



STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT  
**HUMAN SERVICES REGISTER**

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**I. DEPARTMENT**

HUMAN SERVICES DEPARTMENT

**II. SUBJECT**

CASH ASSISTANCE PROGRAM FOR  
IMMIGRANT VICTIMS OF HUMAN TRAFFICKING

**III. PROGRAMS AFFECTED**

STATE FUNDED ASSISTANCE PROGRAM

**IV. ACTION**

FINAL REGULATION

**V. BACKGROUND**

The 51st Legislature, Regular Session, required the Department to implement a cash assistance program for certain victims of human trafficking who do not meet the citizen or alien status to be eligible for the General Assistance for Disabled Adults cash assistance program. A public hearing was held on October 16, 2013, to receive public comments on the proposed rule. There was one attendee and no written comments were received.

A comment was received requesting modification of 8.106.431.10 NMAC. The commenter requested emergency language for an emergency delivery of the benefit. The Department has considered this comment and will not make any changes.

Lastly, a comment was received in reference to 8.106.431.9 A (3) NMAC and 8.106.431.15 NMAC. The commenter was concerned that the client may not have access to property or resources and the Department would not take that into consideration. The Department has considered this comment and will not make any changes. Eligibility resource standards for 8.106.431 NMAC shall follow standards set at 8.106.510.8 NMAC. This policy states for the resource to be countable it must be available to the benefit group.

## VI. FINAL REGULATIONS

This register and proposed regulations are available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/registers/ISDRegisters.html>. If you do not have Internet access, a copy of the proposed regulations may be requested by contacting Income Support Division Policy and Program Development Bureau at 827-7219.

## VII. EFFECTIVE DATE

12/01/2013

## VIII. PUBLICATION

Publication of these regulations approved on Nov 5, 2013 by:

  
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SIDONIE SQUIER, SECRETARY  
HUMAN SERVICES DEPARTMENT

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 106 STATE FUNDED ASSISTANCE**  
**PART 431 PRE CERTIFIED VICTIMS OF HUMAN TRAFFICKING**

**8.106.431.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.106.431.1 NMAC - N, 12/01/2013]

**8.106.431.2 SCOPE:** The rule applies to the general public.  
[8.106.431.2 NMAC - N, 12/01/2013]

**8.106.431.3 STATUTORY AUTHORITY:** New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2 along with Chapter 30, Article 52, Section 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 function as may be assumed by the state.  
[8.106.431.3 NMAC - N, 12/01/2013]

**8.106.431.4 DURATION:** Permanent.  
[8.106.431.4 NMAC - N, 12/01/2013]

**8.106.431.5 EFFECTIVE DATE:** December 1, 2013, unless a later date is cited at the end of a section.  
[8.106.431.5 NMAC - N, 12/01/2013]

**8.106.431.6 OBJECTIVE:** The objective of the pre-certified victim of human trafficking assistance program is to provide financial assistance to non-citizen victims of human trafficking that are not eligible for existing federal assistance pending the federal certification under the Trafficking Victims' Protection Reauthorization Act of 2003.  
[8.106.431.6 NMAC - N, 12/01/2013]

**8.106.431.7 DEFINITIONS:**

**A. Pre-certified victim of human trafficking (PCVHT):** means an alien who is a victim of human trafficking, who has not received the federal certification of a victim of human trafficking.

**B. Cooperating:** means is willing to assist in every reasonable way in the investigation and prosecution of the person charged with the crime of human trafficking, unless the identified victim is unable to cooperate with such a request due to physical or psychological trauma.

**C. Institutionalized:** means to be in the care of an institution, including but not limited to:

- (1) a medical or mental health treatment facility; or
- (2) a public non-medical institution, including facilities in the state prison system, jails and detention centers, as well as juvenile correction facilities.

[8.106.431.7 NMAC - N, 12/01/2013]

**8.106.431.8 CONSTRUCTING THE BENEFIT GROUP:**

**A.** To be eligible for inclusion in the PCVHT benefit group, the individual must not be eligible for any other federal or state cash assistance program. The benefit group consists of the individual and their non-citizen dependents.

**B.** An individual shall not be eligible for inclusion in the benefit group if the individual is institutionalized.

[8.106.431.8 NMAC - N, 12/01/2013]

**8.106.431.9 APPLICATION SUBMITTAL:**

**A.** The application shall be submitted on a form designated by the department either electronically or in writing and shall be made under oath by an applicant or by an applicant on behalf of a dependent child who resides in the home. The application must contain:

- (1) a statement of the age of the applicant or dependent child;
- (2) a statement of residence in New Mexico;
- (3) all property in which the applicant has an interest;
- (4) the income of the applicant or other benefit group members at the time the application is filed;
- (5) the signature of the applicant; and

(6) other information required by the department.

**B.** Applications submitted for the pre-certified victims of human trafficking cash assistance will be referred to the service provider.

[8.106.431.9 NMAC - N, 12/01/2013]

**8.106.431.10 APPLICATION PROCESSING TIME LIMITS:** Pre certified victims of human trafficking cash assistance program applications shall be processed no later than 30 calendar days after receipt by the department or it's designee.

[8.106.431.10 NMAC - N, 12/01/2013]

**8.106.431.11 APPROVAL EFFECTIVE DATE:** Pre certified victims of human trafficking cash assistance for approved applications shall be effective the first day of the month the application was submitted to the department or its designee, for a full month benefit.

[8.106.431.11 NMAC - N, 12/01/2013]

**8.106.431.12 REPORTING REQUIREMENTS:**

**A. Department responsibilities:** The department or its designee shall inform the benefit group of its responsibility to report changes. Appropriate action shall be taken to determine if the change affects eligibility or benefit amount. The date the change is reported and the action taken shall be documented. In some circumstances the department shall request clarification during a certification period whenever information becomes known to the department indicating a possible change in a benefit group's circumstances that may affect eligibility or benefit amount. Circumstances that may require follow-up review include, but are not limited to:

(1) cooperation with law enforcement or prosecution of the person charged with the crime of human trafficking; and

(2) verification and status of application for federal certification of victim of human trafficking.

**B. Benefit group responsibilities at application:** A benefit group must report all changes affecting eligibility and benefit amount that may have occurred since the date the application was filed and before the date of the interview. Changes occurring after the interview, but before the date of the approval notice, must be reported by the benefit group within 10 days of the date the change becomes known to the benefit group.

**C. Responsibility to report:** Within 10 days of the date the change becomes known to the benefit group, a recipient of the pre-certified victims of human trafficking cash assistance is required to report the following changes:

(1) a benefit group's income in excess of 85 percent of federal poverty guidelines for the size of the benefit group;

(2) a benefit group, or the department receives evidence that the eligible recipient has received the federal certification of a victim of human trafficking by the federal office of refugee resettlement;

(3) the victim of human trafficking is no longer cooperating with law enforcement or the prosecution of the person charged with the crime of human trafficking;

(4) the benefit group has moved from the state or intends to move from the state on a specific date;

(5) a benefit group requests closure; or

(6) the department receives documented evidence that the head of benefit group has died.

**D. Effective date of change:** Changes to eligibility based on reported changes shall be effective pursuant to 8.106.630.9 NMAC.

[8.106.431.12 NMAC - N, 12/01/2013]

**8.106.431.13 CERTIFICATION PERIODS:** The certification period will be one year with semiannual reporting requirements.

[8.106.431.13 NMAC - N, 12/01/2013]

**8.106.431.14 ELIGIBILITY RECERTIFICATION:**

**A. Recertification of eligibility:** The department shall provide notice of recertification 45 days prior to the end of the certification and make a prospective determination of eligibility beginning the month following the month the certification period expires. The recertification shall consist of a determination of eligibility for an additional period of time, redetermination of the amount of cash assistance payment and a complete review of all conditions of eligibility. Current financial eligibility must be reviewed at the end of the certification period for the specific program to determine continued eligibility for a new period of time.

**B. Interview:** A face-to-face interview shall take place at the end of the certification period, unless the recipient's physical or mental condition makes the interview impossible or inadvisable. The interview may be waived on a case-by-case basis for hardship reasons found in 8.106.110.11 NMAC. During the interview the department shall review with the recipient the possible changes in circumstances that must be reported and may affect the client's eligibility or benefit amount.

**C. Recertification timeliness:**

(1) **Timely recertification:** Recertification forms submitted before the 15th of the expiration month will be considered timely.

(2) **Untimely reapplication:** Recertification forms submitted after the 15th but before the end of a benefit group's certification period expires have lost the right to uninterrupted benefits.

**D. Verification:** A benefit group that has recertified timely, completed an interview and provided required verification specific to eligibility, will be given 10 days to provide the verification or until the certification period expires, whichever is longer. If the certification period expires before the 10-day deadline for submitting the required verification, the benefit group will be entitled to a full month's benefits, if eligible, within five days after verification is submitted.

**E. Agency failure to act:** A benefit group that has made a timely recertification, but due to agency error, is not determined eligible in sufficient time to provide for issuance by the benefit group's normal issuance date in the following month, will be entitled to restoration of lost benefits.

[8.106.431.14 NMAC - N, 12/01/2013]

**8.106.431.15 RESOURCE STANDARDS:** Refer to 8.106.510 NMAC

[8.106.431.15 NMAC - N, 12/01/2013]

**8.106.431.16 INCOME:** Refer to 8.106.520 NMAC

[8.106.431.16 NMAC - N, 12/01/2013]

**HISTORY OF 8.106.431 NMAC:** [RESERVED]