



STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT

# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

Human Services Department

## II. SUBJECT

TANF State Plan

## III. PROGRAMS AFFECTED

NMW Cash Assistance Program

## IV. ACTION

Proposed State Plan

## V. BACKGROUND

The Human Services Department is required by Federal Law to file a State Plan that describes how the Department will administer the State's TANF-funded cash assistance program. The State Plan must be submitted every two years to the United States Department of Health and Human Services (DHHS), Administration for Children and Families (ACF). The Department is required to offer a 45 – day comment period for the TANF State Plan prior to submittal.

## VI. PROPOSED STATE PLAN

This register and proposed regulations are also available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. 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 505-827-7274.

You may also send a request to:

Human Services Department  
Income Support Division  
Attn: Policy and Program Development Bureau  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

The proposed State Plan is available on and can be printed from the Department's website at:

<http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>

#### VI. EFFECTIVE DATE

January 1, 2015

#### VIII. PUBLIC HEARING

A public hearing to receive testimony on this regulation will be held on March 2, 2015 from 9:00 a.m. to 10:00 a.m. The hearing will be held at the Income Support Division Conference Room at Pollon Plaza, 2009 S. Pacheco St., Santa Fe, NM 87505. The Conference room is located in room 120 on the lower level. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling toll free 1-800-432-6217.

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 505-827-7701 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

#### IX. ADDRESS

Interested persons may address written or recorded comments to:

Brent Earnest, Secretary Designate  
Human Services Department  
P.O. Box 2348 Pollon Plaza  
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to:

[brandi.sandoval@state.nm.us](mailto:brandi.sandoval@state.nm.us)

#### X. PUBLICATION

Publication of these regulations approved on December 24, 2014 by:



BRENT EARNEST, SECRETARY DESIGNATE  
HUMAN SERVICES DEPARTMENT

**NEW MEXICO WORKS**  
**NEW MEXICO'S**  
**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**  
**STATE PLAN**

January 1, 2015 - December 31, 2016



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

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## **PART I - PURPOSE AND GENERAL OBJECTIVES**

In August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was signed into law. The federal law terminated the Aid to Families with Dependent Children (AFDC) program and replaced it with the non-entitlement Temporary Assistance for Needy Families (TANF) Block Grant.

On February 18, 1998, Governor Gary E. Johnson signed the New Mexico Works Act (NMWA) into law. The state act deleted state statutory references to AFDC and established the parameters of the TANF program in New Mexico. The program created under NMWA is called New Mexico Works (NMW).

On February 6, 2006, the Deficit Reduction Act (DRA) of 2005 was signed reauthorizing the 1996 PRWORA for an additional five years. The reauthorization required the Secretary of the U.S. Department of Health and Human Services (DHHS) to promulgate regulations designed to address eligible work activities and uniform reporting and accountability measures. DHHS issued the Interim Final rules on June 28, 2006 and the Final rules on February 5, 2008.

In order to obtain the federal TANF Block Grant funds provided in PRWORA and continued through the DRA, the state must develop and submit a state plan for program implementation. This document sets forth the background, goals and objectives for NMW and generally describes the eligibility criteria, program services, benefits, methods and procedures the State of New Mexico is using in administering the NMW program, and in carrying out requirements and provisions of the federal TANF legislation.

The contents of this plan are descriptive only and are not determinative with respect to individual case eligibility, payment determinations or other aspects of program operations. The rules governing the New Mexico Works Cash Assistance Program are filed in the New Mexico Administrative Code at 8.102 NMAC. The general provisions for the TANF program are found at 8.100 NMAC with an effective date of April 13, 2001.

### **A. BACKGROUND**

1997. On July 1, 1997 the Human Services Department (HSD or Department) implemented a TANF program developed from a lengthy series of meetings with advocates and clients, open community meetings and interagency meetings.

1998. During the 1998 session of the New Mexico Legislature, the New Mexico Works Act (NMWA) was passed and signed into law creating New Mexico's TANF program as a statutory entity. The New Mexico Works program was implemented effective April 1, 1998 under interim regulations. Following a public review and comment period culminating in a statewide public hearing on June 5, 1998, the New Mexico Works regulations were finalized effective July 1, 1998.

2000. In February 2000 HSD implemented a TANF funded Diversion program for specific employed families.

2001. The 2001 Legislature amended the NMWA, which resulted in substantial changes to the State's TANF regulations. The final regulations for the amendments to the NMW Cash Assistance Program were effective July 1, 2001.

Based on discussion with advocates in the community, and because there is a need to address barriers to participation, and because the Department recognizes that work program participants face multiple barriers to full participation in work programs, the Department implemented a modified work participation agreement effective July 1, 2001.

2002. The 2002 Legislature passed House Bill 11 and Senate Bill 129, identical bills that allow for the State to opt out of the provision in PRWORA to prohibit TANF funded cash assistance to an individual convicted of a drug related felony. Governor Gary Johnson signed both bills into law on March 1, 2002. In compliance with the law, the NMW program does not disqualify from participation any individual who has been convicted of a drug-related felony effective May 15, 2002.

2003. The 2003 Legislature passed several amendments to the New Mexico Works Act. The amendments allow for expanded eligibility using state funds for certain individuals in school who receive special education services; an extension of TANF under hardship for an individual with an SSI application only if the individual is also waived from the NMW work requirement based on disability; an exclusion of all vehicles used for transportation to/from work, school or other daily living activities; and do not allow a non-reporting sanction or payment reduction when an adult fails to report that a dependent child is not in compliance with school attendance requirements. The Legislature also passed the state funded Education Works Act, which revised the Education Works Program. It remains a time-limited program based on attendance in an institution of higher education.

2005. The 2005 TANF State Plan was amended to include the recovery of benefits from dormant EBT accounts after 180 days and clarify those benefits removed do not count toward the individual's 60-month lifetime limit and to allow early childhood development programs to include pre-kindergarten children programs at 185% of Federal Poverty Guidelines (FPG).

2006. The US Department of Health and Human Services (HHS) Administration for Children and Families (ACF) clarified that under the Fair Labor Standards Act (FLSA), TANF participants cannot be required to participate in non-paid work activities beyond their TANF cash assistance benefit divided by the federal minimum wage. However, the United States Department of Agriculture (USDA) and Food Nutrition Service (FNS) provides a solution under their Simplified Food Stamp Program (SFSP).

The 47<sup>th</sup> Legislature, Second Regular Session, appropriated an increase to the payment standard for the month of August. The clothing allowance payment standard for eligible benefit groups was increased to \$100 from \$44 for each school-age child included in the benefit group.

2007. The 48<sup>th</sup> Legislature, Regular Session, passed House Bill 140, which clarified and expanded the eligibility requirements, delineating allowable uses of and the treatment of

resources, creating the Individual Development Account Program, and aligned the NMW regulations.

The same Legislative Session passed House Bill 342 clarifying work program activities, countable hours of participation, waivers, and treatment of CSED payment disregards. Regulations were aligned with said bill by incorporating a limited participation waiver which mandates that disabled individuals who cannot meet work participation hours must still be actively involved in activities specific to their conditions and circumstances. The goal is to eliminate as many barriers as possible in order to prepare the individual to meet the standard work participation requirements.

The diversion payment was expanded to include a higher payment amount based on household composition. The requirements for diversion payments were also expanded to include not only certain employed individuals but individuals needing non-recurring assistance to alleviate a short-term need.

2008. The previous administration elected to increase the cash assistance Standard of Need by 15%. This is the first increase to the Standard of Need in 15 years. Along with the increase, NMW recipients with school age children are eligible to receive two clothing allowance payments in the amount of \$100 per each child. NMW recipients receive the clothing allowance payments every August and January for each school age child in the benefit group. (The January clothing allowance and the increase in the standard of need was due to a regulation change promulgated January 1, 2008).

2009. The 49<sup>th</sup> New Mexico Legislature, Regular Session of 2008, amended the New Mexico Works Act through Senate Bill 137, signed into law April 7, 2009. Senate Bill 137 removed legal guardian from the definition of parent, making a legal guardian an optional member for inclusion in the NMW cash assistance benefit group.

2010. Due to budgetary constraints during Federal Fiscal Year 2011, several actions were taken to reduce the TANF spending. These actions included eliminating or reducing support service contracts and suspending the issuance of support service reimbursements such as transportation, employment related costs and educational reimbursements.

2011. January 1, 2011, the Department implemented several changes to reduce the TANF budgetary constraints:

- Reduced the TANF monthly benefit amount with a 15% budgetary adjustment.
- Reduced the issuance of the clothing allowance for school age children in an active TANF benefit group to an annual payment. In August 2011, Governor Susana Martinez identified State General Fund to provide a \$50 allowance. Effective, February 1, 2011, suspended the Transition Bonus Program indefinitely.

The following contracts for supportive services were reduced due to the TANF and general fund budgetary constraints:

<b>Contractor</b>	<b>Program</b>
Commission on The Status of Women	New Mexico Works Service Provider
Children, Youth and Families Department	Child Care TANF
Children, Youth and Families Department	Domestic Violence
Children, Youth and Families Department	Pre-Kindergarten
New Mexico State University	New Mexico Works Service Provider
Navajo Nation	TANF Support Services
Pueblo of Zuni	TANF Support Services

The following contracts were terminated as a result of the TANF and general fund budgetary constraints.

<b>Contractor</b>	<b>Program</b>
Aging & Long Term Services	Gold Mentor Program
Mid-Region Council of Governments	Transportation Services
Public Education Department	GRADS Program
Public Education Department	Pre-Kindergarten

2012. April 1, 2012, the Department promulgated final regulation to ensure that all adult and minor teen parents receiving cash assistance participate in work activities. Work activities include support and training for those with barriers to getting jobs, help in finding jobs and learning the skills to keep a job. The work activities help families succeed in becoming self-sufficient, which is one of the goals of the New Mexico Works Act (NMWA).

2014. The Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) requires states receiving TANF grants to “maintain policies and practices as necessary to prevent assistance provided under the State program from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. New Mexico Administrative Code (NMAC) was updated to reflect the changes to prohibit the use of EBT cards in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, effective April 15, 2014. Should a TANF recipient report a problem with accessing TANF benefits based on the new law restriction, HSD will, on a case-by-case basis, assist them with information and assistance in getting free or low cost access to cash assistance benefits. Posters notifying EBT card users of the change have been posted in all county Income Support Field offices. New Mexico is working with our system vendor to include new language informing recipients of this change on all notices sent from the Human Services Department.

TANF recipients are charged a \$0.50 fee (in addition to any ATM surcharges) for each transaction. This information is given to clients upon receipt of their EBT card. This information can also be found on the HSD website. EBT cards are accepted at all FNS approved locations, this allows recipients that are in rural areas adequate access to cash benefits. If there are issues with clients accessing benefits, HSD, along with our EBT vendor, will work with recipients and

assist them in accessing their benefits free or at a low cost.

## **B. PURPOSE**

It is the purpose of the NMW program to increase family income through employment and receipt of child support income; to enable and assist parents to participate in employment activities; and to view cash assistance as a support service rather than as an entitlement. In addition, the purpose of NMW is to change the culture of welfare, both on the part of the state agency and the recipients, so that all parties can focus on addressing the barriers to participation in work activities in order to put New Mexicans to work.

## **C. GOALS**

In defining the goals and objectives of the New Mexico TANF plan, the state takes into account the DRA of 2005, TANF legislation and the New Mexico Works Act of 1998, as amended. It is the goal of the NMW program to:

1. Develop a program focus and environment that supports self-reliance and personal responsibility;
2. Provide assistance to needy families so that children may be cared for in their own homes;
3. End family dependence on public benefits by promoting work;
4. Prevent and reduce the incidence of out-of-wedlock pregnancies;
5. Encourage the formation and maintenance of two-parent families;
6. Increase the number of TANF recipients engaged in work activities by increasing engagement in suitable job-readiness programs for participants that are state-defined exempt through limited work participation activities;
7. Require the NM Works services contractor to secure contracted services that promote work activities;
8. Ensure participants engaged in work activity have access to work support services through collaborations with private and public sector entities;
9. Foster an environment of self-sufficiency and work participation for clients that are about to be sanctioned; and
10. Review hardship extensions of participants that are motivated to be self-sufficient and encourage them to fully participate in work activities.

## **D. OBJECTIVES AND METHODS**

The State of New Mexico intends to carry out the purpose of the TANF program by achieving the following objectives:

1. Develop and implement the New Mexico Works program, a TANF program designed to provide cash assistance, child care, and supportive services to New Mexico's needy families to assist them in achieving self-sufficiency. The state will:
  - a. Assist recipients to obtain and keep employment that is sufficient to sustain and strengthen the family;
  - b. Provide parents with education and training, job preparation and readiness, and work and support services to enable them to obtain and retain employment, which thereby assists them to leave the program;
  - c. Move program participants into the workforce and off cash assistance and provide transitional services and program features supporting employment retention;
  - d. Provide assistance and services to recipients that focus on addressing and overcoming barriers to participation in work activities;
  - e. Provide a reasonable level and duration of support for those who are not able to transition into employment in the near term;
  - f. Allow for NMW assistance and services to be available in all geographic areas of the state;
  - g. Encourage family formation by rule and policy formulation supportive of two-parent families; and
  - h. Align certain NMW and Supplemental Nutrition Assistance Program (SNAP) provisions in order to simplify the programs and to control the program's administrative costs.
2. Implement the Family Violence Option under TANF.
3. Implement Separate State Programs using Maintenance of Effort (MOE) funds.
4. Implement the state's statutory Rape Prevention Education plan for law enforcement officers.
5. Implement an Out-of-Wedlock Birth Reduction plan for state.

## **PART II - ASSURANCES & CERTIFICATIONS**

I, SUSANA MARTINEZ, Governor of the State of New Mexico, hereby certify that:

Child Support. In accordance with 402(a)(2) of PRWORA, the State of New Mexico will operate a child support enforcement program during each of the fiscal years covered by this state plan, and in accordance with the state plan approved under title IV-D of the Social Security Act.

Foster Care. In accordance with 402(a)(3) of PRWORA, the State of New Mexico will operate a foster care and adoption assistance program under the state plan approved under Title IV-E of the Social Security Act and that the state will take action to ensure that children receiving assistance under title IV-E are eligible for medical assistance under Title XIX of the Social Security Act.

State Agency Designation. In accordance with 402(a)(4) of PRWORA, the Human Services Department is designated as the state agency with responsibility for administration and supervision of the Temporary Assistance for Needy Families (TANF) block grant in New Mexico.

Consultation/Public Comment Period. In accordance with 402(a)(4) of PRWORA, the Department allowed a 45-day public comment period for this State Plan. The public comment period began on **xxxxx** and ended at 5:00 pm on **xxxxx**. Notice of the proposed TANF State Plan comment period was published in the NM Register and the Albuquerque Journal on **xxxxx**. The proposed TANF State Plan was available in written and electronic format throughout the comment period.

Equitable Access. In accordance with 404(a)(5) of PRWORA, during each of the fiscal years covered by this plan, the State of New Mexico will provide equitable access to assistance under the State program to each member of an Indian tribe who is domiciled in the State and who does not participate concurrently in both the State and Tribal TANF program.

Fraud and Abuse. In accordance with 404(a)(6) of PRWORA, the State of New Mexico has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the state's program, kickbacks and the use of political patronage.

Displacement. In accordance with 407(f) of PRWORA, the Department has established procedures for addressing concerns of displacement of employees by the State's TANF work program.

Election of the Family Violence Option. In accordance with 402(a)(7) of PRWORA, the State of New Mexico has established a system to screen, identify, and provide services and assistance to individuals with a history of domestic violence and to waive program requirements for such individuals when compliance would make it difficult for the individual to escape the violence or would endanger the individual's life.

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SUSANA MARTINEZ, GOVERNOR  
STATE OF NEW MEXICO

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Date

## **PART III - GENERAL PROGRAM DESCRIPTION**

### **A. PROGRAM SCOPE**

#### **1. Statewide Program Access**

The NMW Cash Assistance Program operates statewide. Program services and assistance are available to all families meeting program eligibility criteria. Program eligibility and payment standards are uniform throughout the state.

Work program activities, training and educational services operate statewide. Such activities and services may vary from place to place depending in large part upon the availability of community resources.

Native Americans living within a tribal TANF service delivery area may not receive benefits concurrently from the tribal program and NMW Cash Assistance Program. The Department will continue to provide SNAP and Medicaid benefits to eligible tribal members. Subject to availability, tribal members may participate in service only programs funded with state general funds claimed as state TANF MOE, regardless of whether they live in a tribal Service Delivery Area (SDA).

#### **2. Program Administration**

The New Mexico Human Services Department requires Department staff to determine eligibility, to calculate payments, and to assure compliance with program requirements for administration of the NMW program.

Work program activities, training and educational services are administered by Service Providers under contract with the Department. The Department may delegate responsibility or contract for provision of work program services with other public agencies, such as the New Mexico Department of Workforce Solutions (DWS) or with private for-profit or non-profit entities.

The Department also administers a state-funded General Assistance program for eligible dependent needy children and disabled adults who are not eligible for assistance under a federally matched cash assistance program, as well as Child Support Enforcement, Medicaid, SNAP, Refugee Resettlement, Low Income Home Energy Assistance Program (LIHEAP), USDA Commodities, and the Community Services Block Grant programs.

#### **3. Effective Date**

This State Plan covers the period January 1, 2015 through December 31, 2016.

#### **4. Cooperating Agencies**

HSD cooperates with the New Mexico Children, Youth, and Families Department

(CYFD) in providing child care; with DWS regarding labor market exposure; with the New Mexico Public Education Department concerning education needs; and with the New Mexico Department of Transportation concerning transportation needs. The Department also cooperates with regional community colleges, universities, alternative high schools, teen pregnancy and domestic violence organizations and other community-based programs, and local public and private sector employers. The 48<sup>th</sup> Legislature, First Regular Session of 2007, enacted House Bill (HB) 1280 to improve the effectiveness of the workforce service and delivery system. HB 1280 combined all functions and staff of the Governor's Office of Workforce Training and Development with the functions and staff of the New Mexico Department of Labor to create DWS.

DWS continues the programs of the previous agencies and concentrates on aligning workforce training programs with the current and emerging needs of the business community and the New Mexico economy.

## 5. Displacement Procedures

a. Prior to placement of a NMW program participant in a vacant position, the work program contractor certifies with the employer that the position is not vacant as a result of a layoff or termination by the employer, or a reduction in force in order to fill the position with the NMW participant. The work program contractor certifies that displacement has not occurred with the Chief of the Work and Family Support Bureau for the Income Support Division.

b. An assertion of displacement by an employee will be investigated within 10 working days of the date the employee contacts the Work and Family Support Bureau of the Income Support Division. Work and Family Support Bureau staff will contact the employer, and the work program contractor. The Work and Family Support Bureau will issue a written report to the Income Support Division Director.

c. The Income Support Division Director will issue a written finding to the employee, employer and work program contractor. A finding that displacement has occurred will result in immediate removal of the NMW participant from the position of the displaced employee. A finding that displacement has not occurred will result in continued employment of the NMW funded work participant in the position.

## **B. ELIGIBILITY FOR NMW**

This section generally describes the non-financial eligibility criteria that individuals must meet in order to be included in a NMW benefit group. The benefit group consists of those individuals whose needs are determined to meet eligibility criteria and to whom benefits and services are provided.

## 1. Defining the NMW Benefit Group

The NMWA defines the benefit group as a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half, step- or adopted siblings living with the dependent child's parent or relative within the fifth degree of relationship and the parent with whom the child lives.

The NMW benefit group must include all full, half, step- or adopted siblings living in the home, and must include the natural or adoptive parent, stepparent or legal guardian of a dependent child. The specified relative within the fifth degree of relationship or an unrelated dependent child living in the home may be included in the benefit group.

For purposes of defining the NMW benefit group, a parent means a natural parent, adoptive parent, or stepparent.

During her last trimester of pregnancy, a woman with no other dependent children is considered as having a dependent child for eligibility purposes, but is treated as only one person in determining payment. The father of the unborn child is also included in the benefit group if he lives in the home.

## 2. Living in the Home

To be eligible for inclusion in the benefit group, the dependent child must be living, or considered to be living, in the home of a parent or specified relative.

To be eligible for inclusion in the benefit group, a parent or specified relative must be living in the home with a dependent child.

For the purposes of determining the benefit group, a pregnant woman is considered to have a dependent child.

To be eligible for NMW benefits, an unmarried, unemancipated teen parent must be living with a parent, legal guardian, a responsible relative, or in an approved adult-supervised setting.

For the purposes of this requirement, a teen parent is an individual who has not reached the age of 18. A teen parent and his or her dependent child(ren) living in an adult-supervised setting do not have to be related to the adult providing the supervision.

A parent or specified relative who fails to report, within ten days, the departure from the home of a child is individually ineligible, and the benefit group may be subject to the payment sanctions set forth in Part III-C-3.

## 3. Enumeration

Individuals with a Social Security Number must report the number. Individuals who do

not have a Social Security Number must apply for one and report it within 60 days of approval of the NMW application.

4. Citizenship/Alien Status

- a. U.S Citizens. Individuals born in the United States, or born to at least one U.S. citizen parent are eligible on the basis of citizenship.
- b. Non-citizen nationals. Individuals born in an outlying possession of the U.S. (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession or a person whose parents are non-citizen nationals (subject to certain residency requirements).
- c. Aliens. Individuals who are not citizens of the United States are eligible for inclusion in the NMW benefit group, with respect to qualified alien status, in accordance with the provisions of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
  - (1) A qualified alien means an alien:
    - who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
    - who is granted asylum under section 208 of the INA;
    - who is admitted to the United States as a refugee under section 207 of the INA;
    - who is paroled into the United States under section 212(d)(5) of the INA for a period of at least one year;
    - whose deportation is withheld under section 241(b)(3) of 243(h) of the INA;
    - who is granted conditional entry into the United States pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;
    - is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
  - (2) Battered or Subjected to Extreme Cruelty: A qualified alien also includes an alien who has been battered or subjected to extreme cruelty by a spouse or parent, an alien who is a parent of a battered child or an alien who is the child of a battered parent. The requisite abuse can also be caused by a member of the family residing in the household if the spouse or parent consented to or acquiesced to the battery or cruelty. Such individuals must meet all conditions for treatment of aliens who have been battered or subjected to extreme cruelty as qualified aliens set forth at Title 8 U.S.C. 1641(c).



engage in work program activities at federal statutory requirements or by FLSA Standards, unless they have requested limited work participation. Provisions in the NMWA allow for a work participation standard that does not exceed four hours of the federal statutory levels. Sanctions for failure to participate are described in Part III-C-3 of this plan.

- c. Limited Work Participation Status A participant may request a limited work participation status exempting them from meeting the federal statutory levels, requiring the participant to engage in an activity for no less than one hour per week, as determined by the Department at 8.102.420 NMAC. Individuals who demonstrate extraordinary circumstances may be granted a zero hour limited work participation status. Participants granted a limited work participation status are required to meet the NMW compliance requirements as indicated at 8.102.460.9 NMAC. Failure to complete the assessment, IRP and WPA will be considered non-compliance with program requirements. The Incapacity Review Unit (IRU) or the NMW Service Provider will establish participation requirements specific to the participant's condition or circumstances, such as substance abuse services, mental health services, domestic violence services, pursuit of disability benefits, job readiness, or education directly related to employment. The activities chosen are to address the participants barriers and to improve the participant's capacity to improve income and strengthen family support. The qualifying conditions are listed below:

- (1) An individual age 60 or older;
- (2) A single parent, not living with the other parent of a child in the home, or caretaker relative with no spouse, with a child under the age of 12 months. A participant may be eligible for a limited work participation status using this qualification for no more than 12 months during the participant's lifetime.
- (3) A single custodial parent caring for a child less than six years of age or who is a medically fragile child if the parent is unable to obtain child care for one or more of the following reasons and the Children, Youth and Families Department (CYFD) certifies as to the unavailability or unsuitability of child care:
  - (a) the unavailability of appropriate child care within a reasonable distance from the parent's home or work site; or
  - (b) the unavailability or unsuitability of appropriate and affordable formal child care by a relative or under other arrangements; or
  - (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements;
- (4) A participant who is a woman in her third trimester of pregnancy, or six weeks post partum.

- (5) A participant whose personal circumstances preclude participation for a period not to exceed 30 consecutive days in a calendar year.
- (6) A participant who demonstrates by reliable medical, psychological or mental reports, court orders, police reports, or personal affidavits (if no other evidence is available), that family violence or threat of family violence effectively bars the parent from employment.
- (7) A participant who is completely impaired, either temporarily or permanently, as determined by IRU.
- (8) A participant may be entitled to the family violence option (FVO). This option allows for a parent in a domestic violence environment to be in a limited work participation status for the length of time certified by a trained domestic violence counselor. The certification shall indicate that the parent is in a domestic violence environment which makes them eligible for a limited work participation status.
  - (a) A participant's FVO limited work participation status shall be reviewed every six months and shall be determined by IRU based on the domestic violence counselor's certification.
  - (b) A participant who can continue to comply with work requirements as certified by a trained domestic violence counselor may be eligible for a limited work participation status for 24 weeks as described in 8.102.461.15 NMAC.
- (9) A participant who is the sole provider of the care for an ill or incapacitated person. In order to meet this exception, the participant must show that the parent is the sole caretaker for a disabled person and must demonstrate that the participant cannot be out of the home for the number of hours necessary to meet standard work participation hours. The following apply to caretaker conditions in determining if the standard work participation rate applies or if a limited work participation rate will be granted:
  - (a) Only those care activities around which work program activities cannot be scheduled are taken into consideration.
  - (b) Food purchase and preparation activities, home maintenance chores, etc. are activities which may be scheduled and performed at time other than work program participation hours and are not taken into consideration when determining the standard work participation rate.
  - (c) A requirement to be on call for the medical emergencies of a medically fragile person is taken into consideration in determining the standard work participation rate for the participant.
- (10) A participant may demonstrate good cause for the need for the limited work participation status. A good cause limited work participation status may exist and shall be determined by the Department based on the participant's existing condition(s) to include any barriers identified during the NMW assessment process that impair an individual's ability to comply

with the standard work participation rate or capacity to work.

## 8. Lifetime Limits

A benefit group is not eligible on the basis of lifetime limits, if the benefit group contains an adult or minor head of household who is ineligible because of the lifetime limit.

a. 60-Month Lifetime Limit. Adult or minor head of household members of the NMW benefit group are eligible for a lifetime limit of no more than 60 months of TANF cash assistance benefits (includes NMW cash assistance effective April 1, 1998 and its predecessor program known as PROGRESS, which was effective July 1, 1997). The counting of months began with July 1997 or the first month thereafter in which the individual received TANF cash assistance as an adult or a minor head of household or their respective spouse. Months that have benefits issued and those benefits are later fully recovered by the Department in a dormant EBT account will not be counted as a month of receipt in the 60-month lifetime limit.

b. Waiver of the Lifetime Limit. Once the 60-month lifetime limit is reached, eligibility for the adult may continue if:

(1) is determined eligible for a limited work participation status due to one of the following qualifying conditions:

(a) an impairment, either temporarily or permanently, as determined by IRU in accordance with Paragraph (1) of Subsection C of 8.102.420 NMAC;

(b) is the sole provider of the care for an ill or incapacitated person;

(c) does not have the ability to be gainfully employed because the individual is affected by domestic violence;

(d) has been battered or subjected to extreme cruelty;

(2) has an application for supplemental security income (SSI) pending in the application or appeals process and:

(a) is currently granted a limited participation status because of a temporary or complete disability; or

(b) was granted a limited participation status because of a temporary or complete disability in the previous twenty-four months;

(3) has reached the age of 60 by the end of the last month of his or her term limit;

(4) is otherwise qualified as defined by the Department.

c. Excluded from the Lifetime Limit. An individual who resides in Indian country where at least 50% of the adult population is not working shall not have months of participation in the NMW TANF program counted toward the 60-month lifetime limit.

9. Age

For purposes of the NMW cash assistance program, a dependent child means a natural or adopted child, stepchild or ward who is seventeen years of age or younger; or an individual who is eighteen years of age and is enrolled in high school.

An individual who is over age eighteen and under age twenty-two is considered a dependent child if the individual is enrolled in school and is receiving special education services regulated by the New Mexico Public Education Department (PED). Such an individual may participate in the NMW cash assistance program as a state-funded participant.

There is no age limit with respect to the inclusion of adults in the benefit group.

10. School Attendance

- a. To be eligible for inclusion in the NMW benefit group, a dependent child who has not graduated from high school must regularly attend school.
- b. A child who has turned 18 years of age may be included in the benefit group as long as he or she complies with school attendance requirements, until the end of the month in which he or she graduates or the end of the month in which he or she turns 19, whichever occurs first. A child between the ages of 18 and 22 and receiving special education services regulated by the New Mexico Public Education Department may also be included in the benefit group.
- c. The minor unmarried parent who does not have a high school degree must attend high school, an approved alternative educational program, or participate in an approved work activity, unless he or she has a child under the age of 12 weeks.

11. Institutionalization

An individual is not eligible for inclusion in the NMW benefit group if the individual resides in a public medical or behavioral health treatment facility or is confined to a jail or penal facility.

12. Fraud and Criminal Activity

- a. Dual State Benefit Fraud. An individual who has been convicted of fraud for receiving TANF, SNAP, Medicaid, or SSI in more than one state at the same time is not eligible for inclusion in the NMW benefit group for a period of 10 years following such conviction. The conviction must have occurred on or after August 22, 1996.
- b. Fugitives and Probation or Parole Violators. An individual who is a fugitive felon, or who has been indicted and flees to avoid prosecution for a felony, or

who has been determined to be in violation of conditions of probation or parole, is not eligible for inclusion in the NMW benefit group.

13. Child Support

- a. Assignment. Pursuant to state statute at NMSA 1978, Section 27-2-28F, an application for public assistance by any person constitutes an assignment by operation of law of any support rights the person is entitled to from any other person. An adult assigns rights to child support to the Department upon receipt of NMW cash assistance.
- b. Cooperation. The adult responsible for a child included in the benefit group must cooperate in the pursuit of child support as a condition of individual eligibility for benefits. Failure to cooperate with child support enforcement efforts results in a payment sanction.
- c. Determination of Noncompliance. If the Child Support Enforcement Division determines that an individual has failed to cooperate and the individual does not have good cause, the individual's needs are removed from the benefit group's payment standard. The benefit paid to those remaining in the benefit group is then subject to the payment sanction described in Part III-C-3 of this plan.

**C. NEED AND PAYMENT**

To be eligible for NMW, the benefit group must be needy with respect to income and resources. Eligibility and payment are determined prospectively.

1. Need

Section 7-A of the New Mexico Works Act (NMWA) authorizes the HSD Secretary to create financial standards to be used in determining income eligibility for NMW and amount of cash assistance. Pursuant to this authority, and the statutory requirements of the NMWA, the Secretary has created a financial standard consisting of three elements: (1) a standard of need used to determine payment; (2) an eligibility standard used with respect to income; and (3) an eligibility standard used with respect to resources.

- a. Standard of Need for the Benefit Group. The Standard of Need is the maximum cash assistance grant that is available to the benefit group and is based on the size of the benefit group. The Standard of Need includes basic needs such as food, clothing, shelter and utilities, and personal requirements of the benefit group.

<u>Persons</u>	<u>Standard of Need</u>	<u>15% Budgetary Adjustment</u>	<u>Maximum Monthly Grant</u>
1	\$ 266	\$ 39	\$ 227
2	\$ 357	\$ 53	\$ 304
3	\$ 447	\$ 67	\$ 380

4	\$ 539	\$ 80	\$ 459
5	\$ 630	\$ 94	\$ 536
6	\$ 721	\$ 108	\$ 613
7	\$ 812	\$ 121	\$ 691
8	\$ 922	\$ 138	\$ 784
9	\$1013	\$ 152	\$ 877
10	\$1104	\$ 166	\$ 954

- b. Only benefit group members are counted in determining the applicable standard of need. Total countable earned and unearned income, after allowable deductions, is subtracted from the benefit group's standard of need to determine the cash assistance benefit.
- c. Each August, the payment standard for eligible benefit groups is increased by the clothing allowance for each school-age child included in the benefit group. The amount of the clothing allowance is dependent on the availability and appropriation of state or federal funds.
- d. A one-time layette allowance of \$25 is allowed upon the birth of a child who is or will be included in the benefit group. The allowance is authorized to occur no later than the end of the month following the month in which the child is born.

2. Income Eligibility

- a. Gross Income. For purposes of determining initial eligibility, the benefit group must pass a gross income test. The gross income maximum is equal to eighty five percent of the Federal Poverty Guidelines (FPG) for the size of the benefit group. The gross income test is adjusted effective October 1 of each year.

The total countable monthly gross earned and unearned income of the benefit group cannot exceed 85 percent of the FPG for the size of the benefit group.

- b. Net Income. The net countable income of benefit group members, after allowable earned income deductions, cannot exceed the Standard of Need for the size of the benefit group.
- c. Income Exclusions. Certain types of income are excluded in their entirety based upon the source of the income or the person who receives it. This includes types excluded by federal statute and/or by the New Mexico Works Act. Other types may be excluded at the discretion of the Department.

Excluded income sources include, but may not be limited to, benefits from Medicaid, SNAP, LIHEAP, government subsidized foster care, if the child for whom the foster care payment is received is also excluded from the benefit group, SSI, government subsidized housing and housing payments, certain education payments, and up to \$50 received by a benefit group from the State's Child

Support Enforcement Program. Federally excluded income types are based on a listing in the State's SNAP regulations.

The earned income of dependent children included in the benefit group is excluded. The earned income of a minor head of household is not excluded. The unearned income of a dependent child included in the benefit group is considered available to the benefit group.

d. Deductions from Income.

(1) Business and Self-Employment Costs. Business expenses and self-employment costs are deducted from the gross earning of a self-employed benefit group member. The remainder becomes the gross countable income of the individual.

(2) Earned Income Deductions. Earned income deductions are applied to the earned income of benefit group members. Deductions are allowed in both applicant and recipient status and without regard to how long benefits have been received.

a. Work Incentive Deduction. A deduction of \$125 for each adult or minor parent in a single-parent benefit group; and \$225 for each parent in a two-parent benefit group is subtracted from the recipient's gross earnings. From the balance, one-half of the remainder is subtracted.

b. In July 2008, the Department removed the Excess Hours Work Deduction.

c. Contributions to Individual Development Accounts. The actual amount contributed to an approved IDA from an employed member's earnings is deducted from the individual's earned income.

(3) Child Care Costs. Out-of-pocket expenses for child care, for a dependent child included in the benefit group, that are necessary due to the employment of a benefit group member are allowed. The deductible amount may not exceed \$200 per month for a child under age two and \$175 per month for a child age two or older.

3. Non-Compliance Payment Sanctions

a. Work Program and Child Support Enforcement. If an individual fails to comply with work program requirements or child support enforcement efforts, the cash assistance amount for the benefit group is reduced on a percentage basis.

- b. Conciliation Process Prior to Sanction. A 30-day conciliation opportunity is available to an individual once during a given occurrence of assistance. The conciliation process occurs once prior to the imposition of a sanction. There must be a period of at least 12 months between occurrences of assistance for a 30-day conciliation to be available to the benefit group.

The purpose of the conciliation process is to provide an opportunity for the individual to correct whatever failure has generated the noncompliance determination. The process also requires the individual and the Department to address the noncompliance and to identify good cause for noncompliance or barriers to compliance.

Within ten days of a determination of noncompliance, action will be taken to initiate the 30-day conciliation process. The individual is given ten working days to respond and initiate the conciliation process. Failure to respond after the ten working days results in a sanction at the appropriate level for the benefit group. A sanction results after the 30-day conciliation expires if the individual initiates conciliation but fails to follow through with the process.

- c. Occurrence of Non-Compliance. Each instance in which an individual fails to comply with a work program or child support enforcement requirement is considered as a separate occurrence of non-compliance.

When the non-compliance continues for three months without the sanctioned individual reestablishing compliance, progression to the next higher level sanction shall result in the fourth month.

Once a sanction level has been imposed, any subsequent sanction for the benefit group is imposed at the next higher level.

Child support enforcement sanctions are removed when the non-compliant individual is determined to be in compliance by Child Support Enforcement Division (CSED). Work program sanctions are removed when the non-compliant individual has met his participation standard in work activities for 30 days or resumes compliance with program requirements within 13 days after receiving notice of failure to comply.

- d. Sanction Levels. Following the first occurrence of non-cooperation, the cash assistance benefit for which the group is eligible is reduced by 25 percent of the benefit group's standard of need.

Following the second occurrence of non-cooperation, the cash assistance benefit for which the group is eligible is reduced by 50 percent of the benefit group's standard of need.

Following the third occurrence of non-cooperation, the case is closed for six

months.

- e. Non-Reporting Sanctions. A benefit group member who fails to report a change that results in an overpayment to the benefit group may be sanctioned. A sanction period is determined and cannot be lifted or corrected, except within the 13 days covered by the notice of reduction in benefits.

The cash assistance benefit is reduced by 25% of the benefit group's standard of need for the length of the sanction period.

An adult member of the benefit group who fails to report that a dependent child has three unexcused absences or is not in school will not be sanctioned and the benefit group's payment will not be reduced for this reason. The needs of the non-compliant child will not be included in the payment for the benefit group.

#### 4. Determining the Cash Assistance Benefit

- a. Net countable earned and unearned income of the benefit group is deducted from the standard of need applicable to the benefit group to determine the cash assistance benefit amount.
- b. If the benefit group has received TANF, NMW benefits in excess of the amount for which they were eligible, a claim is established. An amount equaling 15 percent of the payment standard for the benefit group is recouped from the cash assistance benefit amount each month. Recouped amounts are credited against the group's overpayment claim.
- c. If the benefit group is subject to sanction for failure to comply with work program, child support or reporting requirements, the grant amount is reduced by the applicable sanction percentage.
- d. The grant is further reduced by the 15 percent budgetary adjustment.
- e. The remaining amount is the amount of the cash assistance payment.

#### 5. Payment Issuance

NMW cash assistance payments are issued through the Electronic Benefit Transfer (EBT) system for the Department. EBT is an arrangement under which the Department transfers funds to a fiscal agent who creates a bank account for each NMW benefit group. The funds can then be withdrawn through Automated Teller Machines (ATMs) or by cash issuance made by food retailers federally certified to participate in the Supplemental Nutrition Assistance Program.

#### 6. Resources

To be eligible on the condition of need with respect to resources, the benefit group's countable liquid resources must be no more than \$1,500. The value of non-liquid countable resources must be no more than \$2,000. Only resources belonging to benefit group members and alien sponsors, if sponsored individuals are included in the benefit group, are considered.

a. Excluded Resources. The following resources are excluded in determining eligibility.

- (1) The value of any vehicle used by the benefit group for transporting individuals to or from employment, school, or other daily living activities or for transporting goods. Recreational vehicles such as boats, trailers or mobile homes are not excluded.
- (2) Amounts contained in a restricted Individual Development Account (IDA) for first-time home purchase or home repair and maintenance, business capitalization, acquisition of a vehicle necessary to obtain or maintain employment by an account holder or spouse, expenses to attend an approved post-secondary or vocational institution, a post-secondary education account for the benefit of a dependent child, or transferring of funds to a beneficiary in the event of the account holder's death. Any money withdrawn for a purpose other than the allowable expenses listed above shall be counted as a resource unless the withdrawal was approved by the IDA program administration and the withdrawal amount is replaced within 12 months from the date of withdrawal.

In the event such funds are not used for approved purposes, the funds revert to the Human Services Department to the extent of benefits paid.

- (3) Amounts that are excluded from consideration by federal law.
- (4) Value of the home owned and occupied by the family.
- (5) Value of burial plots and funeral contracts for family members.

b. Countable Resources. The following resources are included in determining eligibility:

- (1) Liquid resources include cash on hand, funds in savings or checking accounts, certificates of deposit, bonds and other documents for which cash is available on demand.
- (2) Non-liquid resources consist of all real and personal property not defined as liquid resources.

## D. WORK PROGRAM ACTIVITIES

NMW is designed to help families become self-supporting through work. Work is the primary focus and goal of participation in all activities at all times.

To encourage rapid movement towards the goal of employment, NMW recipients are required to meet work program participation standards unless participation is waived. Work program participation waiver provisions are listed under Part III-B-7 of this plan.

HSD may delegate to, or contract with, other agencies or entities for the provision of some or all of the activities described in this section. These entities include, but are not limited to, the New Mexico Department of Workforce Solutions, public or private non-profit and for-profit organizations.

### 1. Participation Standards

State participation requirements may vary from federal standards in certain instances. In some cases, individuals may be in compliance with state program participation requirements but may not meet federal standards. In such cases, the individuals are not listed in federal reports as meeting federal participation rates.

An individual may participate in a number of approved activities at the same time in order to meet program participation standards. To be allowed, activities must be approved by the Department, or its designee, in a Work Participation Agreement.

Consequences for failure to meet participation standards are detailed in Part III-C-3 of this plan.

- a. Single-Parent Families. Each individual in a single-parent family unit who is subject to participation in work program activities must participate in work activities at the applicable federal weekly standard. At least 86 hours per month must be spent in core work activities.
- b. Two-Parent Families. Together, the parents must participate in core and non-core work activities at the applicable federal weekly standard, but not less than 86 hours for one parent per month in core work activities.

### 2. Qualified Work Activities

A TANF participant must be in continuous engagement of activities that promote progression towards employment and must be engaged in qualified work activities in order to meet the federal monthly participation standard.

Qualified work activities are separated into core work activities or non-core work activities:

A single participant with a child under age six must engage in core work activities at least 20 hours per week (multiplied by 4.3 = 86 hours per month). A single participant with a child age six or older must engage in core work activities at least 20 hours per week (multiplied by 4.3 = 86 hours per month) with 10 additional hours per week comprised of core or non-core activities (multiplied by 4.3 = 43) for a combined total of 129 hours per month.

Requirements for two-parent families vary from 30 to 50 core hours per week, dependent upon the receipt of federally funded child care.

For families not receiving federally funded child care, the monthly participation standard is 151 hours; 129 (30 per week) of which must be in a core activity and 22 (5 per week) of which can be in either a core or non-core activity.

For families receiving federally funded child care, the monthly participation standard is 237 hours; 215 (50 per week) of which must be in a core activity and 22 (5 per week) of which can be in either a core or non-core activity.

Pursuant to the New Mexico Works Act, participants may engage in certain work program activities for longer than is federally allowed. Such persons are not reported by the state as participants for the purposes of federal reporting for longer than is federally allowed.

a. Core Work Activities. A participant may engage in one or more of the following activities in a month:

- (1) Unsubsidized employment, including self-employment;
- (2) Subsidized private sector employment, including self-employment;
- (3) Subsidized public sector employment;
- (4) Work experience – monthly hours limited to Fair Labor Standards Act (FLSA);
- (5) On-the-job-training;
- (6) Job search and work readiness assistance:
  - (a) Job search hours are limited to no more than 20 hours a week and 120 hours within the preceding 12 month period for a work eligible single custodial parent with a child under the age of six and 30 hours a week and 180 hours (the equivalent of six weeks) within the preceding 12 month period for all other work eligible individuals. A participant can be placed in this activity for no more than four consecutive weeks. A week constitutes seven days and the first day of the first week begins on the first day in which job search and/or work readiness is used.
- (7) Community service – monthly hours limited to Fair Labor Standards Act

- (FLSA);
- (8) Vocational Education training for a period not to exceed the 12-month lifetime limit; and
  - (9) Providing child care services to a TANF recipient participating in a community service program.
- b. Non-Core Work Activities. A non-core activity is allowable for a participant to meet those hours in excess of the minimum work participation standard. Non-core activities include:
- (1) Job skills training directly related to employment;
  - (2) Attendance at a secondary school or course of study leading to a certificate of general equivalency in the case of a participant who has not completed secondary school or received such a certificate; and
  - (3) Education directly related to employment for a participant who has not received a high school diploma or a certificate of high school equivalency.  
If the participant is a minor head of household or is a single head of household and under age 20, this activity will count as a core activity for his/her participation standard for the month if he/she:
    - (a) Maintains attendance at secondary school or in a GED program during the month; the single head of household must be enrolled in enough hours to ensure graduation prior to turning age 20 for attendance deemed to be meeting the participation standard; or
    - (b) Participates in education directly related to employment for at least the average number of hours per week based on the child's age.
- c. Temporary Work Readiness Activities. As part of work readiness preparation, an individual may participate in one or more work readiness activities. Temporary work activities are mandated by the New Mexico Works Act (NMSA 1978, Section 27-2B-5 (E)). The following qualify as temporary work activities for no more than six weeks, except as otherwise provided:
- (1) Participating in parenting classes, money management classes or life skills training;
  - (2) Participating in a certified alcohol or drug addiction treatment program;
  - (3) In the case of a homeless benefit group, finding a home;
  - (4) In the case of a participant who is a victim of domestic violence, residing in a domestic violence shelter, receiving counseling or treatment, or participating in criminal justice activities directed at prosecuting the domestic violence perpetrator, for no longer than 24 weeks; and
  - (5) In the case of a participant who does not speak English, participating in a course in English as a Second Language.
- d. Modified Work Participation Agreement. An individual who requests a waiver of work program participation and is denied such a waiver, or who requests an

accommodation for a verified limitation(s) to full participation in work activities, may enter into a modified work participation agreement. The purpose of the modified work participation agreement is to take into account special needs or considerations where an individual is found to be capable of engaging in work activities and the Department's Incapacity Review Unit has documented limiting factors in the individual's capacity to work.

The modified work participation agreement must include at least twenty hours in core work activities. The balance of the hours is considered as non-core activities. The balance of the hours must include participation in services, activities or programs that are intended to enhance the individual's capabilities and capacity to engage fully in work program activities based upon the individual's applicable participation standard.

Activities may include, but are not limited to, additional screening and assessment to help the individual identify barriers to work, a family assessment, referrals to treatment or counseling facilities, requiring the individual to schedule and attend doctor's visits, mental health counseling, or substance abuse treatment.

The Incapacity Review Unit may temporarily exempt an individual from participation in work program activities as long as the individual works with the work program contractor to develop and subsequently implement a modified work participation agreement. The duration of the temporary exemption is determined by the Incapacity Review Unit.

- e. Limited Participation Waiver. An individual who requests a waiver of the work program participation requirement or who requests an accommodation for a verified limitation to full participation in work activities may be approved for a limited participation waiver. The purpose of this limited participation waiver is to account for special needs or considerations where an individual is found to be capable of engaging in work activities.

### 3. Supportive Services

NMW participants may be eligible for certain supportive services that will assist them in meeting NMW work requirements. The NMWA defines support services as "child care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment."

- a. Transportation Reimbursement. Except for those in paid employment, participants may be reimbursed for transportation costs incurred in meeting participation requirements.
- b. Educational Reimbursement. If no other funding is available, participants may be reimbursed for certain educational costs. Reimbursable costs include fees, books,

and supplies. Tuition does not qualify for reimbursement.

- c. Employment-Related Reimbursement. Participants who have a verified job offer may be reimbursed or receive an advance payment for certain costs necessary to accept or retain employment. Allowable costs include but are not limited to, special clothing, licensing fees, vehicle repairs, and tools. Payments are limited to a one-time payment totaling no more than \$300.
- d. Child Care. In most circumstances, child care is provided by the Children, Youth and Families Department with federal Child Care Development Block Grant funds. The New Mexico Legislature appropriates the funds from the TANF Block Grant to CYFD to provide child care.
- e. Other Support Services. The work participant, along with the work program contractor, may determine other types of support services needed to address barriers to work participation, or otherwise comply with work participation requirements of the NMW Cash Assistance Program.

## **E. PROCESS**

NMW provides for a methodical progression through the program. Beginning with application, the participant will progress through work and program orientation, eligibility and payment determination, assessment, referral, individual responsibility planning, work program activity, redetermination, sanctions, hearings, and other applicable administrative or program processes. In all contacts with applicants and recipients, the importance of work and child support and the temporary nature of NMW are emphasized.

HSD may delegate to, or contract with, other agencies or entities for the provision of some or all of the activities described in this section.

The procedural steps for providing cash, services and activities to NMW participants are explained below:

1. Application
  - a. Application Filing. The application, as long as it contains the name, residence address and signature of an applicant with whom a dependent child resides, is accepted and registered.
  - b. Application Interview. An interview follows the filing of an application. During the interview, applicants are provided information concerning benefits and services available through the NMW and Child Support Enforcement programs. Rights and responsibilities, eligibility issues and verification requirements are reviewed and explained. A work program assessment is completed to determine whether the individual is immediately subject to work and work program requirements. The worker explains that NMW is intended to meet the short-term

needs of a family and should be considered temporary assistance and that compliance with work and work program standards and cooperation with Child Support Enforcement are program requirements. The worker explains the exemptions, participation requirements, program services and child care benefits, as well as Transitional Child Care and Transitional Medicaid benefits. Applicants are referred to CSED by no later than the end of the application interview.

Individuals whose work participation is waived are encouraged to begin participation at the earliest possible time. The worker documents in the client's case record that the individual has been informed about work program participation requirements and benefits. Work participation is reviewed during periodic reviews on an on-going basis.

A single parent, not living with the other parent, of a child under the age of one is informed of available child care services in the event that he or she decides to participate in work program activities. In discussing NMW, the worker explains that the program's primary focus is on obtaining unsubsidized employment.

- c. Child Support Enforcement. In New Mexico, by law, assignment of child support rights is made upon application for NMW cash assistance. NMW applicants may be required to show compliance with Child Support Enforcement cooperation requirements or to begin the good-cause waiver process prior to approval. Applicants show cooperation by providing key information about non-custodial parent(s). Failure to cooperate and good cause waiver determinations are made by HSD's Child Support Enforcement Division. Consequences of failure to meet cooperation requirements are detailed in Part III-B-13 and Part III-C-3 of this plan.

## 2. Eligibility Determination (Approval or Denial)

Following receipt of all necessary verification, the eligibility determination is finalized and if eligible, payment is calculated and issued. Approval is effective the date of authorization. Benefits are prorated for the month of approval.

After approval, the state agency may authorize a reimbursement payment to mandatory work program participants in the benefit group to help cover immediate child care expenses related to work program registration.

Approval is for a fixed certification period, after which eligibility expires if the recipient does not timely pursue recertification.

## 3. Change Reporting

- a. Dependent on the reporting type, the benefit group may be required to report changes and the agency will determine if the changes affect eligibility or benefit

amount.

- b. Benefit groups are required to report changes at the sixth month semiannual report. Changes that should be reported at the sixth month semiannual report include: income and resources, benefit group composition and school attendance for dependent children. A benefit group subject to semiannual reporting is not required to report any changes in between certification periods and the month the benefit group is required to file its semiannual report unless the benefit group's income exceeds 85 percent of FPG.

Semiannual Reporting. All households that do not meet the criteria for regular reporting are assigned to semiannual reporting. Semiannual reporting is a periodic reporting requirement for certain benefit groups that receive NMW cash assistance. A benefit group that is assigned to semiannual reporting must file a report of changes in the sixth month of a twelve-month certification period.

Regular Reporting. Regular reporting benefit groups: A benefit group not subject to semiannual reporting requirements shall be certified every six months or less.

#### 4. Determination of Participation

Prior to NMW case approval and as part of each recertification of eligibility, the worker determines the eligibility and work program participation status of each benefit group member.

#### 5. Work Program Enrollment

NMW applicants are enrolled in the NMW Work Program at time of approval.

#### 6. Work Program Participation

Most commonly the work program orientation, the screening for barriers, the Individual Responsibility Plan, the Assessment, and development of work program activities are provided by an entity operating under contract with the Department. Following the assessment, the participant develops an Individual Responsibility Plan identifying long-range goals, objectives and activities. The participant subsequently submits to the Department a Work Participation Agreement identifying the chosen work activity or activities. Immediate entry into the labor market is the preferred activity. If an individual is not able to find work, he or she participates, at the appropriate participation standard, in one or more of the qualified work activities. Individuals who would benefit from additional education are encouraged to and assisted in participating in those activities.

#### 7. Referrals to Other Agencies and Institutions

Participants requiring education, vocational training or domestic violence services are

referred to other agencies or entities to obtain them. Referrals to training and educational institutions are made to ensure that the participant is able to obtain the knowledge, skill and experience to achieve his or her employment goals.

8. Expected Timeliness Standards

ACTIVITY	PROCESS TIME
Application Registration	Same day signed application is received
Application Interview	Within ten working days of application
Work Program Orientation	Within the 30 day application process time period
Child Support Enforcement Requirement	Requirement to assign support rights during the application process; following application approval, recipient is deemed to be cooperating until child support enforcement office notifies ISD of noncompliance
Work Program Registration	Individual is registered upon approval of application
NMW Approval	No later than 30 days from date of application
Assessment	No later than 15 days from date of approval
Initiation and Full Participation in Work Program Activity	No later than within 5 days of ISD approving the WPA days following approval
Issuance of Notice of Adverse Action	No later than 10 days following determination of non-compliance
Affecting a Sanction and Reduction in Benefits	Effective the first benefit month following expiration of the notice of adverse action
Submitting Application for Recertification and Redetermination	Due by the 15 <sup>th</sup> day of the last month of the certification period
NMW Certification Period	Assigned for same period as the SNAP certification period, but no longer than six months, except for the 12-month certification period for Semiannual Reporting benefit groups

**F. MEDICAID ELIGIBILITY**

Medicaid eligibility requirements were changed under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by eliminating categorical eligibility for Title IV-A (AFDC/TANF) recipient households. The entitlement Medicaid program was replaced with provisions under which Medicaid is provided to families using eligibility criteria for the State's AFDC program that were in effect on July 16, 1996. The federal legislation allows the state an option to use less restrictive methodologies to adjust those program provisions within certain limits. The Medicaid program in New Mexico is JUL Medicaid.

NMW family members meeting July 16, 1996 AFDC requirements as they have been adjusted within provisions of the Federal Act, are provided Medicaid without having to make a separate application.

Effective October 1, 2001, the New Mexico Works Act mandated that the income eligibility

guidelines for JUL Medicaid mirror the income guidelines for the State's TANF program. The Act also mandated that JUL Medicaid continue for those individuals who are sanctioned for noncompliance with NMW work requirements or failure to comply with child support enforcement requirements.

Families whose JUL Medicaid or MAGI children benefits have been terminated due to an increase in gross earnings are eligible for Transitional Medicaid for a period of 12 months. Families whose JUL Medicaid or MAGI children benefits have been terminated due to an increase in child support are eligible for Transitional Medicaid for a period of 4 months.

JUL, MAGI children and Transitional Medicaid recipients are required to participate in Centennial Care, New Mexico's Medicaid Managed Care program, subject to applicable exemptions allowed under state Medicaid rules.

Effective January 1, 2014, any new Medicaid application for families, utilizes the income eligibility guidelines under the new Modified Adjusted Gross Income (MAGI) guidelines per the Affordable Care Act of March 23, 2010. Any existing JUL Medicaid recipients with a recertification from January to March of 2014 will continue to utilize the JUL Medicaid guidelines until their next recertification. Existing JUL recipients, whose recertification is due after March 2014, will also utilize a MAGI methodology.

## **G. NOTICE & FAIR HEARING RIGHTS**

### **1. Notice Affecting Eligibility**

Applicants for and recipients of NMW are provided written notice of Department decisions affecting benefit group or individual eligibility, amount of benefit, and about delays in action affecting timely processing of applications. In cases where the Department is taking an action that adversely affects the eligibility or benefit amount of a recipient, the recipient is issued a notice of adverse action 13 days prior to actual implementation of the action. Where advance notice is not given, the household is provided a notice of the change at the same time the change is made (concurrent notice).

### **2. Fair Hearing Rights**

The fair hearing process is available to a benefit group who believes that an HSD decision affecting benefit group or individual eligibility, amount of benefit or procedures related to eligibility and/or benefit calculation is based on incorrect information or represents a faulty application of program regulations. Failure by HSD to take action within established time frames is also subject to the fair hearing process.

Applicants are informed verbally and in writing of their rights and the procedures for requesting a fair hearing.

- a. Time Limit for Requesting a Hearing. An applicant or recipient has 90 days from

the date on the notice of adverse action to request a fair hearing. To be considered timely, the request must be received by the HSD Fair Hearings Bureau or the local county office no later than the close of business on the 90th day.

- b. Continuing Benefits During the Hearing Process. If the recipient files a fair hearing request prior to expiration of the 13-day adverse action time period, the change is not made pending completion the fair hearing process. If an individual files a fair hearing request within 13 days of issuance of a concurrent notice, benefits are restored pending completion of the fair hearing process. Excess benefits issued during the fair hearing process must be repaid if the hearing is decided in favor of the Department.
- c. Applicant or Recipient Rights During the Hearing Process. An applicant or recipient has the following rights with respect to the conduct of a fair hearing. The claimant has the right to:
- (1) Review the household's case file prior to, during and after the hearing;
  - (2) Request and receive copies of documents in the case file for use during the hearing process;
  - (3) Request an agency review conference to be scheduled prior to the hearing to discuss the issues involved in the hearing. The agency conference is optional and does not delay or replace the hearing process;
  - (4) Present his/her case or have it presented by an attorney or other representative;
  - (5) Bring witnesses to present information that is relevant to the case;
  - (6) Submit evidence to establish facts and circumstances in the case;
  - (7) Advance arguments without undue interference; and
  - (8) Question or contradict any testimony or evidence, including the opportunity to confront and cross-examine the Department's witnesses.
- d. Who Conducts the Hearing. The hearing is conducted by an independent hearing officer who makes a recommendation to the Director of the Income Support Division or designee. The ISD Director makes the fair hearing decision for the Department. Fair hearings are most frequently conducted telephonically but, at Department discretion, a face-to-face hearing may be held.

- e. Appealing a Decision of the Director. If the applicant or recipient does not agree with the fair hearing decision, the decision may be appealed to the New Mexico Court of Appeals. NMSA 1978, Section 27-2B-13(F).
- f. Costs for Copying Documents. The costs of the fair hearing and costs for copying relevant Department records to be used by the applicant or recipient in the fair hearing are met by HSD. HSD is not responsible for meeting any other costs incurred by the applicant or recipient in either the fair hearing or judicial appeals process.

## **H. CONFIDENTIALITY OF INFORMATION**

Information collected regarding applicants for and recipients of NMW is kept confidential except as otherwise allowed under NMW program regulations. Under certain circumstances, confidential information is released to other agencies or individuals involved in the administration of a state, federal or federally assisted program which provides assistance in cash, in-kind or in services directly to individuals on the basis of need. If the information will be used for establishing eligibility and benefit amount or services, the receiving agency must have standards of confidentiality comparable to those of HSD. The agency or individual must have the actual or implied consent of the applicant or recipient to release the information. Consent is considered implied if a recipient or member of the benefit group has made application to the inquiring agency.

## **I. FRAUD & ABUSE IDENTIFICATION AND CONTROL**

Recipients who fail to meet reporting requirements are subject to reporting sanctions and may be prosecuted for fraud.

HSD's Office of Inspector General (OIG) is responsible for fraud and abuse identification and control. Cases are referred to the OIG for a fraud determination in a variety of ways:

Referrals are made by Income Support Division staff as a result of program compliance reviews when payment errors are entirely client-caused or when the client refuses to cooperate with the review process. Cases are referred by county office staff as a result of their interaction with clients and based on an indication that information pertinent to the eligibility determination was withheld by the client.

OIG may initiate its own investigations when referrals made by the public or other agencies who have contact with recipients. Once referred, OIG determines appropriate follow-up action through intensive investigation that may result in a determination of criminal intent and prosecution or in pursuit of other restitution activity including tax intercept and immediate collection.

Criminal prosecution is coordinated with local District Attorneys and/or the state Attorney

General. In the case of federal programs, fraud prosecutions may be pursued through the federal court system.

The Administrative Services Division (ASD), is responsible for recovery of overpayments. This includes both cash repayments and recoupment from ongoing assistance payments.

## **J. MANAGEMENT INFORMATION & REPORTING**

ASPEN is the Department's automated eligibility determination, benefit delivery and case maintenance system that supports the administration of the state's NMW, SNAP, Medicaid, and NMW work program activities.

Data needed for program management purposes, program performance evaluation and Federal reporting is generated through ASPEN. Most program reports are generated based on the entire database; however, the Department retains the option to use a sampling methodology to determine compliance with Federal performance requirements.

## **K. PARTICIPATION BY NATIVE AMERICANS**

Under Section 412 of the federal Act, Indian tribes are authorized to operate their own TANF programs through a direct grant from the federal government. Tribes are authorized to define a TANF service delivery area (SDA). Funding for tribal programs is deducted from the state grant amount, based on the tribe's share of Federal fiscal year 1994 Federal AFDC expenditures in the TANF service delivery area.

Native Americans living within a tribal TANF service delivery area may not receive benefits concurrently from the tribal program and NMW Cash Assistance Program. The Department will continue to provide SNAP and Medicaid benefits to eligible tribal members. Specific procedures regarding state tribal exchange of information are negotiated with each tribe. Subject to availability, tribal members may participate in service only programs funded with state general funds claimed as state TANF Maintenance-of-Effort, regardless of whether they live in a tribal SDA.

The State, through the Human Services Department, provides NMW cash assistance and services to all eligible tribal members in accordance with state plan provisions detailed in this document.

## **L. INTERSTATE MIGRANTS**

Families residing in New Mexico 12 months or less are not treated differently from those who have resided in the state for more than 12 months with respect to NMW benefits. To be eligible for NMW, they must have an intent to reside in New Mexico as described in Part III-B-5 of this plan.

## **M. EMERGENCY ASSISTANCE**

Prior to creation of the TANF program, New Mexico operated an AFDC Emergency Assistance

program. Under the program, payments were made for foster care for children who were not eligible for Title IV-E payments. Counseling services were also provided to families with children on the verge of involvement in the juvenile justice system.

The State of New Mexico, through the Children, Youth and Families Department, will continue providing services using TANF block grant funds, as well as state general funds, which are countable in meeting the Federal Maintenance-of-Effort requirements.

The State Emergency Assistance Program includes several programs that are directed at separate and distinct populations. These programs are intended to meet the stated purposes of the PRWORA 1996, Section 404(a).

1. Family preservation

This program will focus on providing intensive short term services aimed at keeping families intact. Services include intensive home based interventions, family counseling and referrals to other services necessary to keep families intact. The intent of the program is to provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives.

Those families with an income up to 235 percent of FPG will be eligible for this program.

This program will be funded by state general funds, which are countable in meeting federal MOE requirements.

2. Child Protective Services Prior to Adjudication

This program will encompass the investigation of abuse and neglect in the Child Welfare System. The services include the referral, investigation and assessment of at risk families and interventions necessary to keep families intact. Services will continue until a determination is made at an adjudication hearing that the family cannot remain intact and a court of competent jurisdiction places the children in the custody of the Children, Youth and Families Department. The time frame for providing these services is from 60 to 90 days. The program intends to provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives.

Those families with an income up to 235 percent of FPG will be eligible for this program.

This program will be funded by state general funds, which are countable in meeting federal Maintenance-of-Effort requirements.

**N. BLOCK GRANT TRANSFERS**

The state may transfer federal TANF block grant funds to the state's Child Care Development Block Grant and/or the Social Services Block Grant during the period covered by this plan.

## **O. WORK SUPPORT SERVICE ELIGIBILITY**

Work program and supportive services are available to all NMW cash assistance recipients.

Pursuant to the NMWA, NMSA 1978, Section 27-2B-12, support services are available to a benefit group that includes at least one dependent child living with a parent or relative, or a pregnant woman, who is not receiving cash assistance but whose gross income is less than 100 percent of FPG for the size of the benefit group.

The Human Services Department may authorize child care reimbursement for persons for a period not to exceed 30 days. All other child care shall be authorized by CYFD. The caseworker shall authorize child care in compliance with CYFD program requirements and standards. Child care payments shall not be paid for with federal TANF funds and shall not count towards the TANF term limits.

## **P. TRAINING AND JOB DEVELOPMENT FOR ELDER CARE OCCUPATIONS**

The Human Services Department New Mexico Works Program service provider is responsible for identifying training opportunities and job development in emerging professions. To comply with the Patient Protection and Affordable Care Act of 2010, the State intends to assist participants to seek employment in elder care professions such as Home Care Attendants as identified by the Aging and Long Term Services Department as being a growing profession.

The New Mexico Works contractor uses individually tailored employment assessments and plans to meet the needs of families and the business community. The employment plans provide parents an opportunity to gain job skills and experience through an array of work readiness programs. The program strives to develop self-sufficiency through employment with benefits and wages that will enable adults to support their families.

The New Mexico Works contractor also uses job developers who are skilled and experienced in developing and identifying employment opportunities for NMW participants by developing, locating, and securing subsidized or unsubsidized employment opportunities for NMW parents. Job developers identify employers who are hiring and collect data from employers related to job orders including job requirements and skills, match job requirements with qualifications of job-ready NMW parents, refer qualified applicants to employers, participate in and/or coordinate job fairs, and provide job search internet resources, where available.

## **Q. TANF MAINTENANCE-OF-EFFORT PROGRAMS**

As a part of its state general fund appropriations, the New Mexico Legislature has funded programs in agencies other than the New Mexico Human Services Department that are intended to provide support services to low income families. The New Mexico Human Services Department has also identified other programs funded locally that provide support services to low income families or that provide pro-family activities that meet TANF purposes three or four. To participate in these programs, individuals and families must meet the low income criteria for the program. Families who are not considered “eligible families” may only participate in

programs designed to meet TANF purposes three or four. Related general funds expended in most of these programs may be claimed as a part of the state's TANF MOE requirement in accordance with federal guidelines. Other low-income programs that are not specific to the definition of support service may also be claimed as MOE.

The requirements for application processing, determination and re-determination of eligibility and other similar procedural requirements may vary from program to program.

#### 1. Human Services Department

- a. Low Income Home Energy Assistance Program (LIHEAP) is a Federally funded program, funded through a grant from the U.S. Department of Health and Human Services (HHS). The objectives of LIHEAP are to provide assistance to low-income households in meeting their home energy costs, intervene in energy crisis situations, provide low-cost residential weatherization and other cost-effective energy-related home repairs.
- b. State Funded Aliens: An alien who arrived in the United States on or after August 22, 1996, and who meets the definition of qualified alien is not eligible for federally-funded TANF assistance under the terms of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (five years from date of entry into the U.S. with a qualified alien status or five years from the date the non-citizen residing in the U.S. received qualified alien status). The qualified alien may be included in the NMW benefit group, if otherwise eligible, and may receive cash assistance, with the costs of the alien's benefits paid entirely by State funds.
- c. Transition Bonus Program: This program was implemented July 1, 2008 as required by the 2007 Legislature Regular session. This program was implemented to encourage recipients of NMW Cash Assistance to leave NMW for employment. Eligible benefit groups must have: 1) a monthly gross income less than 150 percent FPL; 2) received fewer than 60 months of TANF; 3) received at least three months of TANF; and 4) received at least one month of TANF in the last three months. Eligible benefit groups receive a monthly fixed \$200 bonus during an 18 month lifetime limit certification. Benefit groups are required to submit two six-month reports during the 18 month certification.

*On February 1, 2011, this program was suspended due to State fiscal budget reductions. This program may be reinstated based on the availability of State and Federal funds.*

- d. Child Support Disregard: The first \$50 in child support collected by the Child Support Enforcement Division is passed on to the TANF benefit group. This money is disregarded, or not counted as income in determining eligibility. This has the effect of increasing the monthly benefit amount. The total expenditure for that child support disregard is paid with State MOE dollars.

- e. Assistance Program for State Funded Aliens: Authorized under the Public Assistance Act, NMSA 1978, amended Chapter 27, Article 2, Section 7. A 1998 amendment to the Public Assistance Act provided for state funded assistance to “lawful resident immigrants who would otherwise be eligible for cash assistance or services pursuant to the NMW Act except that they began residing in the United States after August 22, 1996.” The program provides state funded cash assistance to an immigrant who would be otherwise eligible for TANF cash assistance except that the immigrant is barred from receiving cash assistance for five years.
2. The Department and the Children, Youth and Families Department (CYFD) will develop training programs for NMW recipients to become licensed daycare providers. New Mexico utilizes both state and federal funds in program administration of these services. CYFD also provides several other programs that are essential to eligible TANF recipients who have at least one child in the home such as:
    - a. Child care TANF: Available to all families receiving TANF and TANF eligible families. Child care is provided through the Child Care Development Fund (CCDF). The purpose of this program is to assist and support low-income families in caring for their children while the adult family members work or are engaged in training or other work-related activities. The relevant TANF purpose is to provide assistance to families in need so children may remain in their homes or the homes of relatives.
    - b. Child care for low-income non-TANF households: Available to low income families receiving non-TANF funded child care assistance through the CCDF and the New Mexico State general fund.
    - c. Family Preservation and Child Protective Services (Title IV-A/AE): Family preservation is focused on intensive short-term services aimed at keeping families together. Services provided include: intensive home-based intervention and assistance, family counseling and referrals to other agencies/services as needed to support the preservation of intact families. Child Protective Services investigates allegations of abuse and neglect. Services include referrals, investigations, assessments, and intervention. These services continue until a determination is made that a family cannot remain intact, when a judge determines at the adjudication hearing that children must be placed in the custody of CYFD. Children eligible for Medicaid up to 235 percent of poverty are eligible to participate.
    - d. Community Based Services: The purpose of these programs is to improve and enhance the emotional, mental and behavioral health of children, youth and families served. The outcomes of this program include improved child behavioral and emotional functioning, reduced substance abuse, and improved school performance, improvement in family functioning, increased home stability/safety, and decrease in involvement in the legal system. For TANF, these services provide assistance to families in need so children may remain in their own homes or the homes of relatives. Children eligible for Medicaid up to 235 percent of poverty are eligible to participate.

- e. Pre-Kindergarten: The Pre-Kindergarten or the Pre-K program is a voluntary developmental readiness program for children who have attained their fourth birthday, prior to September 1. The Pre-K program (not part of the public school system) is collaboration between CYFD and the Public Education Department (PED) to develop and implement this program.
3. Department of Health, Public Health Division
    - a. Family Planning Program: This program promotes and provides comprehensive family planning services, including clinic-based services and community education and outreach, to promote health and reproductive responsibility. Family Planning is an integral component of the Department of Health's efforts to reduce teen pregnancy, prevent unintended pregnancies and STDs, reduce infant mortality and morbidity, and improve the health of women and men of all ages.
  4. Taxation and Revenue Department:
    - a. Child and Dependent Care Tax Credit: The Child and Dependent Care Tax Credit is 40% of the expenses incurred during the tax year. This credit helps families with a modified gross income of \$30,160 or less to pay for the child care they need in order to work or look for work.
    - b. Low Income Comprehensive Tax Rebate: The Low Income Comprehensive Tax Rebate allows a rebate to households with a modified gross income of \$22,000 or less. Many low income New Mexicans qualify for this rebate as it is not an income-based credit. It rebates a portion of the gross receipts tax on necessities. The rebate amount ranges depending on a taxpayer's modified gross income and number of exceptions claimed on the state income tax return.
    - c. The Working Families Tax Credit: A New Mexico resident who qualifies for the Federal Earned Income Tax Credit may claim a credit against their New Mexico tax liability. This is called the Working Families Tax Credit. Any amount more than the tax liability is refunded to the taxpayer.
  5. Public Education Department
    - a. Pre-Kindergarten: The Pre-Kindergarten or the Pre-K program is a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1. The Pre-K program is a voluntary program (not part of the public school system) for the provision of Pre-K services throughout the state. CYFD and PED have collaborated to develop and implement this program.
    - b. Kindergarten – 3 Plus: This voluntary program (not part of the public school system) extends the school year for kindergarten through third grade for up to two months for participating students and measures the effectiveness of additional time on literacy,

- numeracy, and social skills development. The purpose is to demonstrate that increased time in kindergarten and the early grades narrows the achievement gap between disadvantaged students and other students and increases cognitive skills and leads to higher test scores for all participants.
- c. Graduation Reality and Dual Roles Skills (GRADS): The mission of the multi component New Mexico GRADS system is to facilitate parenting teen's graduation and economic independence; promote healthy multi-generational families; and reduce risk-taking behaviors.

## 6. Community Programs

- a. Mesilla Valley Community of Hope – Jardín de los Niños: Jardín de los Niños creates new possibilities for homeless and near-homeless children and their families through child care, education and the use of community resources. Jardín de los Niños has a strong volunteer program – they are a valued part of the program services. Their knowledge, skills and experience assist with childcare, fundraising, building and maintenance, food service, and specialty classes for the children and families.
- b. S.A.F.E. House: The shelter provides a safe haven from domestic violence where residents receive nutritious meals, clothing and personal needs; health care; individual and group counseling; employment and housing referrals; transportation; legal advocacy and information; counseling for children and parental support. S.A.F.E. House services are available to all victims of domestic violence, regardless of gender. Services are available 24 hours a day, 365 days a year.
- c. Jemez Helping Hands: Jemez Helping Hands is an all-volunteer organization. They offer food, clothes and utility assistance to low income families in their community.
- d. Haven House: Haven House is the domestic violence provider and emergency shelter serving all of Sandoval County, Rio Rancho, NM. The shelter can provide housing for approximately 20 women and children. It provides an array of services to victims of domestic violence, including 24/7 crisis intervention, legal advocacy, case management, community and shelter support groups, individual counseling for victims and child-witnesses, life skill programs for victims and their children, and community education and training. Haven House also conducts a 52-week Batterer's Intervention Program for perpetrators of domestic violence that holds abusers accountable for their acts of violence and abuse.
- e. Hogares, Inc.: The program's purpose is to meet the needs of children and youth in a safe and caring environment, through teamwork and dedication, whereby the youth can remain or return to their own home or community and successfully attend school and/or work. Hogares, Inc. serves low income needy families.
- f. Care Net Pregnancy Center of Albuquerque: Care Net provides parenting and life skills education, professional counseling to assist with emotional and relationship issues, and a clothing closet to provide clothing, diapers, formulas and other essentials for children 0 to 2 years old.
- g. Family Wellness Program: Family Wellness classes for single parents and cohabiting couples interested in marriage and married couples. Low predominantly minority

- families are educated about the importance of healthy, stable relationships for the well-being of children and adults. Families are provided with skills training in communication and conflict resolution, effective discipline, and family functioning. Families also learn about domestic violence and parenting children from previous relationships. Each class series consists of 12 two-hour sessions for the entire family. Classes are offered by highly trained marriage educators in English and Spanish. Couples with domestic violence issues are referred to local agencies.
- h. Rio Grande Food Project: This program is one of the largest and longest operating food pantries in Albuquerque, NM. It is a federally-designated 501(c)3 organization dedicated to providing emergency food relief to hungry individuals and families throughout the Albuquerque metro area. Persons in need are given a week's worth of food for the entire household.
  - i. ECHO, Inc.: This program provides a varied assortment of food programs throughout the northern half of New Mexico. These services range from USDA Commodity Food Programs to individual emergency assistance, including a kid's elementary school backpack program, to being the food bank for other non-profit organizations feeding hungry and/or displaced individuals. ECHO also assists persons with emergency situations. This assistance may take various forms ranging from case management to actual financial help with rent, medical bills, prescriptions, etc.
  - j. Crisis Center of Northern New Mexico: The mission of this program is to educate people to make positive choices that help build and sustain healthy families and a violence-free environment. The Crisis Center provides emergency shelter for victims and children escaping domestic violence, a 52-week batterer's intervention group, counseling for children of victims, and skills and knowledge services for job readiness, and other issues affecting victims of domestic violence, such as self-esteem. This program centers on developing innovative programming that drives results in the long term for victims, perpetrators, and children who have lived in environments affected by domestic violence, and to fulfill emergency needs for victims and their children.
  - k. Catholic Charities: This program creates hope for those in need by promoting self-sufficiency, strengthening families, fighting poverty and building community. As the sole program in the State of New Mexico providing refugee resettlement services, Catholic Charities offers a variety of programs to assist families settle into a new country, community, and home. The Catholic Charities Courtroom Advocacy Program is designed to assist renters who have fallen behind on their rent due to an illness or other unforeseen circumstance. The agency works with families to provide one month's rental assistance. Clients are also provided case management services, assistance in negotiating with their landlords, referrals to other social service agencies for additional services, and assistance in locating more affordable housing.
  - l. YMCA – Middle Rio Grande: This program provides healthy meals and snacks to children, reaches thousands of women through their health equity educational outreach programs, provides mammograms and other diagnostic tests for women who otherwise would not be able to afford them, and provides clothing thousands of women through Our Sister's Closet. The YWCA and the Assistance League of Albuquerque formed a partnership to provide services to women in search of

- employment. Women in need of appropriate attire for job interviews or new jobs are referred to Our Sister's Closet through any one of 55 agencies.
- m. Barrett Foundation: This program is an independent, non-profit organization in Albuquerque, New Mexico, which helps homeless women and children build better lives. In addition to food, clothing, and shelter, the Barrett Foundation provides case management services, critical skills training, and the support needed to plan and establish a more stable future for themselves and their children. Each woman works with a case manager to set short-term and long-term goals. Clients also receive assistance and information regarding health care, employment, substance abuse treatment and mental health care. The Barrett Foundation is also the entry point for programs administered by the state.
  - n. Bethel Community Storehouse: This program provides food assistance, clothing, and emergency shelter to low income and homeless individuals and families.
  - o. Girls, Inc., of Santa Fe: Girls, Inc. offers programs to girls from ages 5-18 focusing on building self-esteem, fostering creativity, and promoting critical thinking skills. The program also provides girls and young women with the skills, insights, values, motivation, and support to postpone sexual activity and to use effective protection. The Mind + Body program educates girls on drug prevention and healthy nutrition, while providing healthy snacks for all of its programs and food assistance to families when possible and as needed.
  - p. Storehouse West, Inc.: This program, located in Sandoval County, is a non-profit, community-supported agency that provides food, children's clothing and hygiene supplies to families and individuals experiencing short-term and long-term need. Storehouse West also operates Kids Clothes Closet, which provides children's clothing to low-income families.
  - q. Enlace Comunitario: This is a non-profit, community based organization that provides direct services to Spanish-speaking victims of domestic violence. The program offers case management services to victims and provides connections to community resources such as housing, shelter, cash assistance, food programs, etc., and helps them navigate through barriers encountered when accessing these services. The program provides advocacy services for the rights of Latino immigrants and their children. The program offers a holistic approach in counseling, legal services, community education, leadership development, and organizing to impact system change.
  - r. Community Action Agency of Southern New Mexico: This program works with people with limited resources to enhance their independence and quality of life. It also offers a Teen Parent Program which helps pregnant teens and teen parents to continue their education, enhance parenting skills, and improve the overall lives for themselves and their children. The Teen Parent Program provides case management services to teen parents that are able to remain within their families of origin or successfully live independently. Participants must fulfill specified program requirements and meet regularly with a case manager. The food bank also provides monthly food distribution through member agencies.
  - s. HELP New Mexico, Inc.: HELP New Mexico envisions, and is committed to helping create a New Mexico with full employment, minimal poverty and crime, and family self-sufficiency. HELP New Mexico wants to see a state with systems and services

- for children and families that are aligned and integrated and for its communities to have to capacity to effectively address teen pregnancy, high school dropout issues, drug use, and other problems. Programs provide parenting education, help with utilities, child development, child care training, youth education, day care, foster grandparent assistance, IDAs, job development, and job preparation.
- t. City of Albuquerque, Department of Family and Community Services, East Central Center: This program provides emergency food, clothing, utility assistance, and rental assistance, as well as seasonal services and activities to residents of the northeast and southeast areas of Albuquerque. The program also offers clothing and diaper assistance and emergency food boxes to families in need.
  - u. St. Felix Pantry, Inc.: As a ministry under the sponsorship of the Felician Sisters, St. Felix Pantry, Inc., provides food, clothing, utility and rental assistance during difficult times to needy individuals and families in the central region of the state.

## **R. SUBSIDIZED EMPLOYMENT PROGRAMS**

The New Mexico Wage Subsidy Program: The Human Services Department administers the New Mexico Wage Subsidy Program. The New Mexico Wage Subsidy Program is a subsidized employment opportunity for a TANF cash assistance recipient to be hired into full-time employment. The employer is reimbursed through the TANF Block Grant for up to twelve months and is subsidized with a 50-50 match.

## **S. ANNUAL CLOTHING ALLOWANCE**

New Mexico uses both State and Federal block grant funds to issue monthly cash benefits to TANF-eligible families. Each year, for the benefit month of August, an additional cash assistance amount up to \$100 per school age child is issued to the benefit group as a school clothing allowance. Benefits are issued via the NM Electronic Benefit Transfer system.

*Due to state fiscal budget reductions for State Fiscal Year 2012, the Department eliminated the clothing allowance issued each January, maintaining an annual issuance dependent on the availability and appropriation of state or federal funding.*

## **T. DIVERSION PAYMENT FOR APPLICANTS**

A diversion payment is offered to a NMW applicant benefit group who is otherwise eligible for cash assistance but chooses not to participate in the NMW Cash Assistance Program on a monthly basis in lieu of receiving a one-time diversion payment. The diversion payment is limited to two times in an applicant's 60-month lifetime limit. Effective November 15, 2007, the amount of the diversion payment is \$1,500.00 for households of one - three and \$2,500.00 for households of four or more.

The diversion payment is a lump sum payment, which is intended to assist the benefit group to alleviate a specific short-term need, to accept a bona fide offer of employment, retain employment, and remedy an emergency situation or an unexpected short-term need. The

applicant must demonstrate that monthly cash assistance to meet basic needs is not required because there is a means of financial support for the benefit group. If the amount needed to meet the specific need is more than the diversion payment, it shall be determined whether the maximum payment will alleviate the specific need; if not, the diversion payment cannot be authorized.

The diversion payment is available to an initial applicant benefit group who meets all NMW eligibility criteria. An initial applicant is one that has never been known to the Department or was an active case and has been closed for one or more calendar months. Initial application does not include a NMW cash assistance case that has a six-month mandatory closure because of a third-level sanction.

An applicant who accepts a diversion payment is prohibited from participating in the NMW Cash Assistance Program for a period of twelve months beginning in the month the diversion payment is authorized. An applicant who has accepted a diversion payment in any other state is prohibited from receiving NMW cash assistance or a diversion payment in New Mexico for a period of twelve months beginning in the month the diversion payment in the other state was authorized, or the length of the lock-out period in the other state, whichever is shorter. The twelve month lock out period is applied to those receiving a diversion payment in New Mexico as well as those receiving a diversion payment from any other state who move to New Mexico, and treats all New Mexico residents the same.

The receipt of a diversion payment has no effect on eligibility for Medicaid.

The diversion payment is considered as a non-recurring lump sum payment for individuals participating in the Food Stamp Program. The payment is considered as a resource in the month received and would not affect eligibility for food stamps if the payment is spent prior to the end of the month in which it was received. If the payment is received towards the end of the month, the payment would not affect eligibility for food stamps if it is spent prior to the end of the month following the month in which it was received.

The applicant must enter into a written agreement that defines the term and conditions for receiving a diversion payment and must agree not to apply for NMW cash assistance for twelve months from the date the diversion payment is issued.

If an applicant is unable to adhere to the terms and conditions of the agreement for receiving a diversion payment, the applicant may apply for cash assistance to meet basic needs. An applicant is ineligible for a cash assistance payment regardless of good cause within the first four months of receiving a diversion payment. An applicant may be eligible for a cash assistance payment if good cause is met at least five months after receipt of the diversion payment.

If an applicant re-applies for cash assistance during the lockout period, the Department may consider the application if the applicant demonstrates good cause and at least four months has passed since the applicant received the diversion payment. Good cause considerations are not applicable during the first four months from the initial receipt of a diversion payment.

A benefit group that receives monthly cash assistance within the 12-month lockout period shall not be subject to an overpayment if the household meets good cause. The benefit group may be subject to an overpayment if the diversion payment was issued in error and subject to recoupment.

A recipient of a diversion payment is not required to comply with work program or child support enforcement requirements.

## **U. TRANSITION BONUS PROGRAM**

The 2007 Legislature Regular Session amended the New Mexico Works Act to remove the Excess Hours Earnings Deduction and replaced it with an employment retention and advancement program, the Transition Bonus Program. The state general fund will be claimed as a part of the state's TANF Maintenance-of-Effort requirement in accordance with federal guidelines.

This program is to encourage recipients of NMW Cash Assistance to leave NMW for employment. Eligible households are those who have a monthly average of working 30 or more hours per week, has a household gross income less than 150% of FPL, has received fewer than 60 months of TANF, has received TANF or at least three months of TANF and has received at least one month in the last three months. Eligible benefit groups receive a monthly fixed \$200 bonus during an 18 month lifetime certification. Benefit groups are required to submit a six-month report during the 18 month certification

*On February 1, 2011, this program was suspended due to state fiscal budget reductions. This program may be reinstated based on the availability of state funds.*

## **V. FAMILY VIOLENCE OPTION**

### **1. Background**

The Department recognizes that the safety of those in a domestic violence environment is of paramount importance and that domestic violence must be prevented and reduced. The Department implemented the Family Violence Option under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Consistent with the purposes of TANF, as well as the purposes and provisions of the New Mexico Works Act, and subject to the availability of funds, the Department intends to provide domestic violence services to TANF eligible families whose income falls below one hundred percent of the FPG.

The Department provides NMW cash assistance recipients with appropriate services to address their domestic violence situation.

### **2. Definition of Domestic Violence**

The Department will use the definition of domestic or family violence as it is found in the New Mexico State Statutes under the Family Violence Protection Act.

Domestic violence (domestic abuse) means any incident by a household member against another household member resulting in:

- a. Physical harm;
- b. Severe emotional distress;
- c. Bodily injury or assault;
- d. A threat causing imminent fear of bodily injury by any household member;
- e. Criminal trespass;
- f. Criminal damage to property;
- g. Repeatedly driving by a residence or work place;
- h. Telephone harassment;
- i. Stalking;
- j. Harassment; or
- k. Harm or threatened harm to children.

Domestic violence also means:

- a. Sexual abuse;
- b. Sexual activity involving a dependent child;
- c. Forced or non-consensual sexual acts or activities;
- d. Threats of or attempts at physical or sexual abuse;
- e. Mental or emotional abuse which would significantly reduce the victim's capacity to care for himself or herself or his or her children or significantly reduce the victim's capacity to perform essential activities of daily living; and/or
- f. Neglect or deprivation of medical care.

For the purposes of determining domestic violence, a household member means a spouse, former spouse, family member, including a relative, parent, present or former stepparent, present or former in-law, child or co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be considered a household member.

### 3. Training

Training will be provided to all management staff and eligibility staff in county field offices regarding the Family Violence Option. Training will include elements in the area of: (a) how to discuss the concept of domestic violence; (b) recognizing a victim of domestic violence; (c) making appropriate referrals; and (d) preserving the confidentiality of victims of domestic violence. Management staff will, in turn, provide on-going training and support to eligibility staff.

### 4. Screening and Identifying Those Who Have a History of Domestic Violence

Individuals in a domestic violence environment must feel safe and comfortable to make good decisions for themselves and their children. The culture of the Income Support Division and NMW field offices must be one that allows the individual to tell the truth about their situation. Such individuals must have the opportunity to self-disclose when in a domestic violence situation.

- a. The Department will make available information on the Family Violence Option and will encourage individuals in a domestic violence environment to self-disclose. In addition, NMW program service providers will have the information available for work program participants.
- b. All applicants and recipients of cash assistance will be notified of the requirements for a waiver of work program participation based on domestic violence.

## 5. Referrals and Confidentiality

An applicant or recipient may self-disclose a domestic violence situation to the Department or to the work program contractor. In either case, the referral process to a trained domestic violence counselor begins at the point of disclosure. The referral process is handled and monitored by the work program contractor whether the disclosure is made to the Department or the work program contractor. The Department makes an immediate referral to the work program contractor. The work program contractor makes an immediate referral to a trained domestic violence counselor.

The applicant or recipient will be assured of the confidentiality of all information provided to the Department or to the work program contractor.

The certification of a domestic violence environment is made by a trained domestic violence counselor. The certification must include an individualized assessment of the situation and a service plan that is designed to lead to work. A service plan is developed by a trained domestic violence counselor and is provided to the work program service provider. A copy of the certification is provided to the Incapacity Review Unit, Income Support Division.

The applicant or recipient is considered to be meeting work program requirements for the time period required by the trained domestic violence counselor to make a decision regarding the domestic violence environment.

## 6. Waiver of Work Program Requirements

An individual in a domestic violence environment may have work program requirements waived for the length of time certified by a trained counselor in domestic violence, if the environment would make it more difficult to escape the domestic violence or unfairly penalizes the individual in light of his/her past or current experiences.

A certification that the applicant or recipient is in a domestically violent environment and

that the situation precludes compliance with work program requirements is required. The waiver is reviewed every six months.

Where there is a domestic violence environment in which the individual may continue to comply with work program requirements, as certified by a trained domestic violence counselor, that individual may participate in a temporary alternative work activity for 24 weeks.

7. Waiver of Cooperation with Child Support Enforcement

Cooperation with the state child support enforcement program is waived in those situations where a trained domestic violence counselor has certified that cooperation would make it more difficult to escape the domestic violence or unfairly penalizes the individual in light of his/her past or current experiences.

8. Training

The Department will work with the Children, Youth and Families Department, local police Departments, domestic violence counselors and staff of domestic violence shelters, the Child Support Enforcement Division, representatives from the health care profession, and the judicial system to develop and implement appropriate training for HSD staff. In addition, more intensive training will be developed and implemented for those who will be working closely with families in a domestic violence environment.

9. Developing Community Linkages

The Department will also work with the entities mentioned above to develop the linkages necessary to assist a family in a domestic violence environment, including development of a safety plan for the family in cases where the family's safety may be compromised.

10. Screening and Identifying TANF Eligible Families

In collaboration with the domestic violence shelter, Income Support Division (ISD), CYFD, and ISD work program contractor and other relevant entities, a determination will be made as to the eligibility of a family for domestic violence services under the Family Violence Option. Eligibility must be established before services are provided.

#### **PART IV. CHILD CARE**

Child care assistance is the responsibility of the New Mexico CYFD. NMW and Food Stamp recipients constitute a large portion of the child care clientele. CYFD's program covers a larger group that includes low income working families, students and services for children involved in the Department's social services system.

CYFD is responsible for regulating and certifying child care providers, processing child care applications and determining eligibility and calculating and issuing child care payments. NMW recipients are referred to CYFD by HSD for child care services.

Reimbursements for child care costs are issued through the Child Care Block Grant by either HSD or CYFD staff. NMW recipients, who are assigned to ongoing work program activities, are referred to CYFD field offices. The CYFD worker develops a child care agreement and instructs the participant on program procedures. CYFD issues the child care reimbursements directly to the child care provider each month.

Participants whose NMW cases close due to earned income may be eligible to receive transitional child care assistance for one year. Ongoing assistance is provided to former NMW participants who meet child care program and income guidelines.

The Department provides an advance payment for immediate child care needs no later than five days after approval of a NMW cash assistance case. The advance payment is meant to cover those child care needs related to registration and compliance with work program requirements, and is authorized through the Department's automated eligibility system upon approval of the NMW cash assistance case. The advance payment is required under the provisions of the NMWA.

## **PART V. FOSTER CARE**

The Children, Youth, and Families Department (CYFD) is the state agency responsible for children's protective services and foster care in the state of New Mexico. CYFD also administers juvenile justice programs, thereby providing a full range of services for troubled and in-trouble youth.

CYFD is the grantee for Titles IV-B and IV-E, as well as the Social Services Block Grant.

Children's protective services and foster care are provided by CYFD staff located in local offices. CYFD cooperates closely with tribal foster care and children's protective services workers to assure that Native American children in New Mexico receive appropriate services.

CYFD provides foster care and child care protective services funds to tribes and community based programs for services best provided by those agencies.

## **PART VI. CHILD SUPPORT ENFORCEMENT**

### **1. Administering Agency**

The single state agency for child support enforcement in the State of New Mexico is HSD. Within the Department, child support enforcement is the responsibility of the Child Support Enforcement Division (CSED).

CSED program operations are carried out by central office staff, as well as field staff located 17 offices statewide. Central office is located in Santa Fe.

### **2. Enforcement functions and purposes**

- a. The functions and purposes of child support enforcement are to:
  - (1) Locate absent parents;
  - (2) Establish paternity, if necessary;
  - (3) Enforce and modify existing court orders for support;
  - (4) Effect actions necessary to obtain a court order for support if none exists;
  - (5) Enforce the collection of child and spousal support payments; and
  - (6) Establish and enforce medical support orders.
- b. The Department has a contract with the Navajo Nation to provide child support services on the reservation. The Navajo Nation has offices located in Crownpoint and Shiprock.

## **PART VII. REDUCING THE ILLEGITIMACY RATIO OF THE STATE**

HSD seeks to reduce the ratio of illegitimate births in New Mexico. Of particular importance is the significant rate of pregnancy among the state's teenage population resulting in an excessive number of teens bearing children they are not prepared to care for.

The Department anticipates that activities to reduce the illegitimacy ratio of the State will be funded through state and/or federal funds and may include funding from the TANF block grant.

To address the State's illegitimacy ratio, HSD, in consultation with the CYFD, the Department of Health (DOH), and PED and other agencies such as schools, and faith-based or community organizations, will seek to develop and implement an educational plan for New Mexico's population and with special emphasis on a teen pregnancy prevention program.

The Department will seek to include all entities in the state that deal with teenage individuals and/or their parents or guardians, including CYFD, DOH, PED, DWS, juvenile detention facilities, hospitals and schools.

Teen prevention programs and activities emphasizing abstinence and responsibility may include but are not limited to, posters informing young teens about abstinence and pregnancy prevention, informational brochures and pamphlets distributed statewide and outreach by qualified counselors to children in the public schools.

Through these efforts, the Department seeks to reduce the illegitimacy ratio for the State by up to three percent in the time period covered by this State Plan.

## **PART VIII. STATUTORY RAPE EDUCATION PLAN**

Statistics show that a significant number of teenage mothers are made pregnant by adult men who are several years older than they are. In many instances, these girls are under the legal age of consent. One part of solving this problem involves more vigorous enforcement of statutory rape laws. Statutory rape and pregnancy prevention education efforts will be directed at this problem. Many of the pregnancy prevention programs, including education programs on the problem of statutory rape, are now available to men.

State Departments will prepare fact sheets that document the problem and provide this information to law enforcement agencies, educators, and the public. Meetings will be held with police Departments, district attorneys and educators to formulate a plan for identifying, investigating and prosecuting statutory rape cases.

#### **PART IX. PUBLIC PARTICIPATION**

Notice of a public comment period for the proposed TANF State Plan for the period beginning January 1, 2014 and ending December 31, 2015 was published on **xxxxx**. A public hearing was held on **xxxxx**.

A Human Services Register has been issued giving notice of the same public comment period. The Human Services Register was mailed to over 500 individuals or agencies on the Department's permanent mailing list.

#### **PART X. PLAN AMENDMENTS**