



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

ANNUAL ADJUSTMENT TO INCOME LIMITS
STATE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) SUPPLEMENT

III. PROGRAM AFFECTED

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

IV. ACTION

PROPOSED RULE

V. BACKGROUND SUMMARY

Each year the Department is required to update the SNAP, NMW, Education Works Program, and General Assistance Programs income limits for participation, resource eligibility standards and deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Services (FNS). The Department received notification of the adjusted amounts on August 3, 2023, and made the adjustments effective for benefit month October 2023 for Federal Fiscal Year (FFY) 2024 to comply with federal law and regulations.

HSD is proposing amendments to update language for the Elderly and Disabled State SNAP supplement amount which can be found in 8.139.502.9 NMAC. The language change allows for the Department to issue the supplement amount based on the federal minimum SNAP monthly benefit, and the amount budgeted by the State for the Supplement as well as available funding.

The amount of the state supplement is determined by the Departments Operating Budget that is determined every State Fiscal Year (SFY).

Concise Explanatory Statement:

The Department is promulgating these rules in compliance with the annual cost of living adjustments (COLA) for FFY24. The rule will be amended, repealed/replaced under the statutory authority of the food stamp program as authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011- 2036). Regulations issued pursuant to the act are contained in 7 CFR 200-299. State Authority for administering the food stamp and TANF programs are contained in Chapter 27 NMSA, 1978. Administration of the Human Services Department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

VI. RULES

These rules are contained in 8.102.500, 8.106.500, 8.139.502.8, 8.139.502.9. This register and the proposed changes are available on the HSD website at [Income Support Division Registers | New Mexico Human Services Department \(state.nm.us\)](#). If you do not have internet access, a copy of the proposed rules may be requested by contacting the Income Support Department P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling (505) 396-0313.

VII. PUBLICATION DATE

November 21, 2023

VIII. EFFECTIVE DATE

March 1, 2024

IX. PUBLIC HEARING

A hybrid public hearing to receive testimony on this proposed rule will be held, pursuant to Section 14-4-5.6 NMSA 1978, on Friday, December 22, 2023, at 11:00 a.m. – 12:00 p.m. You may join in person, virtually, or by phone.

You may join in person at:

HSD Administrative Services (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505

You may join virtually from your computer, tablet or smartphone:

Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

On the day of the meeting log into:

<https://meet.goto.com/223826941>

You may join by phone:

United States: [+1 \(224\) 501-3412](tel:+12245013412) Access Code: 223-826-941

Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at Office-505-709-5468, Fax-505-827-6286 or through the New Mexico Relay system, toll free at #711. The Department requests at least a 10-day advance notice to provide the requested alternative formats and special accommodations.

Written comment may be dropped off during the scheduled hearing time at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505 if the individual wishes to provide written comment during the scheduled hearing.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-469-9569.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, December 22, 2023. Please send comments to:

Human Services Department
P.O. Box 2348
Santa Fe, NM 87504-2348

Recorded comments may be left at (505) 469-9569. You may send comments electronically to: HSD-isdrules@hsd.nm.gov. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

XI. PUBLICATIONS

Publication of final regulations approved on by:

DocuSigned by:
 10/16/2023
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KARI ARMIJO, ACTING SECRETARY
HUMAN SERVICES DEPARTMENT

This is an amendment to 8.102.500 NMAC, Section 8 effective 3/1/2024.

8.102.500.8 GENERAL REQUIREMENTS:

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

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

B. Gross income limits: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

- (1) Income eligibility limits are revised and adjusted each year in October.
- (2) The gross income limit for the size of the benefit group is as follows:
 - (a) one person [~~\$963~~] \$1,033
 - (b) two persons [~~\$1,297~~] \$1,397
 - (c) three persons [~~\$1,632~~] \$1,761
 - (d) four persons [~~\$1,966~~] \$2,125
 - (e) five persons [~~\$2,300~~] \$2,490
 - (f) six persons [~~\$2,635~~] \$2,853
 - (g) seven persons [~~\$2,969~~] \$3,217
 - (h) eight persons [~~\$3,303~~] \$3,582
 - (i) add [~~\$335~~] \$365 for each additional person.

C. Eligibility for support services only: Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

- (1) one person [~~\$1,133~~] \$1,215
- (2) two persons [~~\$1,526~~] \$1,644
- (3) three persons [~~\$1,920~~] \$2,072
- (4) four persons [~~\$2,313~~] \$2,500
- (5) five persons [~~\$2,706~~] \$2,929
- (6) six persons [~~\$3,100~~] \$3,357
- (7) seven persons [~~\$3,493~~] \$3,785
- (8) eight persons [~~\$3,886~~] \$4,214
- (9) add [~~\$394~~] \$429 for each additional person.

D. Standard of need:

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

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

(3) The financial standard includes approximately [~~\$91~~] \$112 per month for each participant in the benefit group.

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

- (a) one person [~~\$266~~] \$327
- (b) two persons [~~\$357~~] \$439
- (c) three persons [~~\$447~~] \$550
- (d) four persons [~~\$539~~] \$663
- (e) five persons [~~\$630~~] \$775
- (f) six persons [~~\$721~~] \$887
- (g) seven persons [~~\$812~~] \$999
- (h) eight persons [~~\$922~~] \$1134

(i) add [~~\$91~~] \$112 for each additional person.

E. Special needs:

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

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

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

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

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

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

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

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020; A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022; A/E,10/01/2022; A, 04/01/2023; A/E, 10/1/2023; A, 03/01/2024]

This is an amendment to 8.106.500 NMAC, Section 8 effective 3/1/2024.

8.106.500.8 GA - GENERAL REQUIREMENTS:

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

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

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

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

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

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

D. Gross income test: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

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

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

(a) one person [~~\$963~~] \$1,033

(b) two persons [~~\$1,297~~] \$1,397

(c) three persons [~~\$1,632~~] \$1,761

(d) four persons [~~\$1,966~~] \$2,125

(e) five persons [~~\$2,300~~] \$2,490

(f) six persons [~~\$2,635~~] \$2,853

(g) seven persons [~~\$2,969~~] \$3,217

(h) eight persons [~~\$3,303~~] \$3,582

(i) add [~~\$335~~] \$365 for each additional person.

E. Standard of need:

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

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

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

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

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

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

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

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

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

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

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

I. Minimum Benefit Amount: Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application.

[8.106.500.8 NMAC - N, 07/01/2004; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 01/01/2008; A, 06/16/2008; A/E, 10/01/2008; A, 07/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 12/01/2009; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A, 07/01/2013; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 2/01/2018; A/E, 10/01/2018; A, 3/1/2019; A/E, 10/01/2019; A, 3/1/2020 A/E, 10/01/2020; A, 3/1/2021; A/E, 10/01/2021; A, 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E, 10/1/2023; A, 3/1/2024]

This is an amendment to 8.139.502 NAMC section 8 & 9 effective 3/1/2024.

8.139.502.8 ~~[STATE FOOD STAMP SUPPLEMENT BENEFITS]~~ STATE SNAP SUPPLEMENT BENEFITS:

A. Purpose: The state food stamp supplement program is aimed at providing the elderly and disabled with increased food purchasing power resulting in better nutrition.

B. Maximum benefit amount: The benefit amount shall be established by the HSD secretary based on available state funds.

C. Eligibility process: The state food stamp supplement shall be determined only for households that meet all eligibility requirements identified in Subsection D of 8.139.502.8 NMAC.

D. Eligibility requirements: The state food stamp supplement benefits shall be subject to all federal food stamp application, eligibility, certification and reporting requirements. The state food stamp supplement benefits shall be extended only to a household ~~[with a federal allotment amount less than \$25.00 federal food stamp benefits and meeting the program requirements.]~~ who receives less than the federal minimum benefit allotment. State food stamp supplement benefits shall be provided to a household under the following qualifications and eligibility requirements:

(1) all household members qualify and receive federal food stamp program benefits;

(2) all household members are elderly or disabled as defined in Subsection A of 8.139.100.7

NMAC.

(3) the household does not receive any earned income; and

(4) the household receives a federal food stamp program allotment amount, prior to any claim recoupment, ~~[of less than \$25.00]~~ of less than or equal to the federal minimum allotment.

[8.139.502.8 NMAC - N, 08/30/2007; A, 04/15/2009; A, 01/01/2011; A,03/01/2024]

8.139.502.9 DETERMINING THE BENEFIT:

A. Application: A household shall not be required to submit an application in addition to the application for federal food stamp benefits to qualify or be determined eligible for the state food stamp supplement amount.

B. Eligibility determination: Eligibility shall be determined for a household meeting all eligibility requirements at:

(1) the time of application approval;

(2) the time of recertification;

(3) the month following a reported change which qualifies the household; or

(4) the month following a change that becomes known to the agency in which the change

qualifies the household; or

(5) at time of implementation of this program.

C. Calculating the state food stamp supplement amount: A household qualified and eligible for the state food stamp supplement shall receive a state supplement to the federal food stamp allotment amount to an amount that is determined based on the availability of state funds [to a maximum of \$25.00 per month] before any recoupments and overpayments have been applied to the benefit amount.

(1) **Application month:** The state food stamp supplement shall be determined by subtracting the federal FSP benefit amount, after the federal FSP benefit is prorated and prior to any recoupment, from ~~\$25.00~~ [the federal minimum allotment]. The state food stamp supplement shall not be prorated.

(2) **Ongoing month:** The state food stamp supplement shall be determined by subtracting ~~[the federal FSP benefit amount]~~ the federal food stamp allotment, prior to any recoupment, from the determined supplement amount ~~[from \$25.00]~~.

(3) **Eligibility for a prior month:**

(a) The state food stamp supplement shall not be provided to a household for a benefit month prior to July, 2007.

(b) A household in which the federal benefit amount is adjusted for a prior month may be eligible for the state food stamp supplement provided the household qualifies and is eligible for the supplement.

(4) **Current FSP households:** Households which meet the qualifications and eligibility requirements for the state food stamp supplement shall be eligible for the supplement without any action required by the household. The household shall be eligible for a supplement for any month beginning July 2007 and after upon implementation of the program for which the household qualifies.

D. Ineligibility: A household shall become ineligible for the state food stamp supplement if the household does not meet the eligibility requirements specified in 8.139.502.8 NMAC the month following the month the notice of adverse action expires. The household's eligibility for the state food stamp supplement shall be made at the time of:

- (1) application approval;
- (2) recertification;
- (3) a reported change;
- (4) a change becomes known to the agency; or
- (5) at the time of a mass change.

E. Notice: A household that qualifies and is eligible for food stamp benefits shall be issued notice in accordance with 8.139.110.14 NMAC. A notice of adverse action shall not be considered if the household federal food stamp and state food stamp supplement does not decrease below [~~\$25.00~~] the federal minimum allotment. A household that qualifies and is eligible for the state food stamp supplement shall be issued a notice for the following circumstances:

(1) **Approval:** A household shall be issued an approval notice at the time the household is determined eligible for the state food stamp supplement. The approval notice shall identify the amount of the state food stamp supplement.

(2) **Benefit change:** A household shall be issued a notice at the time the state food stamp supplement is increased or decreased. The amount of benefit is subject to change when the federal food stamp benefit is increased or decreased.

(3) **Ineligibility:** A household shall be issued a notice when the household no longer qualifies or is eligible for the state food stamp supplement as indicated in Subsection D of 8.139.502.8 NMAC. [8.139.502.9 NMAC - N, 08/30/2007; A, 04/15/2009; A, 01/01/2011; A, 03/01/2024]