



Michelle Lujan Grisham, Governor
Kari Armijo, Secretary
Kathy Slater-Huff, Deputy Secretary
Niki Kozlowski, Acting Deputy Secretary
Alanna Dancis, Acting Medicaid Director

On October 13, 2026, a Public Hearing was held for Health Care Authority Register (HCAR) Vol. 49 NO. 25, published on September 9, 2026, in Volume XXXVII, Issue 17, Public comment was received via email on October 13, 2026 (see below). Response to follow in final HCAR.



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October 13, 2026

Kari Armijo, Secretary
Health Care Authority
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Via email: HCA-isdrules@hca.nm.gov

RE: New Mexico Register Vol. 49 No. 25

To Whom It May Concern,

We are writing to submit comments opposing the proposed rule changes published in *HCAR Vol. 49 No. 25* regarding the modification of eligibility restrictions related to convicted felons within state-funded assistance programs.

We strongly oppose the incorporation of these criminal penalties and eligibility barriers into state-funded assistance programs because they are not federally required, illegal under New Mexico law, harmful to New Mexico families, and burdensome for the agency to implement. The “certain convicted felons sections” at NMAC 8.100.130.22(B)(3), 8.102.410.15(C) and 8.106.410.14(C) should be removed from the New Mexico Administrative Code and the Health Care Authority (HCA) should not implement the newly proposed language for those same sections.

1. Federal Law Does Not Require States to Disqualify Families from State-Funded Assistance Due to Felony Conviction.

The federal law cited as the legal justification for these restrictions in the proposed rule - 7 C.F.R. § 273.11 - does not apply to the state-funded assistance programs, like New Mexico Works and General Assistance. It explicitly only applies to the Supplemental Nutrition Assistance Program (SNAP). In 2014, the Farm Bill created some new federally mandated exclusions related to SNAP, not state-funded cash assistance programs. The provisions prohibited anyone convicted of federal aggravated sexual abuse, murder, sexual exploitation, and abuse of children, sexual assault or similar state laws and who are also not in compliance with the terms of their sentence or parole or are a fleeing felon from receiving ***SNAP benefits***. This exclusion was codified at 7 U.S.C. § 2015(r). The federal statute explicitly only governs participation in SNAP, not eligibility for public benefits generally. Section 2015 is titled

“Eligibility disqualifications,” and subsection (a) expressly limits the section’s requirements to eligibility for participation in SNAP. Indeed, the statute also expressly defines the term “Benefits” as *SNAP benefits*. See 7 U.S.C. § 2012(d). Accordingly, § 2015(r) and its implementing regulations at 7 C.F.R. § 273.11(s) cannot be extended to impose requirements or consequences on recipients of state-funded benefits absent separate statutory authority.

“The authority of an administrative agency to promulgate rules and regulations must be found in and is limited by statute.” *Howell v. Heim*, 882 P.2d 541, 1994-NMSC-103, ¶ 8 (internal quotations omitted). Here, HCA was authorized to impose penalties on certain felons applying for SNAP benefits and only for SNAP benefits. In its Background Summary for the proposed rule change, HCA specifically states that the initial rule was implemented to recognize the requirements of the Agriculture Act of 2014. The authorities cited by HCA in its proposed rulemaking neither obligate nor permit HCA to impose “certain convicted felon” exclusions for programs other than SNAP.

2. Proposed Eligibility Requirements for the New Mexico Works Program Conflict with the New Mexico Works Act.

The proposed rule directly conflicts with New Mexico law setting out exclusions from cash assistance eligibility at NMSA 27-2B-11, which does not include those proposed by the HCA today. That law does not authorize the HCA to create new exclusions for the New Mexico Works program. The only federally authorized felony-related exclusions from New Mexico Works are those found in the federal ban on access to SNAP and TANF benefits for those with felony drug convictions. See 21 U.S.C. § 862a. Federal law allows states to opt out of or modify the ban. 21 U.S.C. § 862a(d)(1). New Mexico’s legislature affirmatively opted out of this ban in New Mexico in 1996, with the passage of the New Mexico Works Act. *See* NMSA 27-2B-11(C).

3. Excluding Families from Benefits Due to Convictions is Harmful.

Even if this rule was not illegal, research shows these exclusions harm families and communities more broadly. Excluding people with felony convictions from benefits harms public safety by increasing the chances they will go back to prison. Research shows that having access to assistance gives people the stability they need to rebuild their lives. *See* Crystal S. Yang, “Does Public Assistance Reduce Recidivism?” *American Economic Review* 107, no. 5 (2017): 551–55. A study published in the *American Economic Review* found that receiving SNAP and Medicaid decreases the risk of reincarceration by 10 percent in the first year after release. *Id.* Without this basic support, individuals face extreme desperation, often forcing them back into crime just to survive.

This policy also directly threatens public health by harming families and children who rely on these penalized individuals for survival. When a parent is banned from receiving benefits, the entire family has less food, which drives up child poverty and causes long-term

developmental damage. *See* National Academies of Sciences, Engineering, and Medicine, *A Roadmap to Reducing Child Poverty* (Washington, DC: The National Academies Press, 2019). Studies show that poverty and food insecurity forces people into dangerous situations. *See* Emily A. Wang et al., "A Pilot Study Examining Food Insecurity and Somatic Symptoms Among Incarcerated Persons Returning to the Community," *Journal of Urban Health* 90, no. 2 (2013): 262–273. Because of systemic disparities in the justice system, these bans disproportionately target Black and Hispanic communities, cutting off vital lifelines for children and compounding generational poverty. *See* The Sentencing Project, *A Lifetime of Punishment: The Impact of the Felony Drug Ban on SNAP* (Washington, DC: The Sentencing Project, 2021).

4. HCA Should Seek Assistance and Expertise to Avoid Harmful and Illegal Rulemaking.

HCA's rulemaking on this issue is highly concerning. HCA originally implemented an illegal rule improperly excluding SNAP recipients with convictions prior to the federal law's implementation date and imposed the same ex post facto and inapplicable exclusion to cash assistance. While we appreciate the HCA correcting its ex post facto error, it has failed to remove the unlawful restrictions for cash benefits programs.. HCA's refusal to permanently remove the unlawful cash assistance regulations and its insistence on rewriting those rules shows the agency is in need of expertise and assistance. These unlawful rules are harmful to the public and waste agency resources.

The proposed rule relies on inapplicable federal authority, directly contradicts New Mexico law, and would harm New Mexicans. We therefore urge the Health Care Authority to **strike the above mentioned provisions entirely** and to not impose any unauthorized restrictions on cash benefit program eligibility

Thank you for considering these comments. Please let me know if you have any questions. I can be reached at marco@nmpovertylaw.org.

Sincerely,

/s/ Marco Alarid White

Marco Alarid White

Public Benefits Attorney

New Mexico Center on Law and Poverty