



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

I. DEPARTMENT

NEW MEXICO HEALTH CARE AUTHORITY

II. SUBJECT

8.106.640 NMAC STATE FUNDED FOOD ASSISTANCE PROGRAM

III. PROGRAM AFFECTED

STATE FUNDED ASSISTANCE PROGRAM

IV. ACTION

FINAL RULE

V. BACKGROUND SUMMARY

The Health Care Authority (HCA) Income Support Division (ISD) is finalizing and adopting regulations that were proposed in Health Care Authority Register (HCAR) Vol. 49 No. 16. These programs are administered by HCA, including its authority to promulgate regulation, and are governed by Chapter 9 Article 8, NMSA 1978 (Rep. 1983).

HCA proposed to open a new section 8.106.640 NMAC, this was due to the October 2025 Special Legislative Session, where \$12 million was appropriated to provide food assistance to certain SNAP recipients affected by changes to federal law under House of Representatives 1 (H.R. 1), Section 10108 (Immigration SNAP Eligibility) that President Donald J. Trump signed into law on July 4, 2025.

This Final HCAR addresses all public comments received. A public hearing was held on August 27, 2026, there were no attendees in person or virtually. However, the Authority received written comments via email. The Authority has not made edits to the proposed regulation based on comment received.

Below are the comments with HCA's response:

Written Comment:

“Roadrunner Food Bank wishes to recognize the New Mexico state legislature for the pro-active action taken during the special sessions last year. Since the passing of HR1, also known as the OBBBA, food banks and food pantries across the state have reported dramatic increases in visits from community members while SNAP participation continues to drop. In Roadrunner's core beliefs we state: Hunger is unacceptable, everyone deserves access to enough food, we respect the dignity and equity of all. We will support any legislation that can help increase food security for people in New Mexico.”

Response:

NMHCA appreciates your comment. Thank you.

Written Comment on 8.106.640 NMAC Objective:

“The stated objective of this rule is not in line with the intent of the Legislature when it made a \$12 million appropriation to continue nutrition benefits to lawfully present residents. (1) Specifically, the Legislature directed funds to “maintain the minimum federal supplemental nutrition assistance program benefit for lawfully present residents.” (2) (emphasis added). The objective stated in this proposed rule limits this program to one-time payments for lawfully present individuals. (3) and unlawfully narrows the scope of the authorizing legislation. HCA can provide ongoing nutrition benefits to lawfully present residents so long as funds remain available. HCA includes a correct summary of its statutory authority to conduct public welfare functions, which includes creating and operating benefits programs using state funds. (4) HCA's choice to limit this program to one-time payments directly contradicts the appropriation language and legislative intent to maintain benefits. HCA's unlawful and unnecessary limitation severely limits access to nutrition assistance for eligible families in desperate need. HCA should amend the stated objective of the proposed rule, and subsequent provisions, to create an ongoing state funded nutrition benefits program for lawfully present residents excluded from federally funded SNAP.”

Response:

NMHCA appreciates your comment.

During the October 1, 2025 Special Session, the Legislature appropriated twelve million dollars (\$12,000,000) to the New Mexico Health Care Authority to maintain the Supplemental Nutrition Assistance Program (SNAP) benefit for lawfully present residents. The appropriation was made for State Fiscal Years 2026 and 2027.

The Authority received a total of \$12 million for this purpose and did not receive an ongoing or recurring appropriation for a state-funded nutrition benefits program beyond the funds appropriated for SFY 2026 and SFY 2027. Accordingly, the proposed rule establishes a one-time benefit using the funds specifically appropriated for this purpose. The Authority cannot establish an ongoing benefit beyond the amount and period for which funding has been appropriated.

Written Comment 8.106.640 NMAC Objective:

“(A) Purpose & (C) Eligibility The purpose and eligibility sections of the regulations further unnecessarily and unlawfully narrow which families can receive this benefit and will restrict access to immigrant families who should be eligible for this benefit. These sections are not aligned with the legislative intent behind the initial appropriation and add even more restrictions to those of the objective section discussed above.

Purpose: HCA’s proposed “purpose” says that the state funded nutrition benefits will be available to “lawfully present individuals who were receiving SNAP benefits and are currently ineligible solely due to [sic]7 changes in the treatment of their immigration status.”⁸ This excludes otherwise eligible lawfully present immigrants who were not receiving SNAP benefits at the time the eligibility rules changed. These individuals, who would be denied benefits if reapplying or applying for the first time, are similarly situated to the individuals who are eligible for the payments. However, these individuals who were not receiving SNAP benefits when the changes took effect would not be treated equally under the law. Moreover, the appropriation does not limit the program to only those people who previously received benefits. It directs HCA to “maintain” the availability of the “program benefit” for immigrant families, it does not say to provide the benefit only to those who were previously enrolled in the program.

The proposed purpose will exclude immigrants who would have been eligible for the payments but did not submit recertifications because they believed they were ineligible. Many immigrant communities have been flooded with information, both accurate and exaggerated, about the federal changes limiting their access to benefits. Many families would have been reasonably discouraged from taking considerable time to give personal information to a government office for benefits which they thought they would not receive. HCA should not bar households from one-time payment eligibility simply because they did not recertify or apply on time.

Eligibility: Similarly, the “eligibility” section of the proposed regulation extends this unlawful and unnecessary restriction and harms those individuals who were not receiving SNAP benefits or chose not to recertify based on a reasonable belief that they would no longer qualify.

The first of the three proposed eligibility criteria is that the recipient be a current SNAP recipient. As previously stated, HCA should not require that an eligible individual be currently receiving SNAP because to do so would unnecessarily exclude immigrants who did not previously apply for SNAP or who had not recertified but remained eligible.

The second eligibility criterion requires that a one-time payment recipient have submitted a timely recertification subsequent to the effective date of HR 1. As stated above, this would exclude eligible individuals who needed to submit new applications, and it would likewise exclude those who reasonably chose not to renew based on the belief that they no longer qualified for benefits. This limitation is not stated in the appropriation, is unnecessary, and will be harmful to immigrants in New Mexico.

The third criterion requires that an individual have lost eligibility at recertification solely due to federally imposed immigration eligibility changes. This criterion correctly identifies the core reason for the underlying program (to serve immigrant families excluded from SNAP) but the use of the terms “solely” and “recertification” impose additional unlawful and unnecessary limitations, as discussed above.

Eligibility criteria should be simplified to better serve the intended population and to streamline program administration. Accordingly, the payments should be available to any new or returning applicants and current SNAP recipients who are denied benefits if they would have qualified for SNAP based on the eligibility criteria (with the understanding that income limits would be adjusted in line with annual increases) in place prior to the July 4, 2025, amendment to 7 USC § 2015(f). An alternative or additional eligibility criterion could be that if a household failed to recertify but was otherwise eligible for the one-time payments, they may submit a new application and receive the payment if they comply with the above criteria.”

Response:

NMHCA appreciates your comment.

The \$12 million appropriation was based on the population receiving SNAP benefits that was projected to lose eligibility as a result of the federal changes to SNAP eligibility for certain lawfully present residents. The state-funded benefit was therefore designed to provide assistance to individuals who were receiving SNAP and subsequently lost eligibility due to those federal changes.

Written Comment 8.106.640 NMAC Purpose:

“In the proposed rule ‘purpose’ says the state funded nutrition benefits will be available to lawfully present individuals who were receiving SNAP benefits and are currently ineligible solely due to “due to” was duplicated.”

Response:

NMHCA appreciates your comment.

NMHCA will update and remove the duplicated language.

VI. CONCISE EXPLANATORY STATEMENT

The Authority is developing a new State Funded Assistance Food Program, that will benefit the households affected by H.R. 1. The permanent rule will be effective no later than September 23, 2026.

The rule is being developed under the following statutory authority: New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to these families.

VII. PUBLICATION DATE

September 22, 2026

VIII. EFFECTIVE DATE

September 23, 2026

IX. PUBLICATION

Publication of this rule is approved by:

DocuSigned by:

Kari Armijo

KARI ARMIJO, SECRETARY
NEW MEXICO HEALTH CARE AUTHORITY

TITLE 8 SOCIAL SERVICES
CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS
PART 640 STATE FOOD ASSISTANCE PROGRAM

8.106.640.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.106.640.1 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.2 SCOPE: This rule applies to the general public.
[8.106. 640.2 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.3 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.
[8.106.640.3 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.4 DURATION: Permanent.
[8.106.640.4 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.5 EFFECTIVE DATE: April 1, 2026 unless a later date is cited at the end of a section.
[8.106.640.5 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.6 OBJECTIVE: The objective of the New Mexico state funded food assistance program is to provide households with food assistance for those who do not qualify for supplemental nutrition assistance program (SNAP) under the Food and Nutrition Act of 2008.
[8.106.640.6 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.7 DEFINITIONS : [RESERVED]

8.106.640.8 One-time state funded food assistance payment for lawfully present individuals:

A. Purpose: provide a one-time state funded food assistance payment to lawfully present individuals who were receiving SNAP benefits and are currently ineligible solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

B. Method of payment: a one-time lump sum payment will be issued into the EBT account accessible to the participant.

C. Eligibility: Must meet the following criteria:
(a) was, or is a current SNAP recipient; and
(b) has submitted a timely recertification; and
(c) lost SNAP benefits during recertification solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

D. Benefit amount: will be determined by the authority based on legislative intent and the availability of funds.

(1) this will be a one-time lump sum payment; and
(2) will be calculated based upon a percentage of the average of the recipient's SNAP benefits issued over a six-month period; and
(3) the total amount of the funds appropriated; and
(4) the number of individuals that lost SNAP benefits during recertification solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

E. Receipt of payment under this part does not establish an entitlement to ongoing or future benefits.

F. Limitation of funds:

(1) the authority shall not issue benefits more than the amount appropriated;
(2) no benefits shall be issued once the funds are exhausted.

G. Disclosure: Use or disclosure of information from SNAP applicants and recipient households who receive this one-time state food benefit shall be restricted to:

(1) Employees of the HCA who are investigating intentional program violations, deception, or fraud by recipients of this one-time state food assistance.

(2) Local, state, or federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a federal or state law. The state agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under federal or state law. The state agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. The HCA shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph.
[8.106.640.8 NMAC - N/E, 4/1/2026; A, 09/23/2026]

8.106.640.9 NMAC: [RESERVED]

8.106.640.10 BENEFIT ISSUANCE AND DELIVERY:

A. Benefit issuance: state funded food assistance will be issued through a direct deposit into a household's EBT account. EBT cards are issued and maintained as defined at 8.139.610 NMAC.

B. Expungement: the state food assistance shall be subject to expungement in accordance with 8.139.610.8 NMAC.

C. Household use of state food assistance: the household shall only be allowed to use the food assistance for food purchases in accordance with 8.139.610.11 NMAC.

[8.106.640.10 NMAC - N/E, 4/1/2026; A, 09/23/2026]

History of 8.106.640 NMAC: 8.106.640 NMAC, State Food Assistance Program was renamed and became effective 4/1/2026.

History of repealed material:

8.106.640 NMAC, Description of Program/Benefits - Benefit Corrections, filed 7/1/2004 - Repealed effective 4/1/2014.