



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

I. DEPARTMENT

NEW MEXICO HEALTH CARE AUTHORITY

II. SUBJECT

8.119.100 NMAC-REFUGEE RESETTLEMENT PROGRAM-DEFINITIONS AND
ACRONYMS

8.119.410-REFUGEE RESETTLEMENT PROGRAM-GENERAL RECIPIENT
REQUIREMENTS

III. PROGRAM AFFECTED

REFUGEE RESETTLEMENT 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 May 1, 2025.

On March 21, 2025, a Federal Register was issued by the Department of Health and Human Services (HHS) Administration for Children and Families (ACF) Office of Refugee Resettlement (ORR): Notice of Change of Eligibility. In accordance with ORR regulations, the Director of ORR is announcing the shortening of the Refugee Cash Assistance (RCA) eligibility from 12 months to four months of assistance for participants who become eligible for ORR benefits 45 days after publication. ORR determined that it must shorten the RCA eligibility period to four months to avoid a significant budget shortfall. Due to this short timeframe of notification to the time the rule must be implemented, there is insufficient time to complete the standard rulemaking process.

Therefore, this emergency rule is necessary to ensure compliance with federal regulations. Failing to implement these changes by May 1, 2025, would result in the HCA being out of compliance with federal law. The HCA will follow standard rulemaking process after emergency rule is effective to ensure compliance with the rule making processes.

The emergency rule changes to the New Mexico Administration Code (NMAC) will be to 8.119.100 NMAC and 8.119.410 NMAC. The language will align with 45 CFR 400.211([eCFR :: 45 CFR 400.211 -- Methodology to be used to determine time-eligibility of refugees](#) and [eCFR :: 45 CFR 400.53 -- General eligibility requirements](#)).

The emergency rule will remain in effect until a permanent rule is established through the standard rulemaking process.

VI. CONCISE EXPLANATORY STATEMENT

Regulations issued pursuant to the act are contained in 45 CFR Parts 400. 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 must promulgate these emergency rules and make them effective no later than May 1, 2025, to maintain 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: [Income Support Division Registers - New Mexico Health Care Authority](#). 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

April 22, 2025

IX. EFFECTIVE DATE

May 1, 2025

X. PUBLICATION

Publication of this rule is approved by:

DocuSigned by:

1BA9EB5EAD00490
KARI ARMIJO, SECRETARY
NEW MEXICO HEALTH CARE AUTHORITY

This is an amendment to 8.119.100 NMAC, Section 7 effective 5/1/2025

8.119.100.7 DEFINITIONS:

A. Definitions beginning with “A”:

- (1) **Alien:** means an individual residing in the U.S. who does not hold U.S. citizenship.
- (2) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.
- (3) **Asylee:** means an individual who while in the U.S. is granted permanent residence under Section 208 of the Immigration and Nationality Act (INA) and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.
- (4) **Asylee applicant:** means an individual who has applied for, but not yet received, asylum in the U.S. and who is therefore ineligible for the RRP.
- (5) **Authorized representative:** means a person aged 18 years or older who is designated, in writing, by the applicant and is sufficiently knowledgeable about the applicant/benefit group’s circumstances to complete the application form correctly and represent the benefit group.

B. Definitions beginning with “B”: Benefit group: means an individual or group of individuals authorized to receive cash assistance financed by federal or state funds.

C. Definitions beginning with “C”:

- (1) **Case management services:** means the determination of appropriate service(s) to refer a refugee, referral to such services(s), and tracking of the refugee’s participation in such services(s).
- (2) **Conditional entrant:** means an individual who was admitted to the U.S. under Section 203(a)(7) of the INA.
- (3) **Cuban/Haitian entrant:** means a citizen of Cuba or Haiti who is admitted to the U.S. under section 212(d)(5) of the INA.

D. Definitions beginning with “D”:

- (1) **Date of entry:** means the date established by the department of homeland security as the date a refugee or Cuban/Haitian entrant was lawfully admitted to the U.S. for permanent residence. For asylees it means the date on which asylum was granted.
- (2) **Department:** means the human services department.
- (3) **Documentation of immigration status:** means documents issued to the individual by DHS or USCIS that identifies the individual’s lawful immigration status. The documentation provided by an individual is copied for the case file.

E. Definitions beginning with “E”:

- (1) **Earned income:** means cash or payments in-kind that are received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from direct provision of services, goods or property, production of goods, management of property or supervision of services.
- (2) **Economic self-sufficiency:** means the ability of a refugee to meet his or her basic needs without the need for cash assistance.
- (3) **Employability plan:** means an individualized written plan for a refugee, registered for employment services, that sets forth a program of services intended to achieve the earliest possible employment of the refugee.
- (4) **Employability services:** means services designed to enable an individual to attain employment and to improve the work skills of the individual.

F. Definitions beginning with “F”: Form I-94: means the white arrival/departure card issued by the department of homeland security to each alien entering the U.S. which identifies the date of entry and the immigration status granted to that person.

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”: [RESERVED]

I. Definitions beginning with “I”:

- (1) **Individualized employability plan (IEP):** means a written plan, developed by the refugee and the case manager, or the actions to be taken by an employable refugee to achieve employment and economic self-sufficiency.
- (2) **Institution of higher education:** means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment, including but not limited to colleges, universities, and vocational or technical schools at the post-high school level.

- J. Definitions beginning with “J”:** [RESERVED]
- K. Definitions beginning with “K”:** [RESERVED]
- L. Definitions beginning with “L”:**
- (1) **Local affiliate:** means a not-for-profit agency that is affiliated with a national voluntary agency (VOLAG) and has been approved by the U.S. department of state to conduct a refugee resettlement program.
 - (2) **Local resettlement agency:** means a local affiliate of a VOLAG that has entered into a grant, contract, or cooperative agreement with the U.S. department of state to provide initial reception and placement services to refugees.
 - (3) **Local sponsor:** means an individual, church, or civic organization that has agreed to assist a refugee to resettle in a specific community.
- M. Definitions beginning with “M”:**
- (1) **Match grant:** means a program sponsored by the office of refugee resettlement (ORR) that provided matching funds to voluntary agencies and local affiliates to provide cash assistance and services to refugees for no more than six months after their lawful arrival in the U.S.
 - (2) **Medicaid:** means medical assistance under Title XIX of the Social Security Act, as amended.
 - (3) **Minor unmarried parent:** means an unmarried parent, who is under the age of 18 years, or is age 18 and enrolled in high school.
- N. Definitions beginning with “N”:**
- (1) **National voluntary agency (VOLAG):** means one of the national resettlement agencies that has entered into a contract, or cooperative agreement with the U.S. department of state or other federal agency to provide for the resettlement of refugees and to oversee the work of a national network or local affiliates.
 - (2) **New Mexico works:** means the federally funded temporary assistance for needy families (TANF) program that carries a 60 month term limit for adults in the state of New Mexico and requires participation in a variety of job search and skill development activities to maintain eligibility.
- O. Definitions beginning with “O”:** [RESERVED]
- P. Definitions beginning with “P”:** **Payment:** means the amount of the cash assistance benefit.
- Q. Definitions beginning with “Q”:** [RESERVED]
- R. Definitions beginning with “R”:**
- (1) **Reception and placement grant:** means a grant provided by the U.S. department of state or U.S. department of justice that is intended to assist refugees to meet their basic needs during the first 30 to 90 days after admission to the U.S.
 - (2) **Recipient:** means a person receiving cash assistance benefits.
 - (3) **Refugee:** means any person who is admitted into the U.S. under Section 207 of the INA and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.
 - (4) **Resources:** means tangible assets and property owned by the applicant with the exception of assets and property in the refugee’s country of origin and assets and property given to the refugee as part of the reception and placement program.
 - (5) **Refugee cash assistance (RCA):** ~~[means a one hundred percent federally funded cash assistance program for non TANF, non SSI, eligible needy refugees during their first 12 months in the U.S.]~~ means financial assistance to refugees, who are not eligible for TANF, SSI, or cash assistance under title IV of the Social Security Act.
 - (6) **Refugee medical assistance (RMA):** ~~[means a one hundred percent federally funded medical assistance program for non-Medicaid eligible needy refugees during their first 12 in the U.S.]~~ medical assistance to refugees who are ineligible for the Medicaid program.
- S. Definitions beginning with “S”:**
- (1) **Secondary migrant:** means a refugee who was initially resettled in another state but who has relocated their residence to New Mexico.
 - (2) **Spend down:** means to deduct incurred medical expenses from countable income, thereby lowering the amount of countable income to a level that may meet the financial eligibility standard.
 - (3) **Standard of deed:** means a maximum cash benefit amount that is based on federal regulation for TANF standard of need.
 - (4) **Supplemental security income (SSI):** means monthly cash payments to income eligible persons over the age of 65 or who are determined to be disabled under the authority of Title XVI of the Social Security Act.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: Unearned income: means income from one of these sources: old age, survivors and disability insurance payments (social security); railroad retirement benefits; veteran’s administration compensation or pension payments; military retirement and allotments; pensions, annuities and retirement benefits; lodge or fraternal benefits; other public or private disability or retirement benefits or pensions; shared shelter payments; individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker’s compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.

V. Definitions beginning with “V”: Victim of human trafficking: means an individual who has received certification from ORR as a victim of human trafficking.

W. Definitions beginning with “W”: [RESERVED]

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[8.119.100.7 NMAC - N, 11/01/2013; A, 11/1/2022; AE, 5/1/2025]

TITLE 8 SOCIAL SERVICES
CHAPTER 119 REFUGEE RESETTLEMENT PROGRAM
PART 100 RECIPIENT POLICIES-DEFINITIONS AND ACRONYMS

8.119.100.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.119.100.1 NMAC - N, 11/01/2013; A, 7/1/2024]

8.119.100.2 SCOPE: The rule applies to the general public.
[8.119.100.2 NMAC - N, 11/01/2013]

8.119.100.3 STATUTORY AUTHORITY:

A. The Refugee Resettlement Program (RRP) is authorized under Title IV of the Immigration and Nationality Act of 1980. The act designates the federal department of health and human services (DHHS) as the federal administering agency. RRP regulations are issued by DHHS in the code of federal regulations, Title 45, Part 400, which is supplemented by administrative and program instructions issued by the federal department from time to time.

B. In accordance with authority granted to the department by Subsection J of Section 27-1-3 NMSA 1978, and pursuant to Executive Order No. 80-62, dated 10/01/81, the governor of the state of New Mexico has designated the health care authority (HCA) as the single state agency responsible for administering the program in New Mexico.

C. 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.
[8.119.100.3 NMAC - N, 11/01/2013; A, 7/1/2024]

8.119.100.4 DURATION: Permanent
[8.119.100.4 NMAC - N, 11/01/2013]

8.119.100.5 EFFECTIVE DATE: November 1, 2013, unless a later date is cited at the end of a section.
[8.119.100.5 NMAC - N, 11/01/2013]

8.119.100.6 OBJECTIVE: The objective of the RRP is to assist refugees to become self-sufficient by providing a program of financial and medical assistance, while supportive services are provided, to ensure the effective resettlement of refugees in the state of New Mexico through programs designed to assist with integration, promotion of economic self-sufficiency, and protecting refugees and communities from infectious diseases and other health related issues. HSD has agreed to administer this program subject to the receipt of federal funds. Under the RRP, sponsor(s) and national voluntary agencies (VOLAGs) work closely with the federal government to coordinate support services authorized under the program. The RRP includes the provision of refugee cash assistance (RCA), refugee medical assistance (RMA), refugee social services (RSS) and additional support services funded by the office of refugee resettlement (ORR).
[8.119.100.6 NMAC - N, 11/01/2013]

8.119.100.7 DEFINITIONS:

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(1) Alien: means an individual residing in the U.S. who does not hold U.S. citizenship.

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(4) **Resources:** means tangible assets and property owned by the applicant with the exception of assets and property in the refugee’s country of origin and assets and property given to the refugee as part of the reception and placement program.

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(6) **Refugee medical assistance (RMA):** medical assistance to refugees who are ineligible for the Medicaid program.

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V. Definitions beginning with “V”: Victim of human trafficking: means an individual who has received certification from ORR as a victim of human trafficking.

W. Definitions beginning with “W”: [RESERVED]

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[8.119.100.7 NMAC - N, 11/01/2013; A, 11/1/2022; AE, 5/1/2025]

8.119.100.8 ABBREVIATIONS AND ACRONYMS:

A. AFDC: aid to families with dependent children

- B. DHS:** (U.S) department of homeland security
- C. DOJ:** (U.S.) department of justice
- D. DOS:** (U.S.) department of state
- E. DWS:** department of workforce solutions
- F. EID:** earned income disregard
- G. HHS:** (U.S.) department of health and human services
- H. HSD:** human services department
- I. ICE:** (U.S.) immigration and customs enforcement
- J. IEP:** individual employability plan
- K. INA:** Immigration and Nationality Act
- L. IRU:** incapacity review unit
- M. ISD:** income support division
- N. MAD:** medical assistance division
- O. NMDWS:** New Mexico department of workforce solutions
- P. NMW:** New Mexico works
- Q. ORR:** office of refugee resettlement
- R. RCA:** refugee cash assistance
- S. RMA:** refugee medical assistance
- T. RRP:** refugee resettlement program
- U. RSS:** refugee social services
- V. SSI:** supplemental security income
- W. TANF:** temporary assistance for needy families
- X. USCIS:** (U.S.) citizenship and immigration service
- Y. VOLAG:** national voluntary agency

[8.119.100.8 NMAC - N, 11/01/2013]

HISTORY OF 8.119.100 NMAC: [RESERVED]

This is an amendment to 8.119.4100 NMAC, Section 8 effective 5/1/2025.

8.119.410.8 GENERAL RECIPIENT REQUIREMENTS:

A. Citizenship:

(1) To be eligible for inclusion in the RCA benefit group, the applicant must be classified as a "refugee."

(2) To be eligible for inclusion in the RRP benefit group the individual must provide proof, in the form of documentation issued by USCIS, of one of the following statuses under the INA as a condition of eligibility:

(a) paroled as a refugee or asylee under section 212(d)(5) of INA; or

(b) admitted as a refugee under section 207 of the INA; or

(c) granted asylum under section 208 of the INA; or

(d) Cuban and Haitian entrants including:

(i) any individual granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(ii) any other national of Cuba or Haiti who was paroled into the U.S. and has not acquired any other status under the INA; is the subject of exclusion or deportation proceedings under the INA; or has an application for asylum pending with the INS; and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or

(e) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts 1989 (Public Law 100-461 as amended)); or

(f) admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(3) An applicant for asylum is not eligible for assistance under title IV of the INA unless otherwise provided by federal law.

~~[**B. Time limits:**~~

~~(1) Eligibility for RCA is limited to 12 months from the date of entry, date of asylum, or date of deportation was withheld.~~

~~(2) For refugee assistance cases involving U.S. born children, the eligibility for RCA for the child expires when the refugee parent who last arrived in the U.S. has been in the country for eight months.~~

~~**C. General eligibility requirements:**~~

~~(1) RCA eligibility is limited to those who are ineligible for TANF. The benefit groups' eligibility for TANF must be determined before determining eligibility for RCA.~~

~~(2) An individual who is enrolled full time in an institution of higher education will be ineligible to participate in the RCA program except where such enrollment has been approved as part of the individual's individual employability plan (IEP) and in which the enrollment will last for a period of less than one year.~~

~~(a) An individual is considered to be enrolled in an institution of higher education, if the individual is enrolled in a business, technical, trade or vocational school, that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.~~

~~(b) The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days.~~

~~(3) A refugee must provide the name of the resettlement agency which was responsible for their resettlement.~~

~~(4) Possession of a social security number is not a requirement of eligibility for RCA.]~~

B. General eligibility requirements:

(1) Eligibility for RCA is limited to those who:

(a) are new arrivals who have resided in the U.S. less than the RCA eligibility

period determined by the ORR director in accordance with 45 CFR 400.211;

(b) are ineligible for cash assistance under Title IV of the Social Security Act;

(c) meet immigration status and identification requirements in 45 CFR part 400

Subpart D or are the dependent children of, and part of the same family unit as, individuals who meet the requirements in subpart D, subject to the limitation in 45 CFR 400.208 with respect to nonrefugee children; and

(d) are not full-time students in institutions of higher education, as defined by the ORR director.

(2) A refugee may be eligible for refugee cash assistance under this subpart during a period to be determined by the director in accordance with 45 CFR 400.211.

(3) Possession of a social security number is not a requirement of eligibility for RCA.

[8.119.410.8 NMAC - Rp 8.119.410.8 NMAC, 7/1/2024; AE, 5/1/2025]

TITLE 8 SOCIAL SERVICES
CHAPTER 119 REFUGEE RESETTLEMENT PROGRAM
PART 410 RECIPIENT POLICIES -GENERAL RECIPIENT REQUIREMENTS

8.119.410.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.119.410.1 NMAC - Rp 8.119.410.1 NMAC, 7/1/2024]

8.119.410.2 SCOPE: The rule applies to the general public.
[8.119.410.2 NMAC - Rp 8.119.410.2 NMAC, 7/1/2024]

8.119.410.3 STATUTORY AUTHORITY:

A. The refugee resettlement program (RRP) is authorized under Title IV of the Immigration and Nationality Act of 1980. The act designates the federal department of health and human services (DHHS) as the federal administering agency. RRP regulations are issued by DHHS in the Code of Federal Regulations, Title 45, Part 400, which is supplemented by administrative and program instructions issued by the federal department from time to time.

B. In accordance with authority granted to the health care authority by Subsection J of Section 27-1-3 NMSA 1978, and pursuant to executive order No. 80-62, dated 10/01/1981, the governor of the state of New Mexico has designated the health care authority (HCA) as the single state agency responsible for administering the program in New Mexico.

C. 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.
[8.119.410.3 NMAC - Rp 8.119.410.3 NMAC, 7/1/2024]

8.119.410.4 DURATION: Permanent.
[8.119.410.4 NMAC - Rp 8.119.410.4 NMAC, 7/1/2024]

8.119.410.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[8.119.410.5 NMAC - Rp 8.119.410.5 NMAC, 7/1/2024]

8.119.410.6 OBJECTIVE: The objective of the RRP is to assist refugees to become self-sufficient by providing a program of financial and medical assistance while, supportive services are provided, to ensure the effective resettlement of refugees in the state of New Mexico through programs designed to assist with integration, promotion of economic self-sufficiency, and protecting refugees and communities from infectious diseases and other health related issues. The HCA has agreed to administer this program subject to the receipt of federal funds. Under the RRP, sponsors(s) and VOLAGs work closely with the federal government to coordinate support services authorized under the program. The RRP includes the provision of refugee cash assistance (RCA), refugee medical assistance (RMA), refugee social services (RSS) and additional support services funded by the office of refugee resettlement (ORR).
[8.119.410.6 NMAC - Rp 8.119.410.6 NMAC, 7/1/2024]

8.119.410.7 DEFINITIONS: [RESERVED]
[8.119.410.7 NMAC - Rp 8.119.410.7 NMAC, 7/1/2024]

8.119.410.8 GENERAL RECIPIENT REQUIREMENTS:

- A.** Citizenship
- (1)** To be eligible for inclusion in the RCA benefit group, the applicant must be classified as a “refugee.”
- (2)** To be eligible for inclusion in the RRP benefit group the individual must provide proof, in the form of documentation issued by USCIS, of one of the following statuses under the INA as a condition of eligibility:
- (a)** paroled as a refugee or asylee under section 212(d)(5) of INA; or
 - (b)** admitted as a refugee under section 207 of the INA; or
 - (c)** granted asylum under section 208 of the INA; or
 - (d)** Cuban and Haitian entrants including:

(i) any individual granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(ii) any other national of Cuba or Haiti who was paroled into the U.S. and has not acquired any other status under the INA; is the subject of exclusion or deportation proceedings under the INA; or has an application for asylum pending with the INS; and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or

(e) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts 1989 (Public Law 100-461 as amended)); or

(f) admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(3) An applicant for asylum is not eligible for assistance under title IV of the INA unless otherwise provided by federal law.

B. General eligibility requirements:

(1) Eligibility for RCA is limited to those who:

(a) are new arrivals who have resided in the U.S. less than the RCA eligibility period determined by the ORR director in accordance with 45 CFR 400.211;

(b) are ineligible for cash assistance under Title IV of the Social Security Act;

(c) meet immigration status and identification requirements in Subpart D of 45 CFR part 400 or are the dependent children of, and part of the same family unit as, individuals who meet the requirements in subpart D, subject to the limitation in 45 CFR 400.208 with respect to nonrefugee children; and

(d) Are not full-time students in institutions of higher education, as defined by the ORR director.

(2) A refugee may be eligible for refugee cash assistance under this subpart during a period to be determined by the director of ORR in accordance with 45 CFR 400.211.

(3) Possession of a social security number is not a requirement of eligibility for RCA.
[8.119.410.8 NMAC - Rp 8.119.410.8 NMAC, 7/1/2024; AE, 5/1/2025]

8.119.410.9 RESIDENCY: To be eligible of assistance under this program, the refugee(s) must be physically present in New Mexico on the date of application or final determination of the eligibility and demonstrate intent to remain in the state.

[8.119.410.9 NMAC - Rp 8.119.410.9 NMAC, 7/1/2024]

8.119.410.10 NON-CONCURRENT RECEIPT OF ASSISTANCE: To be eligible for inclusion in the RCA benefit group, the refugee(s) may not be receiving cash assistance under any other HCA program of cash assistance or SSI.

[8.119.410.10 NMAC - Rp 8.119.410.10 NMAC, 7/1/2024]

8.119.410.11 EMPLOYMENT TRAINING AND WORK REGISTRATION:

A. Requirement:

(1) All employable refugees who receive RCA, and all employable members of the assistance group of which they are part, must register for employment with an appropriate agency providing employment services or the department of workforce solutions (NMDWS), and must accept an employment or training opportunity from any source which is determined appropriate for that refugee by HCA.

(2) Refugees may register for employment services with the contracted provider of the RSS program. As a condition of eligibility each employable member of the benefit group must complete, and comply with, an IEP with the contracted RSS provider. Failure to comply with the IEP may result in disqualification from RCA.

(3) As a condition for receipt of RCA a refugee who is not otherwise exempt, or does not demonstrate good cause, must:

(a) go to job interviews that are arranged by HCA, the contracted RSS provider, or the resettlement agency which was responsible for the initial resettlement of the refugee;

(b) accept at any time an offer of employment, determined to be appropriate by

HCA, the contracted RSS provider, or the resettlement agency which was responsible for the initial resettlement of the refugee; and

(c) participate in any employability services program which provides job or language training in the area in which the refugee resides, as deemed to be appropriate by HCA, the contracted RSS provider, or the resettlement agency which was responsible for the initial resettlement of the refugee.

(4) The ISD office shall contact the local sponsor or resettlement agency to determine if the refugee has refused, within 30 days of application, an offer of employment or has voluntarily quit a job without good cause.

B. Appropriateness of placement:

(1) Employment placements must be within the scope of the individual's IEP; the plan may be modified to reflect changes in services or employment conditions.

(2) Services and employment must be related to the capability of the individual to perform the task on a regular basis. Claims, by the individual, of adverse effect on physical or mental health must be based on medical verification from a physician or licensed or certified psychologist;

(3) The total daily commuting time to and from home to the service or employment site must not normally exceed 2 hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance or time is generally accepted in the community, in which case the round trip commuting time must not exceed the generally accepted community standards.

(4) When childcare is required, the care must meet the standards normally required by the state for NMW recipients.

(5) The service or employment site to which the individual is assigned must not be in violation of applicable federal, state, or local health and safety standards.

(6) Assignments may not be made that are discriminatory in terms of age, sex, race, creed, color, or national origin.

(7) Appropriate employment placements may be temporary, permanent, full-time, part-time, or seasonal employment if such employment meets the other standards of this section.

(8) The service or work site must comply with all applicable federal, state, and local labor laws and regulations.

(9) The wage shall meet or exceed the federal or state minimum wage, whichever is applicable, or if such laws are not applicable, the wage shall not be substantially less favorable than the wage normally paid for similar work in that labor market.

(10) The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation.

(11) No individual may be required to accept employment if:

(a) the position offered is vacant due to a strike, lockout, or other bona fide labor dispute; or

(b) the individual would be required to work for an employer contrary to the conditions of their existing membership in the union governing that occupation; however, employment not governed by the rules of a union in which they have membership may be deemed appropriate.

(12) In addition to meeting the other criteria of this paragraph, the quality of training must meet local employers' requirements so that the individual will be in a competitive position within the labor market; the training must be likely to lead to employment which will meet the appropriate work criteria.

(13) If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice their profession in the U.S., the training may consist of full-time attendance in a college or professional training program, provided that such training:

(a) is approved as a part of the individual's employability plan by the state agency;

(b) does not exceed one year's duration (including any time enrolled in such program in the U.S. prior to the refugee's application for assistance);

(c) is specifically intended to assist the professional in becoming relicensed in their profession; and if completed,

(d) can realistically be expected to result in such relicensing; and

(e) may only be made available to individuals who are employed.

C. Job offers: A job offer, if determined appropriate under the requirements of this section, must be accepted by the refugee without regard to whether such job would interrupt a program of services planned or in progress.

D. Failure or refusal to carry out job search or to accept employability services of employment:

(1) Voluntary registrants: Voluntary registrants are recipients of refugee cash assistance who are exempt from registration for training and employment services. When a voluntary registrant fails or refuses to participate in appropriate employability services, to carry out job search, or to accept an appropriate offer of employment, the state agency, may remove the individual from the registry for up to 90 days from the date of determination that such failure or refusal has occurred, but the individual's cash assistance may not be affected.

(2) Mandatory registrants: A mandatory registrant - i.e., an employable recipient of refugee cash assistance who is not exempt from registration, who has failed or refused without good cause to meet the requirements or has voluntarily quit a job, will be disqualified as outlined in Subsection G below.

E. Work requirements - exemptions:

(1) An individual is considered employable unless they are a minor dependent child. A minor unmarried parent, acting as a head of household, is not considered to be a "dependent child," and is subject to participation as an adult.

(2) Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs, carrying out job search, and acceptance of appropriate offers of employment.

F. Refusal to accept or termination of employment:

(1) Applicants: An applicant is not eligible if 30 consecutive calendar days immediately prior to the receipt of aid, they have voluntarily quit a job without good cause, refused to apply for, or accept an appropriate offer of employment, as determined by HCA. The dependent family of such an ineligible applicant may, however, remain eligible for RCA.

(2) Recipients: An employable recipient must not have refused, without good cause, to go to a job interview which is arranged by the RSS provider or have, without good cause, voluntarily quit a job, or have refused to apply for or accept an appropriate offer of employment.

(3) Job search: An employable recipient shall attend job interviews, register for employment and comply with the terms of their IEP. Termination of employment, by a recipient, shall only be with good cause. Refusal by a recipient to fulfill the job search requirement, or termination of employment without good cause is noncompliance.

(4) Good cause: Determination of good cause for noncompliance is made by the HCA case worker and is based on the following documented circumstances:

- (a) court required appearance or incarceration;
- (b) an individual is already engaged in employment consistent with the work plan;
- (c) a pregnant woman, starting with the 4th month of pregnancy, provided that the pregnancy and the expected date of birth have been medically verified;
- (d) medically verified illness of the participant or the participant's infant child. An infant child is defined as a child under 12 months of age.

(5) The refugee must participate in the employment program once good cause for noncompliance has been remedied.

G. Disqualification: Disqualification will follow the procedures set forth below.

(1) Cause for disqualification: A refugee recipient, who refuses an offer of employment, voluntarily quits employment without good cause, as determined by HCA, or fails to comply with their IEP is eligible for disqualification.

(2) The refugee shall be provided with a notice of adverse action not less than 13 days prior to the termination date. Additionally, the refugee's sponsor or resettlement agency will be notified of the action taken. The notice of adverse action will follow the policy outlined in 8.100.180.10 NMAC. The notice may include more than one instance of noncompliance or there may be separate notices for each instance of noncompliance. Each instance of noncompliance must be either resolved in a timely manner or a disqualification may occur.

(3) If the refugee regains compliance within the 30 day period after the initial date for noncompliance, assistance shall be continued without interruption so long as the refugee continues to meet the requirements of continued assistance.

(4) A disqualification consists of termination of assistance beginning 30 days after the date of the noncompliance. An employable RRP recipient is ineligible for benefits for the following periods when assistance is terminated due to noncompliance;

- (a) for three payment months for the first occurrence.
- (b) for six payment months for the second and subsequent occurrences.

[8.119.410.11 NMAC - Rp 8.119.410.11 NMAC, 7/1/2024]

History of 8.119.410 NMAC:

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

ISD-IPP 81-8, Limiting Assistance to 36 Months After Arrival into U.S. to Refugees (ISD Categories 19 and 49), 4/10/1981.

ISD-IPP 82-7, Limiting Refugee Assistance to 18 Months After Refugee's Arrival into U.S., 3/15/1982.

ISD 281.0000, Refugee Eligibility Conditions, 6/29/1982.

ISD FA 610, Refugee Resettlement Program, 2/11/1988.

ISD FA 610, Refugee Resettlement Program, 7/2/1990.

History of Repealed Material:

8 NMAC 3.RRP, Refugee Resettlement Program - repealed, 7/1/1997.

8.119.410 NMAC - Recipient Policies -General Recipient Requirements (filed 3/2/2001) Repealed, effective 7/1/2024.

Other: 8.119.410 NMAC - Recipient Policies -General Recipient Requirements (filed 3/2/2001) Replaced by 8.119.410 NMAC - Recipient Policies -General Recipient Requirements, effective 7/1/2024.