



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

I. DEPARTMENT

NEW MEXICO HEALTH CARE AUTHORITY

II. SUBJECT

8.139.410 SOCIAL SERVICES- FOOD STAMP PROGRAM- GENERAL RECIPIENT
REQUIREMENTS - NONFINANCIAL ELIGIBILITY CRITERIA

III. PROGRAM AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM-(SNAP)

IV. ACTION

TEMPORARY EMERGENCY AMENDMENTS

V. BACKGROUND SUMMARY

The Health Care Authority (HCA) Income Support Division (ISD) is implementing a temporary emergency rule to be effective January 1, 2026, this does not permanently amend or repeal the existing rule and will only remain in effect until this permanent rule takes effect under the normal rule making process.

These temporary amendments are required as a result of House of Representatives Bill 1 (H.R. 1), which was signed into law by President Donald J. Trump on July 4, 2025. Section 10102 of H.R. 1 modifies Supplemental Nutrition Assistance Program (SNAP) work requirements for able-bodied adults, and Section 10108 modifies SNAP eligibility for non-citizens.

Under H.R. 1, the federal requirements were to be implemented no later than November 1, 2025. However, the Authority did not receive formal notification and detailed federal guidance from the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS):

- Section 10102 on October 3, 2025 [SNAP Provisions of the One Big Beautiful Bill Act of 2025: ABAWD Waivers - Implementation Memorandum | Food and Nutrition Service](#)
- Section 10108 on October 30, 2025 [Supplemental Nutrition Assistance Program \(SNAP\) Implementation of the One Big Beautiful Bill Act of 2025 – Alien SNAP Eligibility | Food and Nutrition Service](#).

These changes became effective upon enactment. Due to the untimely receipt of federal guidance, the Authority was unable to meet the November 1, 2025, implementation date, and the earliest feasible implementation date is January 1, 2026.

Because the Authority does not have sufficient time to complete the regular rulemaking process while meeting the new implementation timeline, an emergency rule is being filed to ensure federal compliance.

Accordingly, the ISD is implementing a temporary emergency rule, effective January 1, 2026, to the following section of the New Mexico Administrative Code (NMAC): 8.139.410.

Section 9:

Amended section to align with section 10108 of H.R.1 by:

“Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below. The department will determine eligibility for non-citizens. No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:

A. a resident of the United States; and

B. One of the following:

(1) a citizen or national of the United States; or

(2) an individual who lawfully resides in the United States in accordance with Compacts of Free Association (COFA) citizens referred to in section 402(b)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; or

(3) a non-citizen who has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96– 422); or

(4) a non-citizen lawfully admitted for permanent residence (LPR) as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act, excluding, among others, visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country must meet one of the following requirements:

(a) Have resided in the United States with a qualified alien status for a period of 5 years or more beginning on the date of their entry into the United States; or

(b) Exempt from the five-year waiting period by meeting one of the following below:

(i) under 18 years of age; or

(ii) individual with 40 qualifying quarters; or

(iii) lawfully residing in the U.S. and 65 or older on August 22, 1996; or

(iv) individuals with a military connection including veterans, active-duty personnel, and their spouses and dependents, the spouse or unmarried dependent child of an individual; or

(v) Hmong or Highland Laotian tribal members; or

(vi) blind or disabled; or

(vii) Certain American Indian born abroad; or

(viii) a non-citizen is admitted as a refugee under section 207 of INA; or

(ix) a non-citizen is granted asylum under section 208 INA; or

(x) a non-citizen’s deportation is withheld under section 243(h)

INA or section 241(b)(3) INA; or

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(xi) a non-citizen is admitted to the United States as an Amerasian;
or

(xii) a non-citizen is admitted to the United States as an Iraqi or Afghan special immigrant (SIV-Special Immigrant Visa); or

(xiii) a non-citizen is a victim of human trafficking; or

(xiv) a non-citizen is admitted as an Afghan or Ukrainian parolee.

C. Verification of immigrant status is determined in accordance with 7 CFR 273.2(f) and reasonable opportunity is provided pursuant to 7 CFR 273.2(f)(1)(c).

D. Reporting undocumented aliens:

(1) HCA shall inform the local DHS office only when an official determination is made that any individual who is applying for or receives benefits is present in the U.S. in violation of the INA. An official determination that an undocumented immigrant is in the U.S. in violation of the INA is only made when:

(a) the undocumented alien's unlawful presence is a finding of fact or conclusion of law that is made by HCA as part of a formal determination about the individual's eligibility; and

(b) HCA finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.

(2) A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.

(3) Undocumented immigrant status is considered reported when ISD enters the information about the non-citizen into the household's computer file.

(4) When a household indicates inability or unwillingness to provide documentation of immigrant status for any household member, HCA must classify that member as an ineligible immigrant. When a person indicates inability or unwillingness to provide documentation of immigrant status, HCA must classify that person as an ineligible immigrant. In such cases HCA must not continue efforts to obtain that documentation."

Section 14:

- Updating subsection A. by:
 - Adding language "are ages 18-64" to clarify the applicable age range
 - Removing the table with "age limit" and "date ends".
- Updating subsection D. by:
 - Adding "Upon approval from Food and Nutrition Service (FNS), ISD will waive the three-month time limit requirement for the following individuals in accordance with 7 CFR 273.24(f)"
 - Removing language in "(1)" and "(2)".
- Updating subsection F. by:
 - Removing the following individuals "(3) homeless, (4) Veterans, (5) 24 years or younger".
 - Adding the following language:
 - "The time limit does not apply to an individual if he or she is:
 - "The time limit does not apply to an individual if he or she is:
 - (1) Under 18 or 65 years of age or older;
 - (2) (c) applying for or receiving disability benefits such as Supplemental Security Income (SSI) or General Assistance (GA) Disability.

- (3) Carrying for a child under the age of 14;
- (4) otherwise exempt from the SNAP general work rules under 7 U.S.C. 2015(d)(2) which includes a person who is:
 - (a) currently subject to and complying with a work registration requirement under title IV of the Social Security Act or the Federal-State unemployment compensation system;
 - (b) a student enrolled at least half time in any recognized school, training program, or institution of higher education unless ineligible ;
 - (c) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program;
 - (d) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or
 - (e) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis
- (5) Indians, also referred to as Native Americans, Alaska Natives, Indigenous Peoples, and Tribal Members:
 - (a) an “Indian” as defined in 25 U.S.C 1603 (13)
 - (b) an “Urban Indian” as defined in 25 U.S.C 1603 (18)
 - (c) an “California Indian” as defined in 25 U.S.C 1679 (a)
- (6) a pregnant woman
- (5) otherwise exempt from the SNAP General Work Requirements in accordance with 8.139.410.12 NMAC.
- Adding the following language to subsection G: “discretionary”

VI. CONCISE EXPLANATORY STATEMENT

Regulations issued pursuant to the act are contained in 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 Authority promulgated these emergency rules making them effective January 1, 2026, to be in compliance with Federal law. The emergency rulemaking process is necessary to avoid placing HCA in continued 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 final register and rules may be requested by contacting HCA Office of the Secretary at (505) 827-7750.

VIII. PUBLICATION DATE

December 23, 2025

IX. EFFECTIVE DATE

January 1, 2026

X. PUBLICATION

Publication of this rule is approved by:

DocuSigned by:

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KARI ARMIJO, SECRETARY
NEW MEXICO HEALTH CARE AUTHORITY

This is an amendment to 8.139.410 NMAC, Section 9 and 14 effective 1/1/2026.

8.139.410.9 CITIZENSHIP AND IMMIGRATION STATUS FOR ELIGIBILITY: Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below. The department will determine eligibility for non-citizens. ~~[in accordance with 7 CFR 273.2 and 7 CFR 273.4.]~~ No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:

- ~~A.~~ A U.S. citizen;
- ~~B.~~ A U.S. non-citizen national;
- ~~C.~~ An individual who is:
 - ~~(1)~~ a member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; (including a spouse, surviving spouse, or child of tribe member) who are lawfully present in the U.S.;
 - ~~(2)~~ an American Indian born in Canada who possesses at least fifty percent of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act apply; or a member of an Indian tribe as defined at section 4(e) of 25 U.S.C. 450b(e) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians; or
 - ~~(3)~~ a victim of human trafficking and their derivative beneficiaries, in accordance with 7 CFR 273.4(a)(5); or
- ~~D.~~ A qualified immigrant meeting the criteria in Subsection D, Paragraph (2) below:
 - ~~(1)~~ A qualified immigrant is a:
 - ~~(a)~~ lawful permanent resident;
 - ~~(b)~~ refugee;
 - ~~(c)~~ asylee;
 - ~~(d)~~ person granted withholding of deportation or removal;
 - ~~(e)~~ conditional entrants, (in effect prior to April 1, 1980);
 - ~~(f)~~ person paroled into the U.S. for at least one year;
 - ~~(g)~~ Cuban/Haitian entrants;
 - ~~(h)~~ battered spouses and children with a pending or approved self petition for an immigrant visa and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same), or battered spouses and children with an application for cancellation of removal or suspension of deportation, and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same).
 - ~~(2)~~ Qualified immigrants are eligible only if they:
 - ~~(a)~~ were 65 or older and were lawfully residing in the U.S. on August 22, 1996, or
 - ~~(b)~~ are under age 18, or
 - ~~(c)~~ have been in "qualified" immigrant status for at least five years, or
 - ~~(d)~~ are lawful permanent residents who have worked or can be credited with 40 qualifying quarters of employment, or
 - ~~(e)~~ were granted refugee or asylum status or withholding of deportation/removal; or
 - ~~(f)~~ are a Cuban/Haitian entrant, or Amerasian immigrant, or
 - ~~(g)~~ are receiving blindness or disability-related assistance or
 - ~~(h)~~ are a veteran, active duty military; or the spouse, or the surviving spouse who has not married, or the child.
 - ~~(i)~~ are in Iraqi or Afghan special immigrant status.
- ~~E.~~ Lawfully present and exempt from five-year bar: Effective December 27, 2020, per section 208 of the Consolidated Appropriations Act, 2021 individuals who are considered compact of free association migrants (COFA) are also referred to as compact citizens. COFA is an agreement between the United States and the three Pacific Island sovereign states of federated states of Micronesia, the republic of the Marshall Islands, and the republic of Palau known as freely associated states.]
 - ~~A.~~ a resident of the United States; and
 - ~~B.~~ one of the following:
 - ~~(1)~~ a citizen or national of the United States; or
 - ~~(2)~~ an individual who lawfully resides in the United States in accordance with Compacts of Free Association (COFA) citizens referred to in section 402(b)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; or
 - ~~(3)~~ a non-citizen who has been granted the status of Cuban and Haitian entrant, as defined

in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96– 422); or

(4) a non-citizen lawfully admitted for permanent residence (LPR) as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act, excluding, among others, visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country must meet one of the following requirements:

(a) Have resided in the United States with a qualified alien status for a period of 5 years or more beginning on the date of their entry into the United States;

(b) Exempt from the five-year waiting period by meeting one of the following below:

(i) under 18 years of age; or

(ii) individual with 40 qualifying quarters; or

(iii) lawfully residing in the U.S. and 65 or older on August 22, 1996; or

(iv) individuals with a military connection including veterans, active duty personnel, and their spouses and dependents the spouse or unmarried dependent child of an individual; or

(v) Hmong or Highland Laotian tribal members; or

(vi) blind or disabled; or

(vii) Certain American Indian born abroad; or

(viii) a non-citizen admitted as a refugee under section 207 of INA; or

(ix) a non-citizen granted asylum under section 208 INA; or

(x) a non-citizen's deportation is withheld under section 243(h) INA or section 241(b)(3)NA; or

(xi) a non-citizen admitted to the United States as an Amerasian; or

(xii) a non-citizen admitted to the United States as an Iraqi or Afghan

special immigrant (SIV-Special Immigrant Visa); or

(xiii) a non-citizen is a victim of human trafficking; or

(xiv) a non-citizen admitted as an Afghan or Ukrainian parolee.

C. Verification of immigrant status is determined in accordance with 7 CFR 273.2(f) and reasonable opportunity is provided pursuant to 7 CFR 273.2(f)(1)(c).

D. Reporting undocumented aliens:

(1) [HSD]HCA shall inform the local DHS office only when an official determination is made that any individual who is applying for or receives benefits is present in the U.S. in violation of the INA. An official determination that an undocumented immigrant is in the U.S. in violation of the INA is only made when:

(a) the undocumented alien's unlawful presence is a finding of fact or conclusion of law that is made by [HSD]HCA as part of a formal determination about the individual's eligibility; and

(b) [HSD]HCA finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.

(2) A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.

(3) Undocumented immigrant status is considered reported when ISD enters the information about the non-citizen into the household's computer file.

(4) When a household indicates inability or unwillingness to provide documentation of immigrant status for any household member, [HSD]HCA must classify that member as an ineligible immigrant. When a person indicates inability or unwillingness to provide documentation of immigrant status, [HSD]HCA must classify that person as an ineligible immigrant. In such cases [HSD]HCA must not continue efforts to obtain that documentation.

[8.139.410.9 NMAC - Rp, 8.139.410.9 NMAC, 11/1/2023; A, 6/1/2025; E/A, 1/1/2026]

8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS: ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents ("ABAWD") program. The program is mandatory at all times unless there is a federally approved waiver in place in accordance with 7 CFR 273.24(f). A statewide, county or other geographic waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the

three-month time limit requirement. When a statewide, county, or other regional waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide, county, or other regional waiver. ISD will use a fixed 36-month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three-year period.

A. The age limit standards for individuals who are subject to the ABAWD work requirement are ages 18-64.

<u>Age Limit</u>	<u>Date ends</u>
18-49	September 5th 2023
18-50	September 30th 2023
18-52	September 30th 2024
18-54	September 30th 2025

B. Able bodied adults can comply by: working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:

- (1) work in exchange for money;
- (2) work in exchange for goods or services ("in kind" work); or
- (3) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person's job skills, or involves volunteer time and effort to a not-for-profit organization.

C. Good cause: As determined by ISD, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

D. Waived from the time limit requirements: Upon approval from United States Department of Agriculture (USDA) Food and Nutrition Service (FNS), ISD will waive the three month time limit requirement for the following individuals in accordance with 7 CFR 273.24(f): ~~(1) any individual residing in or relocating to a county that has an unemployment rate [twenty] over ten percent above the national average as defined by ISD;~~

~~(2) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD.]~~

E. Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

F. Exceptions to the three month time limit: The time limit does not apply to an individual if he or she is:

~~[(1) Exceptions to the three month time limit required participation are found at 7 CFR 273.24(e).]~~

~~(1) Under 18 or 65 years of age or older;~~
~~(2) Physically or mentally unfit for the three-month time limit requirements exception which is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.~~

~~(a) unfitness can be obvious to ISD and documented in the case file; or~~
~~(b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.~~

~~(c) applying for or receiving disability benefits such as Supplemental Security Income (SSI) or General Assistance (GA) Disability.~~

~~[(3) Individuals who are homeless as outlined at Subsection A of 8.139.100.7 NMAC.~~

~~(4) Individuals who are Veterans.~~

~~(5) Individuals 24 years of age or younger who were in foster care under the responsibility of the state through the maximum age permitted by the state.]~~

~~(3) a parent or other member of a household with responsibility for a dependent child under~~

the age of 14 or an incapacitated person;

(4) otherwise exempt from the SNAP general work rules under 7 U.S.C. 2015(d)(2) which includes a person who is:

(a) currently subject to and complying with a work registration requirement under title IV of the Social Security Act or the Federal-State unemployment compensation system;

(b) a student enrolled at least half time in any recognized school, training program, or institution of higher education unless ineligible ;

(c) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program;

(d) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or

(e) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis.

(5) Indians, also referred to as Native Americans, Alaska Natives, Indigenous Peoples, and Tribal Members:

(a) an "Indian" as defined in 25 U.S.C 1603 (13)

(b) an "Urban Indian" as defined in 25 U.S.C 1603 (18)

(c) an "California Indian" as defined in 25 U.S.C 1679 (a)

(6) a pregnant woman.

G. ISD will administer the eight percent discretionary exemptions, as allowed by ~~the food and nutrition service~~ FNS and as determined by ISD, in accordance with 7 CFR 273.24(g).

[8.139.410.13 NMAC - Rp, 8.139.410.13 NMAC, 11/1/2023; E/A, 1/1/2026]

HISTORY OF 8.139.410 NMAC:

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

ISD 430.0000, Certification of Eligible Households, 8/8/1980.

ISD-Rule 422.0000, Food Assistance - Residency, 11/4/1982.

ISD-Rule 422.0000, Residency, 2/9/1983.

ISD-Rule 422.0000, Residency, 8/13/1986.

ISD-Rule 423.0000, Food Assistance - Social Security Enumeration, 11/4/1982.

ISD-Rule 423.0000, Social Security Enumeration, 2/4/1983.

ISD-Rule 423.0000, Social Security Enumeration, 4/7/1983.

ISD-Rule 423.0000, Social Security Enumeration, 5/3/1984.

ISD Rule 423.0000, Food Assistance - Social Security Enumeration, 7/22/1987.

ISD-Rule 426.0000, Food Assistance - Citizenship and Alien Status, 11/4/1982.

ISD-Rule 426.0000, Citizenship and Alien Status, 2/11/1983.

ISD-Rule 426.0000, Citizenship and Alien Status, 4/2/1983.

ISD FS 310, Food Stamp Nonfinancial Eligibility Criteria, 2/29/1988.

History of Repealed Material:

8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law filed 6/10/1998 repealed effective 11/1/2023.

Other: 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law filed 6/10/1998 Replaced 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law effective 11/1/2023.

TITLE 8 SOCIAL SERVICES
CHAPTER 139 FOOD STAMP PROGRAM
PART 410 GENERAL RECIPIENT REQUIREMENTS - NONFINANCIAL ELIGIBILITY
CRITERIA

8.139.410.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.139.410.1 NMAC - Rp, 8.139.410.1 NMAC, 11/1/2023; A, 7/1/2024]

8.139.410.2 SCOPE: General public.
[8.139.410.2 NMAC - Rp, 8.139.410.2 NMAC, 11/1/2023]

8.139.410.3 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 (HCA), 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 HCA as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.139.410.3 NMAC - Rp, 8.139.410.3 NMAC, 11/1/2023; A, 7/1/2024]

8.139.410.4 DURATION: Permanent.
[8.139.410.4 NMAC - Rp, 8.139.410.4 NMAC, 11/1/2023]

8.139.410.5 EFFECTIVE DATE: November 1, 2023, unless a later date is cited at the end of a section.
[8.139.410.5 NMAC - Rp, 8.139.410.5 NMAC, 11/1/2023]

8.139.410.6 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 human services department.
[8.139.410.6 NMAC - Rp, 8.139.410.6 NMAC, 11/1/2023]

8.139.410.7 DEFINITIONS: [RESERVED]

8.139.410.8 ENUMERATION (SOCIAL SECURITY NUMBER):

A. Requirement: The social security number is required for every individual who receives food stamp benefits. Providing the social security number of a household member is voluntary. However, failure to provide the social security number shall result in the denial of food stamp benefits to the household member.

(1) A household participating in the food stamp program (FSP) must provide the social security number of each household member before certification. An actual social security card is not mandatory to fulfill the verification requirement.

(2) If an individual has more than one number, all numbers must be provided.

(3) If an individual does not have a social security number, or if the household does not know if an individual member has a social security number, the household must apply for a social security number for the individual(s) before certification.

(4) A caseworker shall inform the household where to apply and what information is needed, and shall advise the household that proof of application from the social security administration (SSA) office for a social security number is required before certification.

(5) The caseworker shall explain to applicants and participants that refusal or failure to comply, without good cause, shall result in disqualification of the individual household member for whom a social security number has not been provided or obtained.

(6) For a newborn, the household must provide a social security number or proof of application for a social security number at the next recertification or within six months, whichever is later.

B. Validation of social security number:

(1) The caseworker shall record, in the case file and the computer file, the social security number of each household member at certification, recertification, or at any contact with the household. The social security number is validated by the SSA on a periodic basis.

(2) Immediate validation of an individual's social security number is not required for participation in the FSP. Household certification or issuance of food stamp benefits shall not be delayed solely to validate the social security number of a household member.

(3) When a social security number has been validated by the SSA, the caseworker shall make a permanent annotation on the client case file to prevent validation of the social security number in the future.

(4) The caseworker shall offer to:

(a) complete, or help the applicant complete, an application for a social security number, form SS-5.

(b) verify identity, age, and citizenship or alien status, as required by SSA;

(c) forward the SS-5 application to the SSA.

C. Disqualification from food stamps: If a caseworker determines that the household has refused or failed to provide or apply for a social security number without good cause, the individual who does not have a social security number shall be ineligible to participate in the FSP.

(1) **Refusal to comply:** Refusal to provide or apply for a social security number shall result in the disqualification of the individual for whom a social security number is required. Any remaining household members are eligible to participate in the FSP.

(2) **Failure to comply:** Individuals who fail, without good cause, to meet the enumeration requirement within the required time period are ineligible. The disqualification applies to an individual(s), not to an entire household. An individual becomes eligible to participate, and the disqualification ends, when the social security number is provided.

(3) **Determining good cause:** If a household can show good cause why an application has not been completed in a timely manner, the household member without a social security number shall be allowed to participate for one month in addition to the application month. To determine good cause, information from the household member, the social security administration, and HCA records shall be considered. Documentary evidence or collateral information (8.139.100.7 NMAC definitions) that the member has applied for a social security number or has made every effort to provide the social security administration with the information needed to complete an application is considered good cause for not complying timely with this requirement. If a household member applying for a social security number is unable to obtain the documents required by the social security administration, the caseworker shall make every effort to help the household get these documents.

(a) If a household can show good cause why an application for a social security number has not been made in a timely manner, the household member concerned shall be allowed to continue to participate each month that good cause exists.

(b) Good cause does not include delays caused by illness, lack of transportation, or temporary absence, since the SSA provides for the application process to be conducted entirely by mail. A personal interview is not required except for persons age 18 or over who must apply for an original social security number at a local SSA office.

(4) **Participation pending notification:** When an application for a social security number has been filed, as verified by a receipt of application for a social security number from the social security administration (SSA), an individual shall be permitted to participate in the food stamp program, pending notification by the SSA of the household member's social security number.

(5) **Subsequent actions:** If the social security number is not verified at recertification for a number already provided or has not been computer-verified in the interim, the caseworker shall disqualify the individual for noncompliance with the enumeration requirement. The caseworker shall have offered to help the individual complete an application for a duplicate social security number. Any household member disqualified for noncompliance with the enumeration requirement becomes eligible upon providing verification of a valid social security number.

D. Resources and income: The resources of a disqualified individual count in their entirety. A pro rata share of the disqualified individual's income shall be considered available to the remaining household members.

E. Use of social security number: HCA is authorized to use social security numbers in the administration of the food stamp program. To the extent determined necessary, HCA may access computer information regarding individual applicants and participants who receive benefits or services under Title XVI of the Social Security Act. The social security number shall be used to prevent duplicate participation, to facilitate mass

changes in federal benefits, and to request and exchange information on individuals through the IEVS and SAVE computer match programs, and the department of labor.
[8.139.410.8 NMAC - Rp, 8.139.410.8 NMAC, 11/1/2023; E/A, 1/1/2026]

8.139.410.9 CITIZENSHIP AND IMMIGRATION STATUS FOR ELIGIBILITY:

Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below. The department will determine eligibility for non-citizens. No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:

A. a resident of the United States; and

B. One of the following:

(1) a citizen or national of the United States; or

(2) an individual who lawfully resides in the United States in accordance with Compacts of Free Association (COFA) citizens referred to in section 402(b)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; or

(3) a non-citizen who has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96– 422); or

(4) a non-citizen lawfully admitted for permanent residence (LPR) as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act, excluding, among others, visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country must meet one of the following requirements:

(a) Eligible after a 5-year waiting period; or

(b) Exempt from the five-year waiting period by meeting one of the following

below:

(i) under 18 years of age; or

(ii) individual with 40 qualifying quarters; or

(iii) lawfully residing in the U.S. and 65 or older on August 22, 1996; or

(iv) individuals with a military connection including veterans, active-duty

personnel, and their spouses and dependents, the spouse or unmarried dependent; or

(v) Hmong or Highland Laotian tribal members; or

(vi) blind or disabled; or

(vii) Certain American Indian born abroad; or

(viii) a non-citizen is admitted as a refugee under section 207 of INA; or

(ix) a non-citizen is granted asylum under section 208 INA; or

(x) a non-citizen's deportation is withheld under section 243(h) INA or section 241(b)(3) INA; or

(xi) a non-citizen is admitted to the United States as an Amerasian; or

(xii) a non-citizen is admitted to the United States as an Iraqi or Afghan special immigrant (SIV-Special Immigrant Visa); or

(xiii) a non-citizen is a victim of human trafficking; or

(xiv) a non-citizen is admitted as an Afghan or Ukrainian parolee.

C. Verification of immigrant status is determined in accordance with 7 CFR 273.2(f) and reasonable opportunity is provided pursuant to 7 CFR 273.2(f)(1)(c).

D. Reporting undocumented aliens:

(1) HCA shall inform the local DHS office only when an official determination is made that any individual who is applying for or receives benefits is present in the U.S. in violation of the INA. An official determination that an undocumented immigrant is in the U.S. in violation of the INA is only made when:

(a) the undocumented alien's unlawful presence is a finding of fact or conclusion of law that is made by HCA as part of a formal determination about the individual's eligibility; and

(b) HCA finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.

(2) A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.

(3) Undocumented immigrant status is considered reported when ISD enters the information about the non-citizen into the household's computer file.

(4) When a household indicates inability or unwillingness to provide documentation of immigrant status for any household member, HCA must classify that member as an ineligible immigrant. When a person indicates inability or unwillingness to provide documentation of immigrant status, HCA must classify that person as an ineligible immigrant. In such cases HCA must not continue efforts to obtain that documentation. [8.139.410.9 NMAC - Rp, 8.139.410.9 NMAC, 11/1/2023; A, 6/1/2025; E/A, 1/1/2026]

8.139.410.10 RESIDENCE

A. Households may be an active member in only one SNAP household in any month, with the exception of residents of a domestic violence shelter.

B. Domestic violence shelter: Any individual who is a resident of a domestic violence shelter may participate as a member in more than one SNAP household simultaneously, provided that the shelter resident(s) left a household which contained the abusive individual.

C. Residence duration: No residence duration requirement will be imposed on any household.

D. Fixed residence or mailing address: An otherwise eligible household is not required to live in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

E. Intent to reside: An intention to reside permanently in New Mexico is not required as a condition for participation in SNAP. However, a specific temporary purpose, such as vacationing in New Mexico, does not satisfy the residence requirement.

F. Verification of residency: Verification of residence should, whenever possible, be made in conjunction with the verification of other information. This can be done through such documents as rent receipts, mortgage bills, utility expenses, or identification papers which show the name and address of the applicant. Collateral contacts or other documentary evidence can be accepted to verify residence. Any document or collateral contact which reasonably establishes the household's residence must be accepted. No requirement for a specific type of verification may be imposed.

G. Lack of verification in unusual cases: The residence requirement will be verified, except in unusual circumstances, such as homeless households, some migrant farmworker households, where verification of residence cannot reasonably be accomplished.

[8.139.410.10 NMAC - Rp, 8.139.410.10 NMAC, 11/1/2023]

8.139.410.11 NONCONCURRENT RECEIPT OF ASSISTANCE (DUAL PARTICIPATION)

A. In no event may an individual receive food stamp benefits in more than one household in the state of New Mexico in the same month, with the exception of women and children in battered women's shelters (Subsection B of 8.139.410.10 NMAC). In addition, an individual may not receive food stamp benefits in the state of New Mexico and any other state, or the territories of Guam, the Virgin Islands, or Puerto Rico, in the same month. An individual or household participating in a commodity distribution program administered by any Indian tribal organization (ITO) on an Indian reservation is not eligible to receive food stamp benefits in the same month that commodities are received. A household need not be living on the Indian reservation to participate in an Indian tribal commodities program. If an ISS determines that an individual or household has received food stamp benefits to which it was not entitled because of dual participation, a claim will be filed for any month in which there was an over-issuance of food stamp benefits.

B. Disqualification for receipt of multiple benefits: A finding that an individual has received multiple food stamp benefits simultaneously as a result of an administrative disqualification hearing and IPV, or a conviction in federal or state court, will result in a ten year disqualification period. The income and resources of the disqualified individual will continue to count in their entirety to the household while the individual remains in the home.

[8.139.410.11 NMAC - Rp, 8.139.410.11 NMAC, 11/1/2023]

8.139.410.12 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) GENERAL WORK REQUIREMENTS: Any SNAP recipient may be subject to general work requirements. SNAP recipients who do not meet a federal exemption must meet the general work requirements in accordance with Subsection C of this section. Federal exemptions from general work requirements are found at 7 Code of Federal Regulation (CFR) 273.7(a)(6) and (b).

A. General Work requirements: ISD will administer the general work requirements in accordance with 7 CFR 273.7. As a condition of eligibility for participation in SNAP, every household member who does not

qualify for a federal exemption, must meet general work requirements as outlined in Subsection C of this section.

B. General work requirement exemptions: Federal exemptions from general work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be:

- (1) obvious to ISD and documented in the case file; or
- (2) not obvious to ISD, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

C. Compliance with general work requirements: An individual who is not temporarily waived or exempt in accordance with 7 CFR 273.7(a)(6) and (b) must:

- (1) register for work at the time of application and every 12 months thereafter; all SNAP participants are considered registered for work with the head of household's signature on an application or recertification form for SNAP participation;
- (2) participate in an E&T program to the extent required by law;
- (3) participate in a workfare program if assigned by the department;
- (4) provide ISD or E&T program service provider with information regarding employment status, participation in E&T program status, or availability for work;
- (5) report to an employer referred to by ISD or its designee if the potential employment meets the suitability requirements in accordance with 7 CFR 273.7(h);
- (6) accept a bona fide offer of suitable employment at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the federal or state minimum wage or eighty percent of the wage that would have governed had the minimum hourly rate of the Fair Labor Standards Act been applicable to the offer of employment; and
- (7) not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week within the 30 day period prior to the household's application date, or any time after filing an application, or any time during the household's certification period in accordance with 7 CFR 273.7(a)(vii).

D. Failure to comply with SNAP general work requirements: An individual who is not exempt who refuses or fails without good cause, to comply with the SNAP general work requirements is ineligible to participate in SNAP, and will be considered an ineligible household member, in accordance with 7 CFR 273.1(b)(7). Prior to placing a disqualification for noncompliance with the work requirements, good cause will be determined in accordance with 7 CFR 273.7(i). When determining whether or not good cause applies to voluntary quit, voluntary quit will be evaluated up to the 30 day period prior to applying for SNAP benefits and at any time thereafter. Within 10 calendar days of establishing that the noncompliance was without good cause, ISD must provide the individual with a notice of adverse action, as specified in 7 CFR 273.13. A participant who corrects the failure of compliance during the notice of adverse action 13-day time period shall not have the disqualification imposed against the household member.

- (1) Consequences of non-compliance with work requirements will be in accordance with 7 CFR 273.7(f).
 - (a) For the first occurrence of noncompliance, the individual will be disqualified for three months;
 - (b) For the second occurrence of noncompliance, the individual will be disqualified for six months; and
 - (c) For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months.

(2) **Treatment of income and resources:** All the income and resources of an individual disqualified for non-compliance with general work requirements will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520 NMAC.

(3) Households shall not be considered categorically eligible if any benefit group member is disqualified for failure to comply with general work requirements in accordance with 8.139.420.8 NMAC.

E. Fair hearings: Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status or a state agency determination of failure to comply with SNAP work requirements, in accordance with 7 CFR 273.7(f)(6). [8.139.410.12 NMAC - Rp, 8.139.410.12 NMAC, 11/1/2023]

8.139.410.13 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) EMPLOYMENT AND TRAINING PROGRAM (E&T): ISD will administer the E&T program requirements in accordance with 7 CFR 273.7(e). SNAP participants may choose to voluntarily participate in any of the E&T services available. Volunteers can participate to the extent that they wish and will not be subject to any E&T disqualification. Participants who incur expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by ISD, in accordance with 7 CFR 273.7(d)(4). [8.139.410.13 NMAC - Rp, 8.139.410.13 NMAC, 11/1/2023]

8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS: ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents (“ABAWD”) program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36 month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three year period.

A. The age limit standards for individuals who are subject to the ABAWD work requirement are ages 18-64.

B. Able bodied adults can comply by: working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:

- (1) work in exchange for money;
- (2) work in exchange for goods or services (“in kind” work); or
- (3) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person’s job skills, or involves volunteer time and effort to a not-for-profit organization.

C. Good cause: As determined by ISD, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

D. Waived from the time limit requirements: Upon approval from Food and Nutrition Service (FNS), ISD will waive the three month time limit in accordance with 7 CFR 273.24(f).

E. Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

F. Exceptions to the three month time limit: The time limit does not apply to an individual if he or she is:

- (1) Under 18 or 65 years of age or older;
- (2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.
 - (a) unfitness can be obvious to ISD and documented in the case file; or
 - (b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.
 - (c) applying for or receiving disability benefits such as Supplemental Security Income (SSI) or General Assistance (GA) Disability.
- (3) a parent or other member of a household with responsibility for a dependent child under the age of 14 or an incapacitated person;
- (4) otherwise exempt from the SNAP general work rules under 7 U.S.C. 2015(d)(2) which includes a person who is:
 - (a) currently subject to and complying with a work registration requirement under title IV of the Social Security Act or the Federal-State unemployment compensation system;
 - (b) a student enrolled at least half time in any recognized school, training program, or

institution of higher education unless ineligible ;

(c) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program;

(d) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or

(e) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis.

(5) Indians, also referred to as Native Americans, Alaska Natives, Indigenous Peoples, and Tribal Members:

(a) an "Indian" as defined in 25 U.S.C 1603 (13)

(b) an "Urban Indian" as defined in 25 U.S.C 1603 (18)

(c) an "California Indian" as defined in 25 U.S.C 1679 (a)

(6) a pregnant woman.

G. ISD will administer the eight percent discretionary exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g).
[8.139.410.13 NMAC - Rp, 8.139.410.13 NMAC, 11/1/2023; E/A, 1/1/2026]

HISTORY OF 8.139.410 NMAC:

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

ISD 430.0000, Certification of Eligible Households, 8/8/1980.

ISD-Rule 422.0000, Food Assistance - Residency, 11/4/1982.

ISD-Rule 422.0000, Residency, 2/9/1983.

ISD-Rule 422.0000, Residency, 8/13/1986.

ISD-Rule 423.0000, Food Assistance - Social Security Enumeration, 11/4/1982.

ISD-Rule 423.0000, Social Security Enumeration, 2/4/1983.

ISD-Rule 423.0000, Social Security Enumeration, 4/7/1983.

ISD-Rule 423.0000, Social Security Enumeration, 5/3/1984.

ISD Rule 423.0000, Food Assistance - Social Security Enumeration, 7/22/1987.

ISD-Rule 426.0000, Food Assistance - Citizenship and Alien Status, 11/4/1982.

ISD-Rule 426.0000, Citizenship and Alien Status, 2/11/1983.

ISD-Rule 426.0000, Citizenship and Alien Status, 4/2/1983.

ISD FS 310, Food Stamp Nonfinancial Eligibility Criteria, 2/29/1988.

History of Repealed Material:

8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law filed 6/10/1998 repealed effective 11/1/2023.

Other: 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law filed 6/10/1998 Replaced 8.139.410 NMAC, Food Stamp Program - Food Stamp Program/Income And Resources Excluded By Federal Law effective 11/1/2023.