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

**B. Need determination process:** Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;

(2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

**C. GA payment determination:** The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

**D. Gross income test:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group. The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

~~[(1) Income eligibility limits are revised and adjusted each year in October.]~~

~~[(2) The gross income limit for the size of the benefit group is as follows:~~

~~\_\_\_\_\_ (a) one person \$1,109~~

~~\_\_\_\_\_ (b) two persons \$1,499~~

~~\_\_\_\_\_ (c) three persons \$1,888~~

~~\_\_\_\_\_ (d) four persons \$2,278~~

~~\_\_\_\_\_ (e) five persons \$2,667~~

~~\_\_\_\_\_ (f) six persons \$3,057~~

~~\_\_\_\_\_ (g) seven persons \$3,447~~

~~\_\_\_\_\_ (h) eight persons \$3,836~~

~~\_\_\_\_\_ (i) add \$390 for each additional person.]~~

**E. Standard of need:**

(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance benefit group on a monthly basis and is based on availability of state funds, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

**F. Net income test:** The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

**G. Special clothing allowance for school-age dependent children:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age as defined by PED.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

**H. Supplemental issuance:** A one-time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the health care authority and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

**I. Minimum Benefit Amount:** Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application.  
[8.106.500.8 NMAC - Rp, 8.106.500.8 NMAC 3/1/2025; A/E 10/1/2025; A, 3/24/2026; A/E, 10/1/2026]

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS**  
**PART 500 ELIGIBILITY POLICY - GENERAL INFORMATION**

**8.106.500.1 ISSUING AGENCY:** New Mexico Health Care Authority.  
 [8.106.500.1 NMAC - Rp, 8.106.500.1 NMAC 3/1/2025; A/E 10/1/2025; A, 3/24/2026]

**8.106.500.2 SCOPE:** The rule applies to the general public.  
 [8.106.500.2 NMAC - Rp, 8.106.500.2 NMAC 3/1/2025; A/E 10/1/2025]

**8.106.500.3 STATUTORY AUTHORITY:** 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.  
 [8.106.500.3 NMAC - Rp, 8.106.500.3 NMAC 3/1/2025]

**8.106.500.4 DURATION:** Permanent.  
 [8.106.500.4 NMAC - Rp, 8.106.500.4 NMAC 3/1/2025]

**8.106.500.5 EFFECTIVE DATE:** March 1, 2025, unless a later date is cited at the end of a section.  
 [8.106.500.5 NMAC - Rp, 8.106.500.5 NMAC 3/1/2025]

**8.106.500.6 OBJECTIVE:**

**A.** 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 such as New Mexico works (NMW) or the federal program of supplemental security income (SSI). The general assistance program is not intended to be an unemployment or general relief program.

**B.** 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.

**C.** The objective of the burial assistance program is to assist in payment of burial expenses for an individual who was a low-income individual at the time of death.  
 [8.106.500.6 NMAC - Rp, 8.106.500.1 NMAC 3/1/2025]

**8.106.500.7 DEFINITIONS: [RESERVED]**

**8.106.500.8 GA - GENERAL REQUIREMENTS:**

**A.** Limited state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

**B. Need determination process:** Eligibility for the GA program based on need requires a finding that the:

- (1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;
- (2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent of the federal poverty guideline for the size of the benefit group; and
- (3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

**C. GA payment determination:** The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

**D. Gross income test:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group. The income eligibility limits are revised and adjusted annually in October. The Authority will publish the federal poverty guidelines annually on the HCA website.

**E. Standard of need:**

(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance benefit group on a monthly basis and is based on availability of state funds, the number of

individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

**F. Net income test:** The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

**G. Special clothing allowance for school-age dependent children:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age as defined by PED.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

**H. Supplemental issuance:** A one-time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the health care authority and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

**I. Minimum Benefit Amount:** Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application. [8.106.500.8 NMAC - Rp, 8.106.500.8 NMAC 3/1/2025; A/E 10/1/2025; A, 3/24/2026; A/E 10/1/2026]

#### **8.106.500.9 PROSPECTIVE BUDGETING:**

**A. Initial eligibility:** Eligibility for cash assistance programs shall be determined prospectively. The benefit group must meet all eligibility criteria in the month following the month of application. Eligibility and amount of payment shall be determined prospectively for each month in the certification period.

**B. Changes in benefit group composition:** A person added to the benefit group shall have eligibility determined prospectively, beginning in the month following the month the report is made.

**C. Anticipating income:** In determining the benefit group's eligibility and benefit amount, the income already received and any income the benefit group expects to receive during the certification period shall be counted.

(1) Income anticipated during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

(2) Actual income shall be calculated by using the income already received and any other income that can reasonably be anticipated in the calendar month.

(3) If the amount of income or date of receipt is uncertain, the portion of the income that is uncertain shall not be counted.

(4) In cases where the receipt of income is reasonably certain but the amount may fluctuate, the income shall be averaged.

(5) Averaging is used to determine a monthly calculation, when there is fluctuating income within the weekly, biweekly or monthly pay period and to achieve a uniform amount for projecting future income.

#### **D. Counting income in the certification period:**

(1) For the purposes of cash assistance eligibility and determination of benefit amount, income is money received by or available to the benefit group in each month of the certification period.

(2) Only income which is actually received, or can reasonably be expected to be received, is counted for financial eligibility and benefit calculation.

(3) The benefit group must take appropriate steps to apply for and receive income from any other source to which the group may potentially be entitled.

(4) A benefit group may be found ineligible for failing or refusing to apply for or pursue potential income or assets from other sources.

(5) A benefit group member who is 62 years of age or older must apply for and take all necessary steps to receive a reduced OASDI benefit from the SSA.

**E. Income availability:**

(1) The availability of income to the benefit group is determined by who must be included in the benefit group and whether income must be deemed available to the benefit group.

(2) The earned and unearned income of an individual who is not a mandatory benefit group member shall not be considered available to the benefit group.

(3) Income belongs to the person who gains it, either through the person's own efforts, as in the case of earnings, or as a benefit, as in the case of a beneficiary of SSA benefits.

(4) Unearned income, such as child support or social security survivor's benefits and other similar payments for a child, are considered as belonging to the benefit group in which the child is included.

(5) Alien sponsors: The gross income belonging to an individual who is the sponsor of an alien included in the cash assistance benefit group, and the income belonging to the sponsor's spouse, shall be counted in its entirety to determine the eligibility and benefit amount if the sponsor has executed an affidavit of support pursuant to Subsection 213-A of the Immigration and Nationality Act. The income of the alien sponsor and spouse shall be counted until the sponsored alien achieves citizenship or can be credited with 40 qualifying quarters under title II of the federal Social Security Act.

**F. Unavailable income:** In some situations, individuals who are included in the benefit group, either in applicant or recipient status, have a legal right to income but do not have access to it. Such income is not counted as available income for purposes of cash assistance eligibility and benefit calculation.

**G. Ineligible alien:** The countable income belonging to an ineligible alien who is a mandatory benefit group member is deemed available to the benefit group. The countable income shall be prorated according to the size of the benefit group to determine the eligibility and benefit amount for the benefit group.

**H. Income received less frequently than monthly:** The amount of gross income that is received less frequently than monthly is determined by dividing the total gross income by the number of months the income is intended to cover. This includes, but is not limited to, income from sharecropping, farming and self-employment. It also includes contract income as well as income of a tenured teacher who may not actually have a contract.

**I. Contract income:** A benefit group that derives its annual income in a period of less than one year shall have that income averaged over a twelve-month period, provided that the income is not earned on an hourly or piecework basis.

**J. Using exact income:** Exact income, rather than averaged income, shall be used if:

- (1) the benefit group has chosen not to average income;
- (2) income is from a source terminated in the month of application;
- (3) employment began in the application month and the income represents a partial month; or
- (4) income is received more frequently than weekly.

**K. Income projection for earned income:**

(1) Income from the four-week period prior to the date of initial interview is used to project monthly income, provided that the income is expected to continue. If a determination is made that the prior income is not indicative of income anticipated to be received during the certification period, then income from a longer period of past time may be used. If the longer period is not indicative of income anticipated to be received, then verification of anticipated income shall be obtained from the income source.

(2) The methods described above may not give the most accurate estimate of monthly earnings due to unique circumstances that may occur. In such cases, the caseworker shall use whichever method provides the most accurate estimate of earnings.

(3) An income projection shall be considered valid for the certification period unless changes are made that affect eligibility or benefit amount.

**L. Unearned income:** For purposes of anticipating future income, unearned income from the four-week period prior to the date of interview shall be used, provided that the income is expected to continue.

**M. Use of conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

- (1) income received on a weekly basis is averaged and multiplied by 4.0;
- (2) income received on a biweekly basis is averaged and multiplied by 2.0;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$0.50 or more are rounded up; amounts resulting in \$0.49 or lower are rounded down.

[8.106.500.9 NMAC - Rp, 8.106.500.9 NMAC 3/1/2025]

**8.106.500.10 PAYMENTS TO ADULTS IN RESIDENTIAL CARE:**

**A. Conditions:** Subject to the availability of state funding for the program, a payment may be made to an individual who resides in a shelter care home. The individual must be a recipient of supplemental security income (SSI) under title XVI of the Social Security Act.

**B. Licensing of the shelter care home:** The shelter care home must be licensed pursuant to regulations of the New Mexico department of health.

**C. Payment:** A cash payment may be made to an SSI recipient when the recipient resides in a licensed shelter care home because the recipient needs help with personal care, such as bathing, dressing, eating or taking prescribed medication.

(1) The payment shall be allowed only if the SSI recipient resides in a residential shelter care facility that is licensed by the New Mexico department of health.

(2) The payment made to an SSI recipient living in a licensed residential shelter care facility is \$100 per month.

[8.106.500.10 NMAC - Rp, 8.106.500.10 NMAC 3/1/2025]

**8.106.500.11 [RESERVED]**

**HISTORY OF 8.106.500 NMAC: [RESERVED]**

**History of Repealed Material:** 8.106.500 NMAC, Eligibility Policy - General Information filed 6/17/2004, Repealed effective 3/1/2025.

**Other:** 8.106.500 NMAC, Eligibility Policy - General Information filed 6/17/2004, Replaced by 8.106.500 NMAC, Eligibility Policy - General Information effective 3/1/2025.

**Emergency Amendments 8.139.120 section 9 effective 10/01/206**

**8.139.120.9 SIMPLIFIED REPORTING:** All households will be assigned to simplified reporting (SR). Households must submit an interim report once every six or twelve months, depending on their certification period. Households assigned to a 12-month certification period have an interim report form due at six months. Households assigned to a 24-month certification period have an interim report form due at 12 months.

**A.** Household Certification Periods: A household that is approved for SNAP benefits shall be assigned the longest certification period possible in accordance with the household's circumstances. Households wherein all adult members are elderly or disabled, with no earned income, will be assigned a 24-month certification period. All other households will be assigned a 12-month certification period.

**B.** Household responsibility to turn in interim report form:

(1) A household assigned to a 12-month certification period shall be required to file an interim report form no later than the 10th day of the sixth month of the certification period in order to receive uninterrupted benefits.

(2) A household assigned to a 24-month certification period shall be required to file an interim report form no later than the 10th day of the 12-month of the certification period in order to receive uninterrupted benefits.

**C.** Information that ISD is responsible to provide to households regarding simplified reporting: At the initial certification and at recertification, ISD shall provide the household with the following:

- (1) a written and oral explanation of how simplified reporting works;
- (2) a written and oral explanation of the reporting requirements including:
  - (a) what needs to be reported and verified;
  - (b) when the interim report form is due;
  - (c) how to obtain assistance; and
  - (d) the consequences of failing to file an interim report form.

(3) special assistance in completing and filing interim reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required report; and

(4) a toll-free number which the household may call to ask questions or to obtain help in completing the interim report.

**D.** Information requirements for the interim report form: The interim report form will be written in clear, simple language, include information on the availability of a bilingual version of the document described in 7 CFR 272.4(b), and shall specify:

- (1) the deadline date to submit the form to ISD to ensure uninterrupted benefits if the household is determined eligible;
- (2) the consequences of submitting a late or incomplete form including whether ISD shall delay benefits if the form is not received by the due date;
- (3) verification the household must submit with the form;
- (4) a statement to be signed by a member of the household indicating their understanding that the information provided may result in a reduction or termination of benefits;
- (5) where to call for help in completing the form;
- (6) a statement explaining that ISD will not change certain deductions until the household's next recertification and identify those deductions if ISD has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c) of section 7 CFR 273.12;
- (7) a brief explanation of fraud penalties; and
- (8) how the agency may use social security numbers.

**E.** The following information, along with required verification, must be returned to ISD with the interim report form:

- (1) a change of more than [~~\$125~~] \$150 in the amount of unearned income, except changes relating to public assistance (PA) or general assistance (GA) programs when jointly processed with SNAP cases;
- (2) a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;
- (3) changes in either:
  - (a) the wage rate or salary or a change in full-time or part-time employment status as defined in Subsection C of 8.102.461.11 NMAC, provided the household is certified for no more than six months; or

(b) a change in the amount earned of more than one hundred twenty-five dollars [~~\$125~~] \$150 a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.

(4) all changes in household composition, such as the addition or loss of a household member;

(5) changes in residence and the resulting shelter costs;

(6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed the resource limit set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at 8.139.420.8 and 8.139.420.9 NMAC;

(8) changes in the legal obligation to pay child support;

(9) for able-bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged monthly, as defined in 7 CFR 273.24(a)(1)(i); and

(10) In accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings;

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported;

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported;

**F. ISD's responsibility with interim report forms:**

(1) Interim report form is not received: If a household fails to file a report by the specific filing date, defined in Subsection B of 8.139.120.9 NMAC, ISD will send a notice to the household advising of the missing report no later than 10 calendar days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation shall be terminated.

(2) Incomplete interim report form is received:

(a) An interim report form that is not signed shall be returned to the household for a signature. The household:

(i) shall be notified that the form is incomplete;

(ii) what needs to be completed to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the signed interim report form to be reviewed for completeness.

(b) An interim report form that is incomplete because required verification is not provided shall not be returned to the household. The household:

(i) shall be notified that the form is incomplete;

(ii) what information must be provided to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the verification to process the interim report form.

**(3) Complete interim report form is received:**

(a) A form that is complete and all verifications are provided, shall be processed within 10 calendar days of receipt.

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable, in accordance with 8.100.130.12 NMAC. The household:

(i) shall be notified that verification is questionable; and

(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.

(c) A deduction that is verified within the month the interim report form is due shall be processed as part of the interim report form.

(d) A deduction that is verified in the month after the interim report form is due shall be processed as a change reported by the household.

(e) If the household files a timely and complete report resulting in reduction or termination of benefits, ISD shall send a notice of case action. The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient information or verification regarding a deductible expense, ISD will not terminate the household, but will instead

determine the household's benefits excluding the deduction from the benefit calculation.

**G.** Changes that must be reported at any time during certification period: Households must report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household has at least 10 calendar days within which to report the change. If there are not 10 days remaining in the month, the household must report within 10 days from the date the work hours fall below 20 hours per week, averaged monthly or when income exceeding the gross federal poverty limit as mentioned below is first received. The interim report form is the sole reporting requirement for any information that is required to be reported on the form, except that a household must report at any time during the certification period:

- (1) the household must report when its monthly gross income exceeds one hundred thirty percent of the poverty level. If the household was last certified with monthly gross income which exceeds one hundred thirty percent of the poverty level, and the household is a categorically eligible household defined in accordance with 8.139.420.8 NMAC, is only required to report any additional changes to their monthly gross income at their next interim report or recertification; and
- (2) able-bodied adults subject to the time limit in accordance with 7 CFR 273.24 shall report whenever their work hours fall below 20 hours per week, averaged monthly; and.
- (3) in accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings within 10 days of the end of the month in which the household received the winnings.
  - (a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported.
  - (b) if the winning is less than the elderly and disabled resource standard it does not need to be reported.

**H.** Action on changes reported outside of the interim report form: In addition to changes that must be reported in accordance with Subsection G of 8.139.120.9 NMAC, ISD must act on changes in between interim report forms, if it would increase the household's benefits. ISD shall not act on changes that would result in a decrease in the household's benefits unless:

- (1) The household has voluntarily requested that its case be closed.
- (2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined:
  - (a) information is not questionable; and
  - (b) the provider of the information is the primary source of information; or
  - (c) the recipient's attestation exactly matches the information received from a third party.
- (3) A household member has been identified as a fleeing felon or probation violator in accordance with 7 CFR 273.11(n);
- (4) There has been a change in the household's cash grant, or where cash and SNAP cases are jointly processed in accordance with 7 CFR 273.2(j)(2).

**I.** Responsibilities on reported changes outside of the interim report form: When a household reports a change, ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 working days of the date the change is reported.

(1) During the certification period, action shall not be taken on changes to medical expenses of households eligible for the medical expense deduction which ISD learns of from a source other than the household and which, in order to take action, requires ISD to contact the household for verification. ISD shall act only on those changes in medical expenses that it learns about from a source other than the household, if those changes are verified upon receipt and do not necessitate contact with the household.

(2) Decreased or termination of benefits: For reported and verified changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

- (a) Issue a notice of adverse action within 10 calendar days of the date the change was reported and verified unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.
- (b) When a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.
- (c) When a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(3) Increased benefits: For reported and verified changes that result in an increase of

household benefits, ISD shall act on the change as follows:

(a) For changes which result in an increase in a household's benefits, other than changes described in Paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD.

(b) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, ISD shall make the change effective not later than the first allotment issued 10 calendar days after the date the change was reported.

(i) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(ii) If the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) No change in SNAP benefit amount: When a reported change has no effect on the SNAP benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(5) Providing verification: The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its' SNAP benefit amount shall revert to the original benefit amount.

**J. Resolving unclear information:**

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.139.120.9 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

(2) Unclear information resulting from certain data matches:

(a) if the HCA receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the consequences of failing to respond to the notice.

(b) if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

**K. Failure to report changes:** If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

(1) Decreased benefit amount: After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Subsection G of 8.139.120.9 NMAC above.

(2) Increased benefit amount: When a household fails to make a timely report of a change which will result in an increased SNAP benefit amount, the household is not entitled to a supplement for any month

prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 calendar days after the date the change was reported.

[8.139.120.9 NMAC - Rp 8.139.120.9 NMAC, 7/16/2024; A 3/1/2025; A/E 10/01/2026]

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 139 FOOD STAMP PROGRAM**  
**PART 120 CASE ADMINISTRATION - CASE MANAGEMENT**

**8.139.120.1 ISSUING AGENCY:** New Mexico Health Care Authority.  
 [8.139.120.1 NMAC - Rp 8.139.120.1 NMAC, 7/16/2024]

**8.139.120.2 SCOPE:** General public.  
 [8.139.120.2 NMAC - Rp 8.139.120.2 NMAC, 7/16/2024]

**8.139.120.3 STATUTORY AUTHORITY:** The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (HCA) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.  
 [8.139.120.3 NMAC - Rp 8.139.120.3 NMAC, 7/16/2024]

**8.139.120.4 DURATION:** Permanent.  
 [8.139.120.4 NMAC - Rp 8.139.120.4 NMAC, 7/16/2024]

**8.139.120.5 EFFECTIVE DATE:** July 16, 2024, unless a later date is cited at the end of a section.  
 [8.139.120.5 NMAC - Rp 8.139.120.5 NMAC, 7/16/2024]

**8.139.120.6 OBJECTIVE:** Issuance of the revised supplemental nutrition assistance program (SNAP) policy manual is intended to be used in administration of SNAP in New Mexico. This revision incorporated the latest federal policy changes in SNAP not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the HCA.  
 [8.139.120.6 NMAC - Rp 8.139.120.6 NMAC, 7/16/2024]

**8.139.120.7 DEFINITIONS:** [RESERVED]

**8.139.120.8 RECERTIFICATION:** When a household's certification period expires, its eligibility to participate in SNAP ends. SNAP benefits will not be continued beyond the certification period. Timely applications for recertification will be approved or denied before the end of the current certification period. ISD must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods.

**A.** Notice and time standards: ISD shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. ISD shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next-to-the-last month. Jointly processed Public Assistance ("PA") (as defined at 7 C.F.R. 271.2), and General Assistance ("GA") (as defined at 7 C.F.R. 271.2) households need not receive a separate SNAP notice if they are recertified for SNAP at the same time as their PA or GA redetermination. Every household will be provided with a notice of expiration, as follows:

**(1)** For a household certified for one or two months, the notice of expiration will be provided at the time of certification. The household will have 15 days from the date the notice is received to submit a timely application for recertification. The household will be approved and provided an opportunity to participate, if eligible, or be denied, within 30 days after obtaining its last SNAP benefit amount.

**(2)** For all other households, a notice of expiration will be sent by HCA prior to the start of the last month of the household's certification period. A household has reapplied timely if the application for recertification is filed by the 15th day of the last month of the household's certification period.

**(3)** ISD will complete the application process if the household meets all requirements and finishes the necessary processing steps; ISD will approve or deny timely applications before the end of the household's current certification period.

**B. Failure to submit timely application:**

(1) A household that does not submit an application for recertification by the 15<sup>th</sup> day of the expiration month loses its right to uninterrupted benefits.

(2) SNAP benefits will be prorated from the date of application if a household's application is received in the month after its certification period has expired or participation has been terminated for any reason.

(3) ISD will ensure that any eligible household that does not submit a timely application for recertification be provided the opportunity to participate, if eligible, within 30 calendar days after the date the application is filed.

**C. ISD caused delayed processing:** If an eligible household files an application before the end of the certification period but the recertification process cannot be completed within 30 days after the date of application because of ISD fault, ISD must continue to process the case and provide a full month's allotment for the first month of the new certification period, and will send a delay notice in accordance with Subsection D of 8.139.110.13 NMAC. If the household fails to take required action, ISD may deny the case at the time of application, at the end of the certification period, or at the end of 30 days. ISD shall determine cause for any delay in processing a recertification application in accordance with the provisions of 7 C.F.R. 273.2(h)(1).

**D. Scheduling interviews:** ISD shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires. A household will not be required to appear for an interview, or to file an application for recertification, in the month before the last month of its current certification period. An interview may be scheduled in the month before the last month of certification, or prior to the date the application is timely filed, provided the household is not denied for failing or refusing to appear for the interview. If an interview was scheduled, or if household member or authorized representative failed to attend an interview which was scheduled prior to the date a household files a timely application, ISD will schedule an interview on or after the date an application is timely filed.

**E. Failure to appear:** If a household member or authorized representative fails to appear for a recertification interview scheduled on or after a timely application is filed, the household loses the right to uninterrupted participation. ISD shall send the household a notice of missed interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the ISD shall schedule a second interview. The household is responsible for rescheduling a missed interview.

**F. Prospective eligibility determination:** A household's eligibility and SNAP benefit amount at recertification will be determined prospectively based on circumstances anticipated for the certification period, beginning with the month following the expiration of the current certification period.

**G. Eligibility and benefits:** Eligibility will be determined at recertification according to the standards described below.

(1) **Timely reapplication:** Applications filed before the 15<sup>th</sup> of the expiration month will be considered timely. A household member or authorized representative that attends an interview and provides all necessary verification by the end of the household's current certification period, will have the opportunity to participate by the household's normal issuance cycle in the month following the end of the current certification period, if all eligibility factors have been met.

(2) **Reapplication after the 15<sup>th</sup>:** If an application for recertification is submitted after the 15<sup>th</sup> but before the end of a household's certification period and the household is determined eligible for the first month following the end of the certification period, that month is not considered an initial month and benefits are not prorated.

(3) **First month ineligibility:** If an application for recertification is submitted before the end of a household's certification period, but the household is determined ineligible for the first month following the end of the certification period, the first month of any subsequent certification period will be considered an initial month and SNAP benefits will be prorated.

(4) **Late applications:**

(a) Recertification verification standards, in accordance with Paragraph (2) of Subsection C of 8.139.110.12 NMAC, will be used when an application is received within 30 days after the certification period expires. Initial month verification standards, in accordance with Paragraph (1) of Subsection C of 8.139.110.12 NMAC, will be used if the application is received more than one calendar month after the certification period expires or the case has been closed for any reason.

(b) Initial month certification provisions and proration of benefits for migrant and seasonal farmworker households will apply when more than 30 days have passed since the household was certified for participation. (See 8.139.400.14 NMAC for more information on migrant and seasonal farmworker households).

(5) Pending verification: A household member or authorized representative that has reapplied timely, attended an interview, and is required to provide verification, will be given 10 days to provide the verification, or until the certification period expires, whichever is longer. If the certification period expires before the 10-day deadline for submitting the required verification, the household will have the opportunity to participate, if eligible, within five working days after verification is submitted. The household is entitled to a full month's benefits.

[8.139.120.8 NMAC - Rp 8.139.120.8 NMAC, 7/16/2024]

**8.139.120.9 SIMPLIFIED REPORTING:** All households will be assigned to simplified reporting (SR). Households must submit an interim report once every six or twelve months, depending on their certification period. Households assigned to a 12-month certification period have an interim report form due at six months. Households assigned to a 24-month certification period have an interim report form due at 12 months.

**A.** Household Certification Periods: A household that is approved for SNAP benefits shall be assigned the longest certification period possible in accordance with the household's circumstances. Households wherein all adult members are elderly or disabled, with no earned income, will be assigned a 24-month certification period. All other households will be assigned a 12-month certification period.

**B.** Household responsibility to turn in interim report form:

(1) A household assigned to a 12-month certification period shall be required to file an interim report form no later than the 10th day of the sixth month of the certification period in order to receive uninterrupted benefits.

(2) A household assigned to a 24-month certification period shall be required to file an interim report form no later than the 10th day of the 12-month of the certification period in order to receive uninterrupted benefits.

**C.** Information that ISD is responsible to provide to households regarding simplified reporting: At the initial certification and at recertification, ISD shall provide the household with the following:

- (1) a written and oral explanation of how simplified reporting works;
- (2) a written and oral explanation of the reporting requirements including:
  - (a) what needs to be reported and verified;
  - (b) when the interim report form is due;
  - (c) how to obtain assistance; and
  - (d) the consequences of failing to file an interim report form.

(3) special assistance in completing and filing interim reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required report; and

(4) a toll-free number which the household may call to ask questions or to obtain help in completing the interim report.

**D.** Information requirements for the interim report form: The interim report form will be written in clear, simple language, include information on the availability of a bilingual version of the document described in 7 CFR 272.4(b), and shall specify:

- (1) the deadline date to submit the form to ISD to ensure uninterrupted benefits if the household is determined eligible;
- (2) the consequences of submitting a late or incomplete form including whether ISD shall delay benefits if the form is not received by the due date;
- (3) verification the household must submit with the form;
- (4) a statement to be signed by a member of the household indicating their understanding that the information provided may result in a reduction or termination of benefits;
- (5) where to call for help in completing the form;
- (6) a statement explaining that ISD will not change certain deductions until the household's next recertification and identify those deductions if ISD has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c) of section 7 CFR 273.12;
- (7) a brief explanation of fraud penalties; and
- (8) how the agency may use social security numbers.

**E.** The following information, along with required verification, must be returned to ISD with the interim report form:

- (1) a change of more than \$150 in the amount of unearned income, except changes relating to public assistance (PA) or general assistance (GA) programs when jointly processed with SNAP cases;

(2) a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

(3) changes in either:

(a) the wage rate or salary or a change in full-time or part-time employment status as defined in Subsection C of 8.102.461.11 NMAC, provided the household is certified for no more than six months; or

(b) a change in the amount earned of more than one hundred twenty-five dollars (\$150) a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.

(4) all changes in household composition, such as the addition or loss of a household member;

(5) changes in residence and the resulting shelter costs;

(6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed the resource limit set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at 8.139.420.8 and 8.139.420.9 NMAC;

(8) changes in the legal obligation to pay child support;

(9) for able-bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged monthly, as defined in 7 CFR 273.24(a)(1)(i); and

(10) In accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings;

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported;

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported;

**F. ISD's responsibility with interim report forms:**

(1) Interim report form is not received: If a household fails to file a report by the specific filing date, defined in Subsection B of 8.139.120.9 NMAC, ISD will send a notice to the household advising of the missing report no later than 10 calendar days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation shall be terminated.

(2) Incomplete interim report form is received:

(a) An interim report form that is not signed shall be returned to the household for a signature. The household:

(i) shall be notified that the form is incomplete;

(ii) what needs to be completed to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the signed interim report form to be reviewed for completeness.

(b) An interim report form that is incomplete because required verification is not provided shall not be returned to the household. The household:

(i) shall be notified that the form is incomplete;

(ii) what information must be provided to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the verification to process the interim report form.

**(3) Complete interim report form is received:**

(a) A form that is complete and all verifications are provided, shall be processed within 10 calendar days of receipt.

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable, in accordance with 8.100.130.12 NMAC. The household:

(i) shall be notified that verification is questionable; and

(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.

(c) A deduction that is verified within the month the interim report form is due shall be processed as part of the interim report form.

(d) A deduction that is verified in the month after the interim report form is due shall be processed as a change reported by the household.

(e) If the household files a timely and complete report resulting in reduction or termination of benefits, ISD shall send a notice of case action. The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient information or verification regarding a deductible expense, ISD will not terminate the household, but will instead determine the household's benefits excluding the deduction from the benefit calculation.

**G.** Changes that must be reported at any time during certification period: Households must report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household has at least 10 calendar days within which to report the change. If there are not 10 days remaining in the month, the household must report within 10 days from the date the work hours fall below 20 hours per week, averaged monthly or when income exceeding the gross federal poverty limit as mentioned below is first received. The interim report form is the sole reporting requirement for any information that is required to be reported on the form, except that a household must report at any time during the certification period:

(1) the household must report when its monthly gross income exceeds one hundred thirty percent of the poverty level. If the household was last certified with monthly gross income which exceeds one hundred thirty percent of the poverty level, and the household is a categorically eligible household defined in accordance with 8.139.420.8 NMAC, is only required to report any additional changes to their monthly gross income at their next interim report or recertification; and

(2) able-bodied adults subject to the time limit in accordance with 7 CFR 273.24 shall report whenever their work hours fall below 20 hours per week, averaged monthly; and.

(3) in accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings within 10 days of the end of the month in which the household received the winnings.

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported.

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported.

**H.** Action on changes reported outside of the interim report form: In addition to changes that must be reported in accordance with Subsection G of 8.139.120.9 NMAC, ISD must act on changes in between interim report forms, if it would increase the household's benefits. ISD shall not act on changes that would result in a decrease in the household's benefits unless:

(1) The household has voluntarily requested that its case be closed.

(2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined:

(a) information is not questionable; and

(b) the provider of the information is the primary source of information; or

(c) the recipient's attestation exactly matches the information received from a third party.

(3) A household member has been identified as a fleeing felon or probation violator in accordance with 7 CFR 273.11(n);

(4) There has been a change in the household's cash grant, or where cash and SNAP cases are jointly processed in accordance with 7 CFR 273.2(j)(2).

**I.** Responsibilities on reported changes outside of the interim report form: When a household reports a change, ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 working days of the date the change is reported.

(1) During the certification period, action shall not be taken on changes to medical expenses of households eligible for the medical expense deduction which ISD learns of from a source other than the household and which, in order to take action, requires ISD to contact the household for verification. ISD shall act only on those changes in medical expenses that it learns about from a source other than the household, if those changes are verified upon receipt and do not necessitate contact with the household.

(2) Decreased or termination of benefits: For reported and verified changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

(a) Issue a notice of adverse action within 10 calendar days of the date the change was reported and verified unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.

(b) When a notice of adverse action is used, the decrease in the benefit level shall be

made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

(c) When a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(3) Increased benefits: For reported and verified changes that result in an increase of household benefits, ISD shall act on the change as follows:

(a) For changes which result in an increase in a household's benefits, other than changes described in Paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD.

(b) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, ISD shall make the change effective not later than the first allotment issued 10 calendar days after the date the change was reported.

(i) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(ii) If the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) No change in SNAP benefit amount: When a reported change has no effect on the SNAP benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(5) Providing verification: The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its' SNAP benefit amount shall revert to the original benefit amount.

**J. Resolving unclear information:**

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.139.120.9 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

**(2) Unclear information resulting from certain data matches:**

(a) if the HCA receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the consequences of failing to respond to the notice.

(b) if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

**K. Failure to report changes:** If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

(1) Decreased benefit amount: After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the

household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Subsection G of 8.139.120.9 NMAC above.

(2) Increased benefit amount: When a household fails to make a timely report of a change which will result in an increased SNAP benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 calendar days after the date the change was reported.

[8.139.120.9 NMAC - Rp 8.139.120.9 NMAC, 7/16/2024; A 3/1/2025]

**8.139.120.10 [RESERVED]**

**8.139.120.11 [RESERVED]**

**8.139.120.12 [RESERVED]**

**8.139.120.13 REQUIREMENTS FOR MASS CHANGES:**

**A.** Mass changes: Certain changes initiated by the state or federal government may affect the entire caseload or significant portions of it.

(1) Mass changes include, but are not limited to, increases in excluded or deducted items or amounts.

(2) Mass changes affecting income include annual adjustments to social security, SSI, and other federal benefit programs, and any other changes in eligibility criteria based on legislative or regulatory actions.

(3) Information concerning mass change notice and hearing requirements are set forth in 8.100.180.15 NMAC.

(4) Notice of mass changes: Adverse action notices are not required for mass changes resulting from federal adjustments to eligibility standards, the maximum SNAP allotment, standard deduction, shelter deduction, and state adjustments to the mandatory utility standard. Announcement of anticipated mass changes may be made through the media, posters in ISD offices, and other likely places frequented by households, or through a general notice mailed to a participating household. When HCA makes a mass change in food stamp eligibility or benefit amount affecting the entire caseload or a part of it, affected households shall be mailed a notice of any change, reduction or termination of benefits. HCA shall issue a notice to affected households as far in advance of the household's next scheduled issuance date as is reasonably possible, but by no later than the date the affected benefit is issued.

**B.** Federal changes: Authorized adjustments which may affect SNAP benefit amount for participating households include the maximum SNAP allotment, standard deduction, excess shelter and dependent care deductions, and income eligibility standards. These changes go into effect for all households annually on October 1. Adjustments to federal standards are made prospectively.

**C.** Cost of living adjustments: Cost of living increases and any other mass changes in federal benefits, such as social security and SSI benefits, shall be treated as mass changes for SNAP purposes. ISD is responsible for automatically adjusting a household's SNAP benefit amount to reflect such a change. Households shall not be responsible for reporting these changes.

**D.** Mass changes in public assistance: When overall adjustments to cash assistance payments are made, corresponding adjustments in SNAP benefits shall be handled as a mass change. Households shall be given advance notice of any adjustment in the SNAP benefit amount. If a household requests a fair hearing, benefits shall continue at the former amount only if the issue being appealed is that eligibility or SNAP benefit amount was determined incorrectly.

**E.** Utility standard: Authorized adjustments shall be effective for all October SNAP issuances. Households whose certification periods overlap annual adjustments in the state's mandatory utility allowance shall be informed at the time of certification that the adjustment shall be effective in October 1; the household shall be informed of the adjusted benefit amount, if known at the time of certification. Adjustments in the state's mandatory utility allowance are made prospectively.

[8.139.120.13 NMAC - Rp 8.139.120.13 NMAC, 7/16/2024]

**8.139.120.14 OTHER CHANGES AFFECTING SNAP HOUSEHOLDS:**

**A. Failure to report changes:**

- (1) If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled.
- (2) After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change.
- (3) If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced.
- (4) No claim shall be established because of a change in circumstances that a household is not required to report.

**B. Noncompliance with program requirements or fraud:**

- (1) Intentional failure to comply or fraud: No household shall receive an increase in SNAP benefits when benefits from another program have been decreased (reduced, suspended or terminated) for intentional failure to comply with the other program eligibility requirements or for an act of fraud. This provision applies in cases where the other program is a means-tested, federal, state or local welfare or public assistance program, which is governed by welfare or public assistance laws or regulations and which distributes public funds.
- (2) Failure to comply shall be determined as provided in Paragraph (3) of Subsection I of 8.139.520.9 NMAC.
- (3) Verification of recoupment: Agencies administering means-tested, publicly funded assistance programs provide recipients with written advance notice of proposed changes in benefit amounts. Such notices provide information which shall determine if the reduction in cash assistance is because of a properly reported change in circumstances. In most cases, the notice shall document whether the reduction is because of a recoupment of overpaid benefits resulting from intentional failure to report changes. If the notice is not detailed enough to make a determination, the agency which initiated recoupment shall be contacted to obtain the necessary information. SNAP benefits shall not be delayed beyond normal processing standards pending the outcome of this determination.
- (4) Calculating benefits: When a recipient's assistance benefits are decreased to recoup an overpayment, that portion of the decrease that is the recoupment shall first be identified. The recoupment is the amount of decrease attributed to the repayment of benefits over issued. If a Title IV-A recipient intentionally underreports income, the Title IV-A grant is first reduced to reflect the corrected income, then reduced further by the recoupment amount. In such a case, the SNAP calculation would reflect the Title IV-A amount reduced because of income, but not the second reduction caused by recoupment.  
[8.139.120.14 NMAC - Rp 8.139.120.14 NMAC, 7/16/2024]

**8.139.120.15 CHANGE NOTICES:**

**A. Agency responsibilities:**

- (1) ISD shall take action on any change reported by a household, and on any change which becomes known through other sources.
- (2) The household shall be issued a change notice.
  - (a) If there is a reduction or termination of benefits, the household shall be issued an adverse action notice, unless the change has been reported by the household in writing.
  - (b) If the household reports the change in writing, advance notice of the change in benefit amount is required before the household's next issuance.
  - (c) If there is no change in the benefit amount, the household shall be notified that the change resulted in no change in benefit amount.
- (3) If a household receiving cash assistance reports a change, it shall be considered to have also reported the change for SNAP purposes. A notice shall be sent to the household acknowledging the reported change, even if there is no change in benefits. A notice of adverse action shall be sent if there is a reduction or termination in the SNAP benefit amount and the change was not reported in writing.

**B. Notice of adverse action:**

- (1) Prior to any action to reduce or terminate a household's SNAP benefits within the certification period, the household shall be provided with a timely and adequate advance notice before the adverse action is taken, unless the change was reported by the household in writing. A written change report submitted by the household is subject to the adequate notice requirements in Subsection C of 8.139.120.15 NMAC.
- (2) At a minimum, the adverse action notice shall include the following information:
  - (a) proposed action and reason for the action;

- (b) month in which the change takes effect;
- (c) adjusted benefit amount;
- (d) household's right to request a fair hearing, circumstances under which the household can continue benefits at the greater amount, and deadline dates for requesting a hearing;
- (e) household's liability for any benefits over issued if the decision of the fair hearing is that the HCA took the correct action;
- (f) general information on whom to contact for additional information, including the right to representation by legal services.
- (3) Individual notices of adverse action shall not be provided when:
  - (a) there is a mass change;
  - (b) ISD determines on the basis of reliable information that the household has moved from the project area;
  - (c) ISD determines on the basis of reliable information that all members of a household have died;
  - (d) the household has received an increased benefit amount to restore lost benefits, the restoration is complete, and the household has been notified in writing of the date the increased benefit amount would terminate;
  - (e) the household's benefit amount varies from month to month within the certification period to take into account changes anticipated at the time of certification, and the household was notified of such variations at the time of certification;
  - (f) the household applied for cash assistance and SNAP benefits at the same time, has been receiving SNAP benefits pending approval of cash assistance, and the household was notified at the time of certification that SNAP benefits would be reduced upon approval of the cash assistance grant;
  - (g) a household member is disqualified for intentional program violation, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of the household member.
  - (h) the household was certified on an expedited basis, is assigned a certification period longer than one month, and verification has been postponed; the household must have received written notice that receipt of benefits beyond the month of application is contingent on the household providing the postponed verification;
  - (i) the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement is terminated because the treatment center or group living arrangement loses either its certification or its status as authorized representative;
  - (j) the household voluntarily requests, in writing or in the presence of ISD, that its participation be terminated.

**C. Adequate notice:** If a change was reported in writing that will result in a reduction or termination in SNAP benefits, the household shall be provided with adequate advance written notice confirming the change. Adequate notice does not preclude the household's right to request a fair hearing. The household shall be notified that its benefits are being reduced or terminated no later than the date the household will receive, or would have received, its SNAP benefits. Adequate notice shall be provided when changes reported in writing meet the following conditions:

- (1) the household reports the information which results in the reduction or termination;
- (2) the reported information is in writing and signed by a member of the household;
- (3) ISD can determine the household's reduced benefit amount or ineligibility based solely on the information provided by the household in the written report;
- (4) the household retains its right to a fair hearing;
- (5) the household retains its right to continued benefits if the fair hearing is requested within the advance notice time limit;
- (6) ISD continues the household's previous benefit amount if required, within five working days of the household's request for a fair hearing.

[8.139.120.15 NMAC - Rp 8.139.120.15 NMAC, 7/16/2024]

**8.139.120.16 TRANSFER OF HOUSEHOLDS:** When a household transfers from one project area to another, the household's case record and computer file shall be transferred accordingly. Procedures for handling households which transfer between project areas within the state and between offices within a single project area are described below.

**A.** Transfer of inactive cases: Inactive cases are those that have been certified and are subsequently closed. ISD in the new project area is responsible for requesting that the case record be transferred. The former project area is responsible for transferring case records and making sure they are complete.

**B.** Transfer of active cases: Active cases are those presently certified.

**(1)** Timely reporting: Transfers within the state shall be considered like any other reported change in circumstances. The household must timely report a move and verify its new address and shelter expenses, as well as any change in household composition and income, before benefits may continue or be issued (see Subsection A of 8.139.120.12 NMAC). The former project area shall update the household's address on its computer file and transfer the case in active status to the new project area. The new project area shall verify the household's new circumstances, including but not limited to, address, shelter expenses, income, and household composition (see Paragraph (1) of Subsection B of 8.139.120.12 NMAC).

**(2)** Not reported: If a project area becomes aware that a household has moved but has not been informed of a new in-state address, either by the household or its designee or by another project area, participation shall be terminated immediately based on unverified residence. If the household wishes to continue participation, it must file a new application.

**C.** Procedures for nonreceipt of benefits: If a household which has moved to a different project area has not received its current month's SNAP benefits, action required by ISD shall depend on circumstances described below:

**(1)** If the SNAP benefits are returned to the central mail issuance unit, reissuance is authorized by the new project area to the household's address in the new project area.

**(2)** If the SNAP benefits are not returned to the central mail issuance unit, an affidavit shall be submitted by the new project area, as described in Subsection G of 8.139.610.14 NMAC, replacement of benefits lost in the mail, even though the original issuance was from the former project area. The new project area shall make sure that the household's residence and mailing address are changed prior to submitting the affidavit. [8.139.120.16 NMAC - Rp 8.139.120.16 NMAC, 7/16/2024]

#### **8.139.120.17 COOPERATION WITH LAW ENFORCEMENT AGENCIES:**

**A.** Notwithstanding any other provision of law, upon written request, HCA shall make available to any federal, state, or local law enforcement officer the address, social security number, and photograph (if available) of any household member, if the officer furnishes HCA with the name of the individual and notifies HCA that:

**(1)** the individual is fleeing to avoid prosecution, or custody or confinement after conviction for a crime, or attempt to commit a crime, that under the law of the place the member is fleeing is a felony, or in New Jersey is a high misdemeanor; or

**(2)** the individual is violating a condition of probation or parole imposed under federal or state law.

**B.** Information shall be provided if it is needed for the officer to conduct an official duty related to Paragraphs (1) or (2) of Subsection A of 8.139.120.17 NMAC above; locating or apprehending the individual as an official duty; and the request is being made in the proper exercise of an official duty.

**C.** Providing information to law enforcement shall not interfere with the HCA's responsibility to immediately report to the immigration and naturalization service (INS) the ineligibility of any individual who is present in the United States in violation of the Immigration and Nationality Act.

[8.139.120.17 NMAC - Rp 8.139.120.17 NMAC, 7/16/2024]

#### **HISTORY OF 8.139.120 NMAC:**

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

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 10/13/1983.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 4/24/1984.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 8/3/1984.

ISD-Rule 441.0000, Food Assistance - Actions Subsequent to Determine Eligibility, 11/5/1982.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 2/9/1983.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 9/8/1983.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 10/13/1983.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 4/24/1984.

ISD-Rule 442.0000, Food Assistance - Transfer of Households, 11/14/1982.

ISD-Rule 442.0000, Food Assistance - Transfer of Households, 9/8/1983.

ISD 424.0000, Recertification, 7/28/1980.  
ISD-443.0000, Food Assistance - Recertification, 11/4/1982.  
ISD-443.0000, Food Assistance - Recertification, 9/8/1983.  
ISD-443.0000, Food Assistance - Recertification, 10/13/1983.  
ISD-443.0000, Food Assistance - Recertification, 1/12/1984.  
ISD FS 510, Food Stamp Reporting and Recertification, 3/2/1988.  
ISD FS 510, Food Stamp Reporting and Recertification, 4/30/1992.

**History of Repealed Material:** 8.139.120 NMAC - Case Administration - Case Management (filed 4/26/2001)  
Repealed effective 7/16/2024.

**Other:** 8.139.120 NMAC - Case Administration - Case Management (filed 4/26/2001) Replaced by 8.139.120  
NMAC - Case Administration - Case Management effective 7/16/2024.

**This is an emergency amendment to 8.139.500 NMAC section 8 effective 10/1/2026**

**8.139.500.8 BASIS OF ISSUANCE:**

**A.** Income standards: Determination of need in SNAP is based on federal guidelines. Participation in the program is limited to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are based on the federal income poverty levels established in the Community Services Block Grant Act 42 USC 9902(2).

**B.** Gross income standards: The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands is one hundred thirty percent of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by one hundred thirty percent, divided by 12, and the results rounded upward if necessary.

**C.** Net income standards: The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

**D.** Yearly adjustment: Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 contiguous states and the District of Columbia and can be found at [~~<https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>~~] [SNAP Cost-of-Living Adjustment \(COLA\) Information | Food and Nutrition Administration](#)

**E.** Deductions and standards:

**(1)** Determination: Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households eligible based on income and resource guidelines, and other relevant eligibility factors, are allowed certain deductions to determine countable income.

**(2)** Yearly adjustment: [~~The expense and standard deductions may change each year. If federal guidelines mandate a change, it is effective each October 1st, and can be found at~~] ~~The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website and can be found at:~~

~~[<https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>] SNAP Cost-of-Living Adjustment (COLA) Information | Food and Nutrition Administration~~ and

~~[[http://www.HCA.state.nm.us/LookingForInformation/Federal\\_Poverty\\_Level\\_Guidelines.aspx](http://www.HCA.state.nm.us/LookingForInformation/Federal_Poverty_Level_Guidelines.aspx)] Federal Poverty Level Guidelines - Income Eligibility – New Mexico Health Care Authority~~

[8.139.500.8 NMAC - Rp 8.139.500.8 NMAC, 7/16/2024; A/E 10/1/2026]

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 139 FOOD STAMP PROGRAM**  
**PART 500        FINANCIAL ELIGIBILITY - NEED DETERMINATION**

**8.139.500.1        ISSUING AGENCY:** New Mexico Health Care Authority.  
 [8.139.500.1 NMAC - Rp 8.139.500.1 NMAC, 7/16/2024]

**8.139.500.2        SCOPE:** General public.  
 [8.139.500.2 NMAC - Rp 8.139.500.2 NMAC, 7/16/2024]

**8.139.500.3        STATUTORY AUTHORITY:** The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Administration of the health care authority, including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983). Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (HCA) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.  
 [8.139.500.3 NMAC - Rp 8.139.500.3 NMAC, 7/16/2024]

**8.139.500.4        DURATION:** Permanent.  
 [8.139.500.4 NMAC - Rp 8.139.500.4 NMAC, 7/16/2024]

**8.139.500.5        EFFECTIVE DATE:** July 16, 2024, unless a later date is cited at the end of a section.  
 [8.139.500.5 NMAC - Rp 8.139.500.5 NMAC, 7/16/2024]

**8.139.500.6        OBJECTIVE:** Issuance of the revised food stamp program policy manual is intended to be used in administration of the food stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the HCA.  
 [8.139.500.6 NMAC - Rp 8.139.500.6 NMAC, 7/16/2024]

**8.139.500.7        DEFINITIONS:** [RESERVED]

**8.139.500.8        BASIS OF ISSUANCE:**

**A.**        Income standards: Determination of need in SNAP is based on federal guidelines. Participation in the program is limited to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are based on the federal income poverty levels established in the Community Services Block Grant Act 42 USC 9902(2).

**B.**        Gross income standards: The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands is one hundred thirty percent of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by one hundred thirty percent, divided by 12, and the results rounded upward if necessary.

**C.**        Net income standards: The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

**D.**        Yearly adjustment: Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 contiguous states and the District of Columbia and can be found at [SNAP Cost-of-Living Adjustment \(COLA\) Information | Food and Nutrition Administration](#)

**E.**        Deductions and standards:

(1) Determination: Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households eligible based on income and resource guidelines, and other relevant eligibility factors, are allowed certain deductions to determine countable income.

(2) Yearly adjustment: The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website and can be found at: [SNAP Cost-of-Living Adjustment \(COLA\) Information | Food and Nutrition Administration](#) and [Federal Poverty Level Guidelines - Income Eligibility – New Mexico Health Care Authority](#)  
[8.139.500.8 NMAC - Rp 8.139.500.8 NMAC, 7/16/2024; A/E 10/1/2026]

#### **8.139.500.9 PROSPECTIVE BUDGETING:**

**A.** Initial month procedures: "Initial month" means the first month for which a household is certified for participation in the food stamp program following any period during which the household was not certified for participation. Eligibility and food stamp benefit amount for households submitting an initial application will be based on circumstances for the entire calendar month in which a household files its application.

(1) Changing eligibility:

(a) Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the next month. The household is entitled to benefits for the month of application, even if the application is processed and benefits issued in the subsequent month.

(b) A household may be ineligible for the month of application but eligible in the next month because of anticipated changes in circumstances.

(c) Even if denied for the month of application, a household does not need to reapply in the next month. The same application is used for the denial of the month of application and the determination of eligibility in subsequent months.

(2) Prorating initial month's food stamp benefit amount: A household's food stamp benefit amount for the initial month is based on the day of the month the household applies.

**B.** Varied benefit amount: As a result of anticipating changes, a household's food stamp benefit amount for the month of application may differ from the amount in later months.

(1) The income support specialist (ISS) will establish a certification period for the longest period over which changes in the household's circumstances can reasonably be anticipated.

(2) For changes discussed at the application interview, a household's food stamp benefit amount may vary from month to month during the certification period to reflect changes anticipated at the time of certification.

(3) Adverse action notices will not be required for any subsequent month in which the food stamp benefit amount decreases. Adequate notice will be required for each month in which the food stamp benefit amount changes.

**C.** Retroactive benefits: For households that have completed the application process by the 30th day after application, and have been determined eligible, the food stamp benefit amount will be provided retroactively to the date of application.

**D.** Recertification procedures: Eligibility and food stamp benefit amount for recertification will be determined prospectively based on circumstances anticipated for the certification period beginning the month following the expiration of the current certification period.

**E.** Mass change procedures: Adjustments to the maximum food stamp benefit amount, income standards, shelter and dependent care deduction limits, state utility standard adjustments, and overall adjustments to financial assistance payments and mass changes in federal benefits, such as social security and SSI benefits, are made by a mass change. The adjustment is made in the month before the change is effective to allow for adequate notice to affected households.

**F.** Determining resources: Available resources at the time the household is interviewed will be used to determine the household's eligibility.

(1) Nonrecurring lump sum payments are counted as resources in the month received and are not counted as income.

(2) Resources received or available in the month of application but expended before the day of the interview are not used to determine the household's eligibility, unless the resource was transferred for the purpose of qualifying for food stamp benefits.

[8.139.500.9 NMAC - Rp 8.139.500.9 NMAC, 7/16/2024]

#### **8.139.500.10 DETERMINING INCOME:**

**A.** Anticipating income: In determining a household's eligibility and SNAP benefit amount ISD shall use income already received by the household during the certification period and any income the household and ISD are reasonably certain shall be received during the remainder of the certification period.

(1) If the amount of income or date of receipt is uncertain, that portion of the household's income that is uncertain shall not be counted.

(2) If the exact amount of the income is not known, that portion of the income which can be anticipated with reasonable certainty shall be considered income.

(3) In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, a household may choose to average its income.

**B.** Income received during any past 30-day consecutive period that includes 30 days prior to the date of application through the date of timely disposition shall be used as an indicator of the income that is and shall be available to the household during the certification period.

(1) Past income is not used as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated during the certification period.

(2) If income fluctuates to the extent that a single four-week period does not provide an accurate indication of anticipated income, a longer period of past time can be used if it gives a more accurate indication of anticipated fluctuations in income.

(3) Income already received is not used and verification is obtained from the income source, if the household and ISD decide that income already received by the household is not indicative of income expected to be received in future months.

**C.** Simplified reporting: A household filing an interim report form is subject to the income methodology specified at 8.139.500.9 NMAC.

**D.** Income anticipated during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

**E.** Use of conversion factors: Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

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

(2) income received on a biweekly basis is averaged and multiplied by two;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$0.50 or more are rounded up; amounts resulting in \$0.49 or lower are rounded down.

**F.** Held wages:

(1) Wages withheld at the request of an employee shall be considered income to a household in the month the wages would otherwise have been paid by the employer.

(2) Wages withheld by the employer as a general practice, even in violation of the law, shall not be counted as income to a household, unless the household anticipates that it will ask for and receive an advance.

(3) If a household anticipates asking for and receiving income from wages that were previously withheld by the employer as a general practice, the income shall be counted to determine eligibility.

**G.** Earned income:

(1) Earned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and ISD are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification period; and

(b) the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and ISD determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and ISD are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**H.** Unearned income:

(1) Unearned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and ISD are reasonably certain the income amounts received are

indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and ISD determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and ISD are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

(4) Households receiving state or federal assistance payments, such as Title IV-A, GA, SSI or social security payments on a recurring monthly basis are not considered to have varied monthly income from these sources simply because mailing cycles may cause two payments to be received in one month.

I. Income received more frequently than weekly: The amount of monthly gross income paid more frequently than weekly (i.e., daily) is determined by adding all the income received during the past four weeks. The gross income amount is used to anticipate income in the application month and the remainder of the certification period. Conversion factors shall not be applied to this income.

J. Income received less frequently than monthly: The amount of monthly gross income paid less frequently than monthly is determined by dividing the total income by the number of months it is intended to cover. ISD shall carefully explain to the household how the monthly income was computed and what changes might result in a reportable change. Documentation shall be filed in the case record to establish clearly how the anticipated income was computed.

K. Use of conversion factors: Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

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

(2) income received on a biweekly basis is averaged and multiplied by two;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$0.50 or more are rounded up; amounts resulting in \$0.49 or lower are rounded down.

L. Known changes in income for future months at application:

(1) At application or recertification, it shall be determined if any factors affecting income will change in future months. Such factors include a new income source, termination of income, or increases or decreases in income.

(2) Income is considered only when the amount of the income and the date it will be received are reasonably certain.

(3) In the event that a change is known for future months, benefits are computed by taking into account the change in income.

M. Averaging income over the certification period:

(1) All households may choose to have their income averaged. Income is usually not averaged for destitute households because averaging would result in assigning to the month of application income from future periods which is not available for its current food needs.

(2) To average income, ISD uses a household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period.

(3) Contract income: Households which, by contract, derive their annual income in a period of less than one year shall have that income averaged over a 12-month period, provided that the income is not received on an hourly or piecework basis.

(a) Contract income includes income for school employees, farmers, self-employed households, and individuals who receive annual payments from the sale of real estate.

(b) These procedures do not include migrant or seasonal farm worker households.

(4) Educational monies: Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it is provided. All months which the income is intended to cover shall be used to average income, even if the income is received during the certification period. If the period has elapsed completely, the educational monies shall not be considered income.

N. Using exact income: Exact income, rather than averaged income, shall be used if:

- (1) the household has chosen not to average income;
  - (2) income is from a source terminated in the application month;
  - (3) employment has just begun in the application month and the income represents only a partial month;
  - (4) in the month of application, the household qualifies for expedited service or is considered a destitute, migrant or seasonal farm worker household; or
  - (5) income is received more frequently than weekly, (i.e., daily).
- [8.139.500.10 NMAC - R 8.139.500.10 NMAC, 7/16/2024]

**8.139.500.11 DETERMINING DEDUCTIBLE EXPENSES:** Household expenses which can be deducted from income include only certain costs of dependent care, child support, medical and shelter expenses.

**A.** Expenses not allowed as deductions:

- (1) Vendor payments and reimbursements: An expense covered by an excluded reimbursement or vendor payment is not deductible. Vendor payments are those paid directly to a household's creditors by a non-household member, while reimbursements are paid to a household after it has paid creditors.
- (2) Reimbursable medical expenses: That portion of an allowable medical expense which is reimbursable will not be included as a household's medical expense when calculating the medical expense deduction.
- (3) Service provided by household member: Expenses will be deductible only for a service provided by someone outside a participating household, and for which the household makes a money payment. Only money received from an outside source is considered income to a household; money paid to a provider outside the household is counted as a deductible expense.
- (4) Child care expenses: Child care expenses which are reimbursed or paid for by the Jobs Opportunities and Basic Skills Training Program (JOBS) under Title IV-F of the Social Security Act 42 USC 681 or the transitional child care (TCC) program will not be deductible when calculating the dependent care deduction allowed for a household.
- (5) Child support expenses: A child support deduction will not be allowed if the household does not report or verify its monthly child support payment or a change in its legal obligation.

**B.** Billed expenses:

- (1) Allowing a deduction: A deduction is allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay it.
- (2) Arrears: Amounts carried forward from past billing periods (arrears) are not deductible, even if included in the most recent billing and actually paid by the household, unless these expenses are billed less often than monthly and are averaged. A particular expense may be deducted only once. Rent, mortgage payments or property taxes that are in arrears are not allowed, even if they were not previously allowed in any certification period.
- (3) Expense not allowed: If a household receives a bill during the certification period but does not report it until it is past due, the expense may not be allowed as a deduction. Similarly, late charges assessed to a household on a past due bill are not allowed as a deductible expense.
- (4) Billed medical expenses: If a household claims a deduction for billed medical expenses but does not know or cannot verify the portion of billed expenses that will be reimbursed, the expense is allowed after the reimbursement is received or can otherwise be verified, rather than in the month the bill is received. Only the unreimbursed amount of the bill is deductible. A deduction will be allowed when the household verifies that a billed medical expense will not be paid directly to the provider by a third party or will not be reimbursed to the household by an insurance company or government program.

(5) Child support deduction:

- (a) Child support is not an allowable deduction when billed. Verification of payment must be received prior to allowance of the deduction.
- (b) The child support deduction will include amounts paid toward arrearages, provided that the household has at least a three month record of payments.

**C.** Anticipating expenses: A household's expenses will be calculated based on the expenses the household expects to be billed during the certification period.

- (1) Anticipation of expenses is based on the most recent month's bills, unless the household is reasonably certain a change will occur.
- (2) If actual costs for a household's heating/cooling or other utility expenses are anticipated to be less than the appropriate mandatory utility standard, the appropriate mandatory utility standard shall be

allowed.

(3) Income conversion procedures will apply to anticipated expenses billed on a weekly or biweekly basis.

(4) Child support will be anticipated based on actual payments during past months and reasonably certain changes expected in the future.

D. Averaging expenses: A household may choose to have fluctuating expenses averaged.

E. One-time expenses: A household may choose to have a one-time only expense averaged over the entire certification period, or allowed in the month the expense is billed or becomes due.

(1) If a household chooses the one-time expense deduction, the caseworker will document the expense in the case file. Such expenses include annual property taxes and insurance.

(2) A one-time expense may be averaged over the period the billing is intended to cover.

(3) A household may choose to have a one-time only expense reported at certification deducted in a lump sum or averaged over the certification period.

(4) A household reporting a one-time only medical expense during its certification period may choose to have a one-time expense deduction or to have the expense averaged over the remaining months of the certification period.

(a) If a household incurs a one-time only medical expense and makes arrangements with the provider to pay in monthly installments (beyond the current certification period), the expense may be allowed each month as arranged.

(b) A household reporting a one-time only medical expense during the certification period may choose to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. Averaging would begin the month the change becomes effective.

(c) If a household is billed for and reports an expense during the last month of the certification period, the deduction may not be allowed unless it will be paid in installments during the following certification period. The deduction will be allowed during the appropriate number of months in the following certification period.

F. Expenses billed less often than monthly: Households may choose to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. Averaging may be used even if the bill is received before the certification period. Averaging is governed by the scheduling of the bill or the period the expense is intended to cover.

G. Fluctuating medical expenses: Fluctuating medical expenses will be allowed as deductions if regularly recurring, reasonably anticipated, and verified. Medical expenses will not be calculated by averaging past months' medical expenses. Past expenses are used only as an indicator of what can reasonably be anticipated.

H. Dependent care: Dependent care expenses paid on a weekly or biweekly basis will be averaged if a household has chosen to average income. Conversion procedures will be used if a household is billed on a weekly or biweekly basis.

[8.139.500.11 NMAC - Rp 8.139.500.11 NMAC, 7/16/2024]

#### **8.139.500.12 ESTABLISHING CERTIFICATION PERIODS:**

A. The caseworker shall establish a definite period of time within which a household is eligible to receive benefits.

B. Entitlement to SNAP benefits ends at the expiration of the household's certification period. Continued eligibility is determined only when an application has been filed, an interview held, and all verification provided.

C. Under no circumstances shall benefits be continued beyond the end of a certification period without a redetermination of eligibility.

D. A household shall be provided with an expiration notice before or at the beginning of the last month of a certification period.

E. If a household is determined eligible for the initial month but ineligible the following month, it shall be certified for one month only. Conversely, a household may be ineligible for the month of application but eligible for the following month(s). If the household is denied for the month of application, it does not need to file a new application for the following month.

F. Conformity with calendar month: Certification periods shall conform to calendar months. At the initial application, the first month in the certification period is the month of application, even if the household's eligibility is not determined until a later month.

**G.** Length of certification period: All households will be assigned to simplified reporting and shall be assigned a certification period in accordance with Subsection A of 8.139.120.9 NMAC. Households shall be assigned the longest certification period possible based on the stability of the household's circumstances. A certification period cannot exceed 12 months, except for households in which all adult members in the household are elderly or disabled. Households in which all members are elderly or disabled will be assigned a 24-month certification period. At least one contact with each certified household shall be made every 12 months.

**H.** Shortening the certification period:

(1) The caseworker may not end a household's certification period earlier than its assigned termination date, unless the caseworker receives information that the household has become ineligible, or the household has not taken action to clarify or provide verification of a change in household circumstances for which the caseworker has requested verification.

(2) Loss of cash assistance or a change in employment status is not sufficient to meet the criteria necessary for shortening a certification period.

**I.** Lengthening the certification period: The caseworker may lengthen a household's current certification period once it is established, as long as the total months of the certification period do not exceed 24 months for households in which all adult members are elderly or disabled, or 12 months for other households. If the caseworker extends the household's certification period, the caseworker shall issue written notice advising the household of the new certification end date.

[8.139.500.12 NMAC - Rp 8.139.500.12 NMAC, 7/16/2024]

#### **HISTORY OF 8.139.500 NMAC:**

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

ISD 421.0000, Application Processing, 7/31/1980.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 10/13/1983.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 4/24/1984.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 8/3/1984.

ISD-Rule 441.0000, Food Assistance - Actions Subsequent to Determine Eligibility, 11/5/1982.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 2/9/1983.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 9/8/1983.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 10/13/1983.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 4/24/1984.

ISD-Rule 442.0000, Food Assistance - Transfer of Households, 11/4/1982.

ISD-Rule 442.0000, Food Assistance - Transfer of Households, 9/8/1983.

ISD 424.0000, Recertification, 7/28/1980.

ISD-443.0000, Food Assistance - Recertification, 11/4/1982.

ISD-443.0000, Food Assistance - Recertification, 9/8/1983.

ISD-443.0000, Food Assistance - Recertification, 10/13/1983.

ISD-443.0000, Food Assistance - Recertification, 1/12/1984.

ISD FS 510, Food Stamp Reporting and Recertification, 3/2/1988.

**History of Repealed Material:** 8.139.500 NMAC - Financial Eligibility - Need Determination (filed 4/26/2001), Repealed effective 7/16/2024.

**Other:** 8.139.500 NMAC - Financial Eligibility - Need Determination (filed 4/26/2001), Replaced by 8.139.500 NMAC - Financial Eligibility - Need Determination, effective 7/16/2024.