



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT



HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

AMENDMENTS TO GENERAL PROVISIONS FOR PUBLIC ASSISTANCE PROGRAMS

AND

AMENDMENTS TO THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

III. PROGRAMS AFFECTED

GENERAL PROVISIONS FOR PUBLIC ASSISTANCE PROGRAMS

AND

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

IV. ACTION

PROPOSED RULE AMENDMENT

V. BACKGROUND

The Department is promulgating rules to the following sections of New Mexico Administrative Code (NMAC) for alignment with the Code of Federal Regulations (CFR) to include:

- The responsibilities of the Department and applicants regarding the application/recertification process, which includes general application procedures and processes for potentially eligible households and anyone who requests information of these processes;
- The responsibilities of the Department and applicants/recipients relative to procedures when determining the initial benefits, interim reporting and recertification for continued eligibility for SNAP benefits;

- The Department is updating the consequences of non-compliance for failure to comply with work requirements.

VI. PROPOSED REGULATIONS

The Human Services Register Vol. 39 No. 9 outlining the proposed regulations is available on the HSD's website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. Individuals wishing to testify or to request a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, New Mexico 87504-2348, or by calling 505-827-7250.

The New Mexico Human Services Department (HSD) will hold a public hearing to allow public comment on the proposed amendment of New Mexico Administrative Code (NMAC) for alignment with the Code of Federal Regulations (CFR). The hearing will be held on Wednesday, May 18, 2016, at 2:30 p.m. to 4:30 p.m. at the Department of Health (DOH) Harold Runnels Building Auditorium, 1190 St. Francis Drive, Santa Fe, NM.

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.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 4:30 p.m. on the date of the hearing, Wednesday, May 18, 2016. Please send comments to:

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

You may send comments electronically to: HSD-isdrules@state.nm.us

VII. PUBLICATION DATE

April 15, 2016

VIII. ADDRESS

You may send comments electronically to: HSD-isdrules@state.nm.us

IX. PUBLICATION

Publication of these proposed regulations approved on April 15, 2016
by:



BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT

This is the PROPOSED amendment to 8.100.110 NMAC, Sections 8, 9, 11.

8.100.110.8 RIGHT TO APPLY: Each individual shall have the opportunity to apply for public assistance programs administered by the department or to have an authorized representative do so on his or her behalf. ~~[An application may be made whether or not it appears as if the applicant is eligible]~~ Paper application forms must be readily accessible in the ISD local office lobby and provided to any person who requests the form.

Applications are made in a format prescribed by the department to include paper forms or electronic submissions. All forms and notices will be accessible to individuals with limited-English or disabilities. ISD will post signs in local field offices which explain the application processing standards and the right to file an application on the day of initial contact.

A. Screening: Every applicant shall have the opportunity to meet, face to face or telephonically, with ~~[a department employee]~~ ISD when an application is submitted during regular business hours. ~~[The employee]~~ ISD will review the application, assist the applicant in completing the application, if it is incomplete or assistance is otherwise necessary, and will assist in identifying the public assistance program(s) that the applicant wishes to apply.

(1) Screening for supplemental nutrition assistance program (SNAP) expedited service: ~~[The employee]~~ ISD will screen SNAP applicants for entitlement to expedited processing, using the standard formula and documenting the application, ~~[as appropriate]~~ the same day the application is received by ISD.

(a) If the applicant is eligible for expedited service, ~~[the employee will process]~~ the SNAP application will be processed within the specified timeframes outlined in federal and state laws and regulations.

(b) If expedited SNAP processing is denied, the applicant will be informed of the right to request an agency review conference to be held within two (2) days of the request unless the household requests a later date pursuant to Paragraph (4) of Subsection E of 8.100.970.10 NMAC.

(2) Proof checklist: ~~[The employee will provide the applicant with the proof checklist on a standard department form that identifies the verification requirements needed for each public assistance program and the various methods that each factor may be verified or established. The employee will explain why the verification is needed, how to obtain the verification, provide examples of the types of verification, the period of time the verification should cover, and offer to help the applicant obtain the verification].~~ ISD shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process. The notice shall also inform the household of ISD's responsibility to assist the household in obtaining required verification provided the household is cooperating with ISD as specified in 7 C.F.R. 273.2(d)(1) and 8.139.110.11(F) NMAC. The notice shall be written in clear and simple language and shall meet the bilingual requirements designated in 7 C.F.R. 272.4(b). At a minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.

(3) Scheduling the appointment: ~~[The employee will schedule an application interview to be held within ten (10) working days of the date the application~~

~~was submitted that is, to the extent possible, convenient for both the applicant and the department. The employee will provide the applicant with a written appointment letter that will include: the date, time and place of the appointment, the name and telephone number of the local county office, the consequences of missing an appointment, how to reschedule an appointment, the possibility of a waiver of the in-office interview, and that the spouse, any other responsible person in the household, or an authorized representative may attend the interview with the applicant or in the applicant's place.]~~ ISD must schedule an interview for all applicant households who are not interviewed on the day their application is received by ISD. An interview should be held within ten (10) working days from the date the application is received by ISD and, to the extent possible, convenient for both the applicant and ISD. To the extent practicable, ISD must schedule the interview to accommodate the needs of groups with special circumstances, including working households. ISD must schedule all interviews as promptly as possible to ensure eligible households receive an opportunity to participate within 30 days after the application is filed. ISD must notify each household that misses its interview appointment that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview. If the household contacts ISD within the 30 day application processing period, ISD must schedule a second interview. ISD may not deny a household's application prior to the 30th day after application if the household fails to appear for the first scheduled interview. If the household requests a second interview during the 30-day application processing period and is determined eligible, ISD must issue prorated benefits from the date of application.

B. Alternative interviews: Specific requirements for telephone and out of office interviews are outlined in each program's chapter on this topic.

C. Screening ~~[by mail or drop box]~~ applications received by alternative means: ~~[If an applicant mails in the application, leaves the application in a drop box, or is unwilling or unable to be screened in person, the department will screen the application for all public assistance programs and for expedited SNAP eligibility upon receipt. An appointment letter and the proof checklist, with appropriate boxes marked, will be mailed to the applicant on the same day as the date of application.]~~ ISD will screen applications received by alternative means. Alternative means include mail, fax, online, electronic transmission, or through an authorized representative.

D. Resource planning session: No later than forty-five (45) days after the date of application, the individual applying for qualified benefits shall be provided a resource planning session. The session shall ascertain the immediate needs of the individual or family, shall help the individual to assess his or her financial and non-financial options and shall result in referrals to such other agencies or programs as the individual deems appropriate to his or her specific needs.

[07/01/97, 04/01/98; 8.100.110.8 NMAC - Rn, 8 NMAC 3.ISD.111, 04/13/2001; A, 11/27/2013]

8.100.110.9 SUBMISSION OF FORMS: Applicants may submit forms to a local county office in person or through an authorized representative, through the approved department web portal, by fax or by mail. The date the application and forms are received by ISD will be documented on the form.

A. Incomplete application: An applicant has the right to file an incomplete form as long as the form contains the applicant's name, address and the signature of a

responsible household or benefit group member or the household or benefit group's authorized representative, if one is designated.

B. Requesting application forms: When the department receives a request for an application for assistance, the department will mail, fax or hand deliver a paper application and provide the approved department web portal address (for online applications), as indicated by the requestor, on the same day the request is received by the department.

C. ISD shall provide households that complete an on-line electronic application in person at the ISD office the opportunity to review the information that has been recorded electronically and provide them with a copy of that information for their records, upon request.

[07/01/97; 8.100.110.9 NMAC - Rn, 8 NMAC 3.ISD.112, 04/13/2001; A, 11/27/2013]

8.100.110.11 PROCESSING APPLICATIONS

A. ~~[Financial assistance (FA)] Cash Assistance (CA)/SNAP combined cases:~~ To facilitate participation in SNAP, the Food Stamp Act requires that individuals applying for ~~[FA]~~ CA be able to apply for SNAP benefits at the same time.

(1) **Application:** A household applying jointly for ~~[FA]~~ CA and SNAP is required to file only one application on a form prescribed by the department. The application contains the information necessary to complete the application process whether it was submitted by paper format or electronically online. If it is unclear to the department whether the applicant intends to apply for SNAP, the department will ask the applicant during the ~~[FA]~~ CA interview or other contact may be made with the applicant. An application for SNAP will be processed in accordance with time standards and procedures set forth in federal and state laws and regulations governing SNAP, including expedited processing provisions.

(2) **Single interview:** Whenever possible, a single interview will be held with an applicant who applies jointly for ~~[FA]~~ CA and SNAP benefits.

(3) **Categorical eligibility:** A SNAP household that meets criteria set forth in 8.139.420.8 NMAC is categorically eligible. If a household does not meet SNAP eligibility criteria, but is potentially categorically eligible, ~~[the department]~~ ISD must postpone denying the SNAP application until the thirtieth (30th) day.

(4) **Application processing:** ~~[As a result of differences in FA and SNAP application processing procedures and timeliness standards, eligibility for SNAP benefits may be determined prior to FA eligibility determination. Action on a SNAP application may be postponed until categorical eligibility is established to afford the household any benefits of this provision. However, SNAP approval may not exceed the applicable SNAP expedited or regular application processing timeliness standards]~~ Each type of benefit applied for will be processed according to its specific procedures and timeliness standards.

(5) **Application is denied:** If ~~[an]~~ a ~~[FA]~~ CA application is denied, an applicant is not required to file a new SNAP application. SNAP eligibility will be determined on the basis of the original application filed jointly for ~~[FA]~~ CA and SNAP, as well as any other documentation and information obtained in the course of the ~~[FA]~~ CA determination that is relevant to SNAP eligibility and benefit amount. A SNAP application may not be denied based on ~~[an]~~ a ~~[FA]~~ CA denial reason, but based on the SNAP eligibility criteria.

(6) Denial retrieval: A SNAP application that is denied on the thirtieth (30th) day must be readily retrievable if the household is later determined eligible for [FA] CA or supplemental security income (SSI) benefits. When this occurs, the department will use the original SNAP application, update any information and approve the SNAP case with prorated benefits as of the date of [FA] CA or SSI approval or payment effective date, whichever is later. A second interview is not necessary, however, the applicant or authorized representative should initial all changes and sign and date the verification of the changes.

B. Reporting changes: All participants in public assistance programs administered by the department are required to report any changed circumstances that relate to their eligibility for assistance or level of benefits. Each participant is provided with a list of the specific information he/she is required to report and the reporting time limits. ~~[Clients who report a change for FA are considered to have reported the change for SNAP purposes.]~~ When a change is reported, ~~[the department]~~ ISD must ensure that adjustments are made in the client's eligibility status or allotment for those months that the reported change is in effect, in accordance with each program's chapter on this topic.

(1) Notice: Whenever a client's benefits are altered as a result of changes, or whenever a certification period is shortened to reflect changes in the household's circumstances, the client is notified of the action by the department in accordance with the notice requirements. If the certification period is shortened, the household's certification period may not end any earlier than the second month following the month the department determines the certification period should end. This allows adequate time to send a notice of expiration and for the household to timely reapply. If [FA] CA benefits are terminated, but the household is still eligible for SNAP benefits, members of the household must be informed about SNAP employment & training and ABAWD requirements, if applicable.

(2) [FA] CA reduction or termination within SNAP certification period: Whenever a reported change results in the reduction or termination of a client's [FA] CA benefits within the SNAP certification period, action will be taken to determine how the change affects the client's SNAP eligibility and benefit levels.

(a) Sufficient information: When there is sufficient information to determine how the change affects SNAP eligibility and benefit levels, the following actions will be taken:

(i) Reduction/termination of SNAP benefits: A change that reduces or terminates SNAP, [FA] CA or both benefits will generate a notice of adverse action for each category of assistance that is sent to the household and authorized representative. The notice(s) of adverse action will inform the household of its fair hearing rights and method for requesting continuation of benefits.

(ii) Increase in SNAP benefits: If the reduction/termination of [FA] CA benefits results in the increase of SNAP benefits, the increase in SNAP benefits occurs after the [FA] CA notice period expires and the [FA] CA grant is actually reduced or terminated.

(b) Insufficient information: Whenever there is insufficient information to determine how the [FA] CA change affects the client's SNAP eligibility and benefit level, the following actions shall be taken:

(i) [FA] CA notice of adverse action required: Where ~~[an FA]~~ a CA notice of adverse action has been sent and the client requests a fair hearing and [FA] CA benefits are continued pending the appeal, the household's SNAP

benefits will be continued on the same basis. However, the household must recertify for SNAP benefits if the SNAP certification period expires before the fair hearing process is completed.

(ii) **[FA] CA notice of adverse action not required:**

If ~~an FA~~ a CA notice of adverse action is not required, or the client decides not to request a fair hearing and continuation of ~~[FA] CA~~ benefits, the household must be notified that its certification period will expire at the end of the month following the month the notice of expiration is sent, and that it must reapply if it wishes to continue to participate in the SNAP. The notice of expiration will also explain to the household that the certification period is expiring because of changes in its circumstances that may affect its SNAP eligibility and benefit level.

(3) **Certification periods:** The department will assign ~~[FA] CA~~ and SNAP certification periods that expire at the same time. In no event are ~~[FA] CA~~ and SNAP benefits to be continued beyond the end of a certification period.

(4) **Recertification:** Households in which all members are contained in a single ~~[FA] CA~~ grant or in a single general assistance (GA) grant will have their SNAP interviews for recertification, to the extent possible, at the same time they are redetermined for ~~[FA] CA~~.

(5) **Reopened cases:** If the ~~[FA] CA~~ and SNAP cases are closed or the SNAP certification expires, and the former recipient reapplies for one or both programs for the month following closure or expiration, benefits are prorated from the date of application for SNAP. If reapplication is made for ~~[FA] CA~~ or SNAP or both, following a break of one full month or more, SNAP and ~~[FA] CA~~ benefits for the month of application will be determined prospectively under beginning month provisions.

C. Other processing standards

(1) **SSI Households:** Households in which all members are applying for SSI benefits are handled in the same manner as ~~[FA] CA~~ households with respect to the postponement of SNAP approval or denial and the retrieval of denied SNAP applications.

(a) Since the department cannot monitor the progress of the SSI application, and if the SNAP application is denied on the thirtieth (30th) day, the household must be advised to reapply for SNAP when it has been notified of SSI approval.

(b) SSI households are also entitled to apply for SNAP and be recertified at the social security administration (SSA) offices. SSA will accept the application and forward the completed application, transmittal form, and any available verification to the designated local ISD field office. When SSA accepts and refers the application, the household is not required to appear at a second office interview, although the department may request additional verification or information needed to make an eligibility determination. Processing time limits begin when the SNAP application is registered at the SSA office.

(2) **GA households:** Households in which all members are applying for state administered GA are to be processed jointly for GA and SNAP benefits. However, since these households are not, nor will they become categorically eligible, the provisions to postpone approval or denial and to retrieve denied SNAP applications do not apply.

(3) **Mixed households:** Households in which some but not all of the household members are applying for NMW benefits will file separate applications for

[FA] CA and SNAP benefits. Applications will be handled under the same processing provisions required for nonfinancial assistance households. However, if those not applying for [FA] CA benefits are recipients of SSI, the SNAP application would be jointly processed, because SSI recipients are already considered [FA] CA recipients. [07/01/97, 04/01/98; 8.100.110.11 NMAC - Rn, 8 NMAC 3.ISD.114, 04/13/2001; A, 04/01/2010; A, 11/27/2013]

These are the PROPOSED amendments to 8.100.130 NMAC, Section 8, 9, 10-16, 19, 22, 23, 24, 26 - 28.

8.100.130.8 PRINCIPLES OF ELIGIBILITY: The income support division (ISD) is responsible for administering food, cash, energy, and medical assistance programs. These programs are funded through federal or state sources and provide assistance to individuals who meet certain eligibility factors. State and federal regulations determine eligibility factors for each program. ISD determines if an individual qualifies for a program, and ensures that eligible individuals receive the assistance as quickly as possible and, in any event, within the application time frames for the applicable program.

A. Proof of eligibility: Determining eligibility for assistance requires that certain verification regarding an applicant/recipient's circumstances be made available to ISD. This verification is retained in the case record or noted in the case narrative.

(1) Applicant/recipient responsibility: The applicant/recipient is responsible to provide and obtain the verification necessary to determine eligibility.

(2) ISD responsibility: ISD is responsible for the following:

(a) to explain program participation requirements and the program specific eligibility factors to applicants/recipients;

(b) to explain the information and documents that must be provided to establish eligibility under each eligibility factor for a specific program;

(c) to offer and provide assistance in obtaining verification of an eligibility factor when the applicant/recipient indicates that verification may be difficult or costly to obtain; difficulty in obtaining verification may arise as a result of such circumstances as an applicant/recipient's limited ability to read, speak or understand the English language, mental impairments, physical illness, disability, lack of funds, lack of transportation or lack of knowledge about how to obtain the information; assistance by ~~[the caseworker]~~ ISD includes explaining written information orally in the applicant/recipient's language, providing an interpreter, providing an address or telephone number of a person or agency, making telephone or written inquiries, allowing an applicant/recipient to use the telephone, locating a document, instructing an applicant in obtaining a document, requesting a document on behalf of an applicant/recipient or contacting a collateral contact; the assistance offered and provided is based on the particular needs of the applicant and ~~[the caseworker's]~~ ISD's ability to address those needs;

(d) applicants/recipients shall be informed in writing of their responsibility to provide necessary verification.

(3) Incomplete information: When available information is inconclusive, incomplete or indefinite, HSD shall be responsible for explaining, in writing, what questions remain and how they can be resolved. The explanation must make it clear that eligibility cannot be established without the information or documents and that failure to provide them shall result in denial, reduction or termination of assistance.

(a) The applicant/recipient shall also be informed they may reapply at any time but that the information, documentation or actions may affect the reapplication. If the applicant/recipient does not provide all of the verification needed, a decision shall be made to the extent possible, based on the existing verified information.

(b) When assistance is denied, reduced, delayed or terminated

due to failure to provide information or documents as requested, the case record must contain the explanation that such failure is the basis for the action. The client shall be informed in writing of the action.

B. Failure to provide verification: An applicant/recipient cannot be considered eligible for assistance until necessary verification is obtained. To the extent possible, ~~[the caseworker]~~ ISD shall make eligibility determinations based on verified eligibility issues rather than failure to provide information.

C. Applicants/recipients may submit documentary evidence in person, by mail, facsimile, or other electronic device or through an authorized representative. [8.100.130.8 NMAC - Rp, 8.100.130.8 NMAC, 08/01/2008]

8.100.130.9 METHODS OF VERIFICATION:

A. Verification to determine eligibility and benefit level is obtained through six methods. Not all methods will necessarily be used in each case. The six methods are outlined in subsections B - G of this section as well as the circumstance in which they may be used.

B. Prior case data not subject to change: Verification of an eligibility factor not subject to change which previously has been verified is accepted. At the application interview, ~~[the caseworker]~~ ISD shall advise the applicant/recipient of any eligibility factors which have previously been established through documents in ~~[HSD's]~~ISD's possession and that are not subject to change. ~~[The caseworker]~~ ISD shall not require further verification of any eligibility factors already established. Such factors include, U.S. citizenship, permanent residency, birth date, relationship, social security enumeration and deprivation due to the death of a parent.

C. ~~[Government]~~ Electronic data: Every applicant/recipient shall be informed that the information provided is subject to verification through ~~[government]~~ federal, state, local and contracted data systems. ~~[The caseworker shall review with the applicant/recipient information received from government data systems. The caseworker shall not require further verification of such information unless it is disputed by the applicant or the information is otherwise questionable as defined in 8.100.130.12 NMAC]~~ ISD shall review the information received from the data source with the applicant/recipient and not require additional verification of such information unless it is disputed by the applicant/recipient or the information is otherwise questionable as defined in 8.100.130.12 NMAC. ~~[Government]~~ Electronic data checks are automatically made and are not considered to be collateral contacts. The ~~[government]~~ electronic data checked includes, but ~~[are]~~ is not limited to:

(1) SSA and SSI information through the beneficiary data exchange (BENDEX) and the state data exchange (SDX) systems:

(a) the household shall be given an opportunity to verify the information from another source if the SDX or BENDEX information is contrary to the information provided by the household or is unavailable;

(b) eligibility and benefit level determination shall not be delayed past the application processing standards of 8.100.130.11 NMAC of this part if SDX or BENDEX data is unavailable;

(2) wage data and unemployment compensation benefits (UCB) through the interface with the New Mexico department of workforce solutions (NMDWS) - unemployment insurance database;

(3) interest, dividends, unearned income and self-employment wages through interfaces with the BENDEX wage data and internal revenue service (IRS) available through income and eligibility verification systems (IEVS):

(a) if the IEVS-obtained information is questionable, this information shall be considered unverified upon receipt and ~~the caseworker~~ ISD shall take action to request verification of the information;

(b) except as noted in this paragraph, prior to taking action to terminate, deny or reduce benefits based on IEVS-obtained information, ~~the caseworker~~ ISD shall request verification of the information;

(4) vehicle registration and driver's license information available from the New Mexico motor vehicle division; and

(5) child support payment information and absent parent information available from the child support enforcement division.

(6) **Restrictions:** Information on earnings, benefits, resources and absent parents disclosed through government data systems shall be used only for the purpose of:

(a) verifying an applicant/recipient's eligibility;

(b) verifying the proper amount of benefits;

(c) investigating to determine whether recipients received benefits to which they were not entitled; and

(d) substantiating information which will be used in conducting criminal or civil prosecution based on receipt of benefits to which recipients were not entitled.

D. Documentary evidence ~~[is the primary source of verification for information not established in prior case information or government data. Obtaining necessary verification through documentary evidence readily available to the applicant/recipient shall always be explored before collateral contacts, home visits, or sworn statements are used. Documentary evidence consists of a written confirmation of a household's circumstances. Acceptable verification is not limited to any single type of document. The types of documents which may be accepted as verification are specified under the sections pertaining to non-financial, financial and allowances/deductions verification standards later in this chapter. The enumeration of certain types of documents is not meant to exclude other sources of information that the client might be able to provide. The caseworker shall provide applicants/recipients with receipts for verification documents provided subsequent to the interview]~~ ISD shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence, collateral contact or data from federal, state, local or contracted data sources, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. ISD shall provide applicants/recipients with receipts for verification documents provided.

E. Collateral contacts: A collateral contact is an oral or written

confirmation of a household's circumstances by a person outside the household. [~~The caseworker~~] ISD shall document the reason for utilizing a collateral contact in the case file.

(1) A collateral contact can be used only when the applicant/recipient selects a collateral contact as the source of verification and:

(a) the applicant/recipient indicates difficulty in obtaining acceptable documentary evidence; or

(b) the documentary evidence provided by the applicant/recipient is inadequate or questionable.

(2) **Selection of a collateral contact:** The applicant/recipient and [~~the caseworker~~] ISD shall select a mutually agreed upon collateral contact. A collateral contact must have knowledge of the applicant/recipient's circumstances and must be able to give accurate third party information.

(a) [~~The caseworker~~] ISD may select a collateral contact only if the household fails to designate one or designates one who lacks knowledge of the applicant/ recipient's circumstances or cannot give accurate information. If the applicant/recipient does not agree to the collateral contact and does not designate an acceptable collateral contact, the application may, in appropriate circumstances, be denied for failure to verify.

(b) A collateral contact shall not be rejected solely based on the following criteria:

(i) they are related to the applicant/recipient;

(ii) they are a recipient of public assistance; or

(iii) because they do not have a telephone.

(3) **Failure on the part of a collateral contact:** [~~The caseworker~~] ISD shall not deny or delay an eligibility decision solely because of failure of a collateral contact to provide information. [~~The caseworker~~] ISD shall decide the applicant/recipient's eligibility and benefit amounts based on all readily available information.

F. Home visits: Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained. Home visits shall be selected as a method of verification with the applicant/recipient's consent. [~~The caseworker~~] ISD shall schedule the home visit with the applicant/recipient in advance during normal business hours. [~~The caseworker~~] ISD shall document the reason for the home visit in the case record.

G. Sworn statements:

(1) If the applicant/recipient has an immediate need for assistance, [~~the caseworker~~] ISD shall accept and, if necessary, assist the applicant/recipient to identify necessary factors to be included in the statement, an applicant/recipient's sworn statement to verify one or more eligibility factors when there is:

(a) a reasonable explanation as to why documentary verification or a collateral contact is not readily available to establish the factors; and

(b) the applicant/recipient's statement does not contradict other credible information received by [~~the caseworker~~] ISD; in such instances where the statement contradicts the other information, [~~the caseworker~~] ISD may require additional verification within a reasonable time after approval and authorization of assistance: an applicant/recipient who objects to such an additional request for information shall have the right to request and receive a fair hearing.

(2) A sworn statement is defined as the applicant/recipient's statement signed under penalty of perjury.
[8.100.130.9 NMAC - Rp, 8.100.130.9 NMAC, 08/01/2008]

8.100.130.10 SELECTION OF VERIFICATION: Verification shall be requested only when necessary to establish a specific eligibility factor or benefit amount for a program. The method of verification which is selected to establish eligibility on a factor is determined through discussion between ~~[the caseworker]~~ ISD and the applicant/recipient.

A. Only necessary verification: ~~[The caseworker]~~ ISD shall only request verification which is necessary to establish eligibility or benefit amounts for the assistance program(s) for which the applicant/recipient has applied.

B. Ready availability: The determination that verification is readily available will be made through discussion with the applicant/recipient. A readily available document is one which can be obtained by the applicant/recipient within five working days and at no cost to the applicant/recipient.

C. Verification of a negative statement: Verification, other than by sworn statement, of a negative statement shall not be required unless the statement is or becomes questionable as defined in 8.100.130.12 NMAC and at least one specific method of verifying the statement is readily available. A negative statement is a statement by an applicant/recipient that something does not exist or did not occur. Negative statements may be discussed with the applicant/recipient depending on the applicant/recipient's circumstances.

D. Verifying more than one factor: To the extent possible, ~~[the caseworker]~~ ISD shall use a document to establish more than one eligibility factor.
[8.100.130.10 NMAC - Rp, 8.100.130.10 NMAC, 08/01/2008]

8.100.130.11 TIMEFRAME FOR PROVISION OF VERIFICATION: An applicant/recipient is always allowed the complete time processing deadline for the program to provide necessary verification. The minimum amount of time allowed is specific to the program. This requirement pertains to requests for verification for initial applications as well as for verification for ongoing eligibility. Below are the time frames for provision of verification by type of assistance. ~~[The caseworker]~~ ISD shall make an eligibility decision within three work days of the receipt of all necessary verification.

A. Food assistance and NMW/EWP cash assistance programs: The application disposition deadline for ~~[the food stamp]~~ SNAP and cash assistance programs is 30 calendar days.

(1) **Expedited (emergency) ~~[food stamps]~~ SNAP:** If applicant is eligible for expedited ~~[food stamp]~~ SNAP processing, issue benefits no later than the sixth day following the date of application to be available to the applicant/recipient on the seventh day or the preceding work day if the sixth day falls on a weekend or holiday.

(2) **Day 1:** Calendar day following date of application.

(3) **Approvals:** If verification provided establishes eligibility and the 30th calendar day after the application is:

(a) Monday by the preceding Friday, the 27th day;

(b) Tuesday by the preceding Monday, the 29th day;

(c) Wednesday by the preceding Tuesday, the 29th day;

- (d) Thursday by the preceding Wednesday, the 29th day;
- (e) Friday by the preceding Thursday, the 29th day;
- (f) Saturday by the preceding Friday, the 29th day;
- (g) Sunday by the preceding Friday, the 28th day;
- (h) Monday holiday by the preceding Friday, the 27th day;
- (i) if necessary verification is not received by these deadlines

but is received on or before the end of the processing period, approve on the day that full verification is provided.

(4) **Need-based determination:** If verification provided establishes eligibility, ineligibility or justification for reduced benefits, approve, deny, or approve reduced benefits, no later than the 30th day after the application date, by the preceding work day if the 30th day falls on a weekend or holiday.

(5) **Procedural denials:**

(a) **Lack of verification:** If verification needed to determine eligibility is not provided and no extension of time is requested, deny on the 30th day after the application date or by next work day if 30th day falls on weekend or holiday.

(b) **Missed interview:** Make eligibility decision on the 30th day after the application date or by next work day if 30th day falls on weekend or holiday if applicant missed interview and did not reschedule interview.

(6) **Extension of time beyond the 30th day:** Make eligibility decision no later than the 60th day after the application date if the applicant requests one or more 10-day extensions of time to provide needed verification. There may only be three 10-day extensions.

(7) **Reconsidering denials for refusal to provide verification or to complete application process:** If an applicant/recipient has been denied benefits for refusal to provide needed verification or to complete the application process, but takes the required action within 30 days after the date of denial, ~~the caseworker~~ ISD shall then make a needs-based decision.

B. Medical assistance: The application disposition deadline for medical assistance programs is 45 days from the date of application.

(1) **Day 1:** The date of application is the first day.

(2) **No later than day 44** by the preceding work day if day 44 falls on a weekend or holiday:

(a) if verification provided establishes eligibility or ineligibility; or

(b) if the day following day 44 is not a work day, then decision must be made earlier than day 44 to allow for mailing on or before the deadline.

(3) **No later than day 45** by the next work day if day 45 falls on a weekend or holiday, if needed verification is not provided until day 42 - 44.

(4) **Day 45** by the next work day if day 45 falls on a weekend or holiday, if needed verification is provided on day 45, or is not provided.

(5) **After day 45:**

(a) When an applicant/recipient requests one or more 10-day extensions of time to provide needed verification. An applicant/recipient is entitled to receive up to three 10-day extensions of time upon request.

(b) The eligibility decision must be made as soon as possible and within three work days of receipt of all necessary verification.

C. General assistance: An application for general assistance shall be

processed no later than 90 days from the date the application is filed.

(1) **No later than day 89:** by the previous work day if day 89 falls on a weekend or holiday:

(a) if verification provided establishes eligibility or ineligibility; or

(b) if day following day 89 is not a work day, then decision must be made earlier than day 89 to allow for mailing on or before deadline.

(2) **No later than day 90** by the next work day if day 90 falls on a weekend or holiday, if needed verification is not provided until day 87 - 89.

(3) **Day 90** by the next work day if day 90 falls on a weekend or holiday, if needed verification is provided on day 90, or is not provided.

(4) **After day 90:**

(a) When an applicant/recipient requests one or more 10-day extensions of time to provide needed verification. An applicant/recipient is entitled to receive up to three 10-day extensions of time upon request.

(b) The eligibility decision must be made as soon as possible and within 3 work days of receipt of all necessary verification.

(5) **Reconsideration:** Disability may be re-evaluated based on additional medical evidence provided by the client during the reconsideration period, which shall not exceed 120 days from the date of receipt of the initial application.

(6) **Tracking the application processing time limit:** The application processing time limit begins on the day after the signed application is received in the ISD county office.

(7) **Delayed determination:** If an eligibility determination is not made within the required application processing time limit, the applicant/recipient shall be notified in writing of the reason for the delay and that the applicant/recipient has the right to request a fair hearing regarding ISD's failure to act within the time limits.

(8) **Extensions of time:** Up to three 10 calendar day extensions for providing verification shall be granted at the applicant/recipient's request. The extension begins at the end of the application processing time period or at the end of the previous extension.

[8.100.130.11 NMAC - Rp, 8.100.130.11 NMAC, 08/01/2008; A, 12/01/2009]

8.100.130.12 QUESTIONABLE INFORMATION/VERIFICATION:

A. To be considered questionable, incomplete or inadequate, the information or verification must be documented as one of the following:

(1) inconsistent with statements made by the applicant/recipient;

(2) inconsistent with other information on the application or previous applications;

(3) inconsistent with credible information received by the department;

(4) questionable on its face.

B. Resolving questionable information: Upon receiving questionable, incomplete or inadequate verification needed to determine an applicant/recipient's eligibility or benefit amount, [the caseworker] ISD shall promptly provide the applicant/recipient a notice which shall include the following:

(1) advise the applicant/recipient of the receipt of the information;

(2) why it is questionable, incomplete or inadequate;

(3) the additional information that must be provided;

- (4) the alternative methods of providing the information,
 - (5) the deadline for supplying the information (10 working days or the end of the applicable application processing time period, whichever is later);
 - (6) that the applicant/recipient will be allowed an extension of time to supply the information if requested;
 - (7) that the applicant/recipient should contact [~~the caseworker~~] ISD if an extension is desired;
 - (8) that the applicant/recipient may discuss with the caseworker whether any other readily available verification is acceptable;
 - (9) that [~~the caseworker~~] ISD is available to assist the applicant/recipient if the information is not readily available; and
 - (10) that a failure to supply the needed information or contact [~~the caseworker~~] ISD by the deadline may result in a delay, a denial of eligibility or a reduction in the amount of benefits.
- [8.100.130.12 NMAC - Rp, 8100.130.12 NMAC, 08/01/2008]

8.100.130.13 NON-FINANCIAL VERIFICATION STANDARDS - IDENTITY:

A. [~~Food stamp~~] SNAP and cash assistance programs: Verification of identity for the applicant is mandatory at application for the [~~food stamp~~] SNAP and cash assistance programs. Documents that can be used to verify identity for the [~~food stamp~~] SNAP and cash assistance programs include, but are not limited to:

- (1) photo ID; including driver's license;
- (2) birth certificate;
- (3) school record;
- (4) church record;
- (5) hospital or insurance card;
- (6) letter from community resources;
- (7) voter registration card;
- (8) work ID;
- (9) ID for another assistance or social service program;
- (10) wage stubs;
- (11) additional items as listed in ISD 135, "proof checklist"; or
- (12) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

B. Medical assistance programs: Verification of citizenship and identity for the applicant/recipient is mandatory at initial application and recertification on or after July 1, 2006. The applicant/recipient is required to submit an original or a copy certified by the issuing agency.

- (1) **Exemptions:** The following individuals are exempt from providing documentation of citizenship and identity:
 - (a) individuals receiving supplemental security income benefits under Title XVI of the Social Security Act;
 - (b) individuals entitled to or enrolled in any part of medicare;
 - (c) individuals receiving social security disability insurance benefits under section 223 of the Social Security Act or monthly benefits under section 202 of the act, based on the individual's disability, as defined in section 223(d) of the act;
 - (d) individuals who are in foster care and who are assisted under Title IV-B of the Social Security Act; or

(e) individuals who are recipients of foster care maintenance or adoption assistance payment under Title IV-E of the act.

(2) Documents that verify both citizenship and identity:

- (a) U.S. passport (active or expired);
- (b) certificate of U.S. citizenship (DHS form N-560 or N-561);

or

- (c) certificate of naturalization (DHS form N-550 or N-570).

(3) Documents to verify identity. The following documents may be accepted as proof of identity and must accompany a document establishing citizenship from the second, third or fourth level documents. See Paragraphs (1) (2) and (3) of Subsection B of 8.100.130.16 NMAC:

(a) a current state driver's license from a state or territory with the individual's picture or other identifying information such as name, age, sex, race, height, weight, or eye color;

(b) school identification card with a picture of the individual;

(c) U.S. military card or draft record;

(d) identification card issued by the federal, state or local government with the same information included on the driver's license;

(e) military dependent's identification card;

(f) certificate of degree of Indian blood, or other American Indian/Alaska native tribal document with a picture or other personal identifying information, such as age, weight, height, race, sex, and eye color;

(g) Native American tribal document with a picture or other personal identifying information, such as age, weight, height, race, sex and eye color;

(h) U.S. coast guard merchant mariner card;

(i) a cross match with federal or state governmental, public assistance, law enforcement or corrections agency's data systems, if the agency establishes and certifies the true identity of the individual;

(j) three or more corroborating documents, such as marriage licenses, divorce decrees, high school diplomas, and employer identification cards may be used to verify the identity of an individual when used in conjunction with level two or three citizen documentation listed at 8.100.130.16 NMAC; these documents must contain the applicant/recipient's name and additional information to establish identity; all documents must contain consistent identifying information.

(4) Special rules for verifying proof of identity for children 16 or younger:

(a) school records verified from the school, including report card, daycare or nursery school record;

(b) clinic, doctor or hospital record;

(c) an affidavit signed under penalty of perjury by a parent, guardian or relative caretaker stating the date and place of birth of the child:

(i) An affidavit can only be used if one of the preceding documents is not available.

(ii) An affidavit cannot be used if an affidavit for citizenship was used.

(5) An identity affidavit signed under penalty of perjury by a residential facility director or administrator on behalf of the institutionalized applicant/recipient.

**8.100.130.14 NON-FINANCIAL VERIFICATION STANDARDS:
NONCONCURRENT RECEIPT OF ASSISTANCE:**

A. Verification of nonconcurrent receipt of assistance is mandatory. ~~[the easeworker]~~ ISD has responsibility for verifying nonconcurrent receipt of benefits usually through government data systems or other state agencies.

(1) For ~~[food-stamp]~~ SNAP purposes, non-receipt of ~~[food-stamp]~~ SNAP benefits from this state or another state or receipt of tribal commodities must be verified.

(2) For medicaid, ineligibility to receive medicaid benefits from this state or another state in the current month must be verified.

(3) For cash assistance, ineligibility for and non-receipt of assistance from the supplemental security income (SSI) program and bureau of Indian affairs general assistance (BIA GA) program, TANF assistance from New Mexico tribal programs, cash assistance from a HSD administered program and adoption subsidies funded through Title IV-E of the Social Security Act must be verified.

B. Non-receipt of benefits from another state must be verified for applicants who indicate a recent move to New Mexico from another state and prior receipt of assistance from that state.

C. Methods which can be used to verify nonconcurrent receipt of assistance include:

(1) ~~[ISD2]~~ ISD eligibility system for non-receipt of assistance from ISD programs;

(2) state data exchange (SDX) for non-receipt of SSI;

(3) contact with the New Mexico children, youth and families department for non-receipt of assistance;

(4) document from another state showing termination of benefits;

(5) collateral contact - oral statement from other state for termination of ~~[food-stamps]~~ SNAP, TANF, or medicaid;

(6) collateral contact - oral statement from bureau of Indian affairs for non-receipt of BIA-GA; or

(7) collateral contact - oral statement from tribal TANF programs for non-receipt of tribal TANF

[8.100.130.14 - Rp, 8.100.130.13 NMAC, 08/01/2008]

**8.100.130.15 NON FINANCIAL VERIFICATION STANDARD -
ENUMERATION:**

A. Verification that the enumeration requirement for an applicant/recipient has been met is mandatory for applicants who are seeking benefits for themselves. The applicant/recipient must provide the social security number (SSN) which has been issued to the individual no later than 60 days following approval. ~~[The easeworker]~~ ISD shall verify the SSN through the following methods:

(1) **When an SSN is provided:** The SSN will be verified through a data match with the SSA. If the SSN is not validated through the data match, the following sources of verification listed below may be utilized to validate the SSN:

(a) ~~[ISD2-system-validation]~~ ISD eligibility system;

(b) social security card (OA-702);

- (c) ISD social security number validation report form (ISD 260);
- (d) an original SSA document containing the SSN; or
- (e) the individual who has provided their SSN will not be required to produce proof of SSN unless the SSN is found to be questionable.

(2) **When an SSN is not provided:** The applicant/recipient must provide verification of application for an SSN. The verification must indicate an application was made prior to approval of the individual for assistance. The verification shall be retained in the case record. Documents that can be used to verify an application for SSN include:

- (a) SSA 2853 enumeration at birth form;
- (b) signed and dated statement from the hospital showing enumeration at birth has been done;
- (c) original SSA document showing an application for SSN has been made and accepted; or
- (d) completed SS-5; the completed SS-5 must be dated and submitted prior to the date of approved; a copy of the completed and submitted SS-5 must be retained in the case record.

B. There is no requirement of enumeration for medicaid-newborn (Category 31).
[8.100.130.15 - Rp, 8.100.130.13 NMAC, 08/01/2008]

8.100.130.16 NON FINANCIAL VERIFICATION STANDARD-CITIZENSHIP AND ELIGIBLE ALIEN STATUS: This section details the specific types of documents to be used in establishing the [applicant/recipient's] citizenship and alien status for the individuals who are applying or recertifying for food assistance, cash assistance and medical assistance programs for themselves.

A. Citizenship for ~~[food stamp]~~ SNAP and cash assistance: Citizenship for ~~[food stamp]~~ SNAP and cash assistance programs will be verified only when questionable (as defined by manual section 8.100.130.12 NMAC). Documents that can be used to verify citizenship include:

- (1) birth certificate;
- (2) naturalization papers from the department of homeland security United States citizenship and immigration services (DHS) such as DHS Forms I-179 or I-197;
- (3) U.S. passport;
- (4) military service papers;
- (5) hospital record of birth;
- (6) baptismal record, when place of birth is shown;
- (7) Indian census records;
- (8) DHS 400 for alien children who can derive citizenship through citizen father or mother;
- (9) additional items as listed on ISD 135, "proof checklist";
- (10) any document listed in Paragraph B of this section; or
- (11) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

B. Medical assistance programs: After July 1, 2006, an ~~[applicant for]~~ individual seeking medical assistance [programs] benefits for themselves must provide

the income support division with a declaration signed under penalty of perjury that the applicant is a citizen or national of the United States. An alien applicant who declares to be in satisfactory immigration status is also required to continue to present immigration status documentation. Verification of citizenship for the applicant/recipient is mandatory at initial application and recertification on or after July 1, 2006. The applicant/recipient is required to submit original or a copy certified by the issuing agency.

(1) First level documents that verify both citizenship and identity:

- (a)** U.S. passport (active or expired);
- (b)** certificate of U.S. citizenship (DHS form N-560 or N-561);

or

- (c)** certificate of naturalization (DHS form N-550 or N-570).

(2) Second level documents: These documents should only be used when first level documents are unavailable. The following are second level documents of citizenship:

(a) U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (if born on or after 1941, Guam (if born on or after April 10, 1899), the Virgin Islands of the U.S. (if born on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (if born on or after November 4, 1986 NMI local time);

(i) data matches with a state vital statistics agency may be used in place of a birth certificate;

(ii) the birth record may be issued by the state, commonwealth, territory or local jurisdiction and it must have been recorded before the person was five years of age; a birth record that is recorded at or after the person is five years of age is considered fourth level evidence of citizenship;

(b) a certification of report of birth (SD-1350) issued by the department of state to U.S. citizens who were born outside the U.S. and acquired U.S. citizenship at birth;

(c) a report of birth abroad of a U.S citizen (FS-240);

(d) a certification of birth issued by the department of state (FS-545): in 1990, the FS-545 was replaced by the SD-1350;

(e) a U. S. citizen I.D. card (DHS Form I-179 and I-197);

(f) a Northern Mariana identification card (I-873) issued by DHS to a collectively naturalized citizen of the U. S. who was born in the Northern Mariana Islands before November 4, 1986;

(g) an American Indian Card (I-872) issued by the DHS with the classification code "KIC," to identify U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border;

(h) final adoption decree with the child's name and U.S. place of birth;

(i) evidence of civil service employment by the U.S. government before June 1, 1976;

(j) U.S. military record of service showing a U.S. place of birth;

(k) a data verification with the SAVE program for naturalized citizens if conducted consistent with a memorandum of understanding with DHS; or

(l) adopted or biological children born outside of the U.S. may establish citizenship obtained automatically under section 320 of the Immigration and

Nationality Act (8. U.S.C 1431) as amended by the Child Citizenship Act of 2000; documentary evidence shall be obtained confirming on or after February 27, 2001, the following conditions were met:

- (i) at least one parent of the child is a U.S. citizen by birth or naturalization;
- (ii) the child is under the age of 18;
- (iii) the child is residing in the U.S. in the legal and physical custody of the U.S. citizen parent;
- (iv) the child was admitted to the U.S. for lawful permanent residence pursuant to 8 U.S.C. 1641; and
- (v) if adopted, the child satisfies the requirements of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) pertaining to international adoptions.

(3) Third level documents: These documents should only be used when first and second level documents are unavailable; the following documents are third level documents of citizenship:

(a) Extract of a hospital record on hospital letterhead established at the time of the person's birth that was created five years before the initial application date and shows a U.S. place of birth. For children under the age of 16, the document must have been created near the time of birth or five years before the date of application.

(b) Life, health or other insurance record showing a U.S. place of birth and was created at least five years before the initial application date. For children under the age of 16, the document must have been created near the time of birth or five years before the date of application.

(c) An official religious record recorded with the religious organization in the U.S. within three months of birth showing the birth occurred in the U.S. and showing the date of birth or the individual's age at the time the record was made; if the place of birth is questionable, verification must be obtained that the mother was in the U.S. at the time of birth.

(d) Early school record showing a U.S. place of birth, date of birth, the name of the child, the date of admission to the school and the name and place of birth of the applicant/recipient's parents.

(4) Fourth level documents: These documents should only be used when first, second and third level documents are not available. With the exception of the affidavit process described in this section, the applicant/recipient may only use fourth level of evidence of citizenship if alleging a U.S place of birth. The following documents are fourth level documents of citizenship:

(a) federal or state census record showing U.S. citizenship or a U.S. place of birth and the applicant/recipient's age; or

(b) one of the following documents that shows a U.S. place of birth and that was created at least five years before the application for medicaid; for children under the age of 16, the document must have been created near the time of birth or five years before the date of application. These documents are:

- (i) Seneca Indian tribal census record;
- (ii) bureau of Indian affairs tribal census records of the Navajo Indians;

(iii) U.S. state vital statistics official notification of birth registration;

(iv) a delayed U.S. public birth record that is recorded more than five years after the person's birth;

(v) a statement signed by a physician or midwife who was in attendance at the time of birth.

(vi) the roll of Alaska natives maintained by the bureau of Indian affairs.

(c) institutional admission papers from a nursing facility, skilled care facility or other institution created at least five years before the initial application date that indicates a U.S. place of birth.

(d) medical (clinic, doctor, or hospital) record created at least five years before the initial application date that indicates U.S. place of birth; for children under the age of 16, the document must have been created near the time of birth or five years before the date of application; an immunization record is not considered a medical record for purposes of establishing citizenship.

(e) written affidavits should only be used in rare circumstances and must contain the following information:

(i) the applicant/recipient must provide at least two affidavits by two individuals who have personal knowledge of the event(s) establishing the applicant/recipient's claim of citizenship;

(ii) at least one of the individuals making the affidavit cannot be related to the applicant/recipient and neither can be the applicant/recipient;

(iii) individuals making the affidavit must prove their own citizenship and identity; and

(iv) if available, the affidavit should contain why documentary evidence establishing the applicant/recipient's claim of citizenship does not exist or cannot be readily obtained;

(v) the applicant/recipient or other knowledgeable individual (guardian or representative) must submit a separate affidavit explaining why the evidence does not exist or cannot be obtained; or

(vi) the affidavits must be signed under penalty of perjury and need not be notarized.

C. Alien status: A alien must have a valid department of homeland security U.S. citizenship and immigration services document.

D. Systematic alien verification for entitlement (SAVE)

(1) All applicants who indicate eligible alien status will be subject to verification through the United States department of homeland security's (USDHS) database (SAVE) system.

(2) Conflicting information regarding the alien status provided by the applicant/recipient will require additional verification by the USDHS.

[8.100.130.16 - Rp, 8.100.130.13 NMAC, 08/01/2008]

8.100.130.19 NON FINANCIAL VERIFICATION STANDARDS - AGE:

A. Age of child: Verification of age of children is mandatory for cash and medical assistance for children programs.

(1) **For cash assistance:** Age of the child is verified prior to approval.

(2) **For medical assistance for children:** Age of the child is verified to determine if the child is under the specified age limit.

B. Age of adults: Age of adult members is verified in the following circumstances if age is questionable:

(1) **[Food stamps] SNAP:**

(a) if the individual is claiming a medical deduction on the basis of age (60 and over); or

(b) if the individual is working and income is being disregarded due to age (under age 18).

(2) **Cash assistance:**

(a) if the parent/caretaker relative is being considered for work program participation on the basis of being a minor parent and the parent claims to be age 20 or over;

(b) if the parent is living in his/her parent's home and is claiming emancipation on the basis of age (18 or over);

(c) if the parent/caretaker relative is not living in his/her parents' home and cooperation with child support enforcement is an issue due to age of the specified relative (under 18); or

(d) if the caretaker relative, parent or other adult member claims exemption from work program participation requirements based on age (60 and over).

(3) **General assistance for the disabled:**

(a) if the individual is claiming to be 18 or over and evidence is to the contrary; or

(b) if the individual is claiming to be under age 65 and evidence is to the contrary.

(4) **Medical assistance for pregnant women:**

(a) if the pregnant woman is living in her parent's home and is claiming emancipation on the basis of age (18 or over); or

(b) if the pregnant woman is under the age of 18 and is not living in her parents' home and cooperation with child support enforcement is an issue.

(5) **Documents that can be used to verify age include:**

(a) birth certificate;

(b) adoption papers or records;

(c) hospital or clinic records;

(d) church records;

(e) baptismal certificate;

(f) bureau of vital statistics records;

(g) U.S. passport;

(h) Indian census records;

(i) local government records;

(j) immigration and naturalization records;

(k) social security records;

(l) school records;

(m) census records;

(n) court support order;

(o) physician's statement;

(p) juvenile court records;

- (q) voluntary social service agency records;
- (r) insurance policy;
- (s) minister's signed statement;
- (t) military records;
- (u) driver's license;
- (v) additional items as listed on ISD-135, "proof checklist"; or
- (w) if documentary evidence is not readily available, use other

acceptable methods of verification as in 8.100.130.9 NMAC.

[8.100.130.19 - Rp, 8.100.130.13 NAMC, 08/01/2008]

8.100.130.22 NON FINANCIAL VERIFICATION STANDARDS -OTHER:

A. Fraud conviction for dual state receipt of benefits: The existence of a fraud conviction for simultaneous receipt of benefits from two states is determined based upon client statement on the application form. If ~~[the caseworker]~~ ISD receives other information indicating the existence of a dual state benefit fraud conviction, ~~[the caseworker]~~ ISD shall verify it by contacting the appropriate authorities.

B. Fleeing felon and probation or parole violator: Whether an individual is a fleeing felon or a probation or parole violator is determined based upon a client statement on the application form. If ~~[the caseworker]~~ ISD receives other information indicating that the individual is a fleeing felon, ~~[the caseworker]~~ ISD shall verify it by contacting appropriate authorities. ~~[The caseworker]~~ ISD need not notify the individual of the report, nor request his or her permission to verify the information with appropriate law enforcement agencies.

[8.100.130.22 - Rp, 8.100.130.13 NMAC, 08/01/2008]

8.100.130.23 FINANCIAL VERIFICATION STANDARDS - RESOURCES: The applicant/recipient's statement is acceptable for verification of resources unless the household is near the resource maximum limit and the information given is not questionable. If information is questionable, inconsistent or the household is near the maximum; ~~[the caseworker]~~ ISD must clearly document why the household's statement was unacceptable in the case record and it requires additional verification. When further information or verification is requested the following items shall be acceptable:

A. Bank accounts (checking, savings, certificates of deposit, savings bond, or Keogh's). Documents which may be used to verify bank or financial institution accounts include:

- (1) current bank statement;
- (2) statement from the bank or institution showing the value of the resource or the penalties for early withdrawal of deposit showing the total value and the penalty for early withdrawal;
- (3) savings bond(s) showing total value and statement from bank/institution of penalty for early withdrawal;
- (4) additional items as listed in ISD 135, "proof checklist"; or
- (5) if documentary evidence is not readily available, use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.
- (6) joint bank accounts: see appropriate program chapter for proper verification requirements.

B. Stocks and bonds: Documents which may be used to verify the value of stocks or bonds include:

- (1) newspaper publications of the stock exchange;
- (2) statement from the stock broker;
- (3) additional items as listed in ISD 135, “proof checklist”; or
- (4) if documentary evidence is not readily available, use other

acceptable methods of verification as in 8.100.130.9 NMAC.

C. Life insurance: Documents which may be used to verify the cash surrender value of life insurance include:

- (1) insurance policy;
- (2) statement from the insurance company, insurance agent, lodges or fraternal organizations;
- (3) statement from the union or employer who provide the insurance;
- (4) statement from the veteran's administration;
- (5) additional items as listed in ISD 135, “proof checklist”; or
- (6) if documentary evidence is not readily available, use other

acceptable methods of verification as in 8.100.130.9 NMAC;

(7) if the cash surrender value of the life insurance policy makes the applicant/recipient ineligible, liens against the insurance shall be explored; this will be done through use of acceptable methods of verification set forth in 8.100.130.9 NMAC; the cash surrender value of life insurance is necessary in programs only where it is countable.

D. Real estate contracts, purchase contracts: Documents which may be used to verify the value of real estate or purchase contracts include:

- (1) statement from a bank or financial institution, commodity broker, real estate agent, or expert in the field of real estate contracts or purchase contracts;
- (2) additional items as listed in ISD 135, “proof checklist”; or
- (3) if documentary evidence is not readily available, use other

acceptable methods of verification as in 8.100.130.9 NMAC.

E. Non-recurring lump sum payment: Documents which may be used to verify a nonrecurring lump-sum payment include:

- (1) statement from a company, agency or organization that provided payment;
- (2) copy of a check or check stub;
- (3) award letters;
- (4) statement from an attorney;
- (5) additional items as listed in ISD 135, “proof checklist”; or
- (6) if documentary evidence is not readily available, use other

acceptable methods of verification as in 8.100.130.9 NMAC.

F. Tools and equipment: Documents which may be used to verify the value of tools and equipment include:

- (1) recent sales slips;
- (2) insurance or tax appraisals;
- (3) catalogs or newspaper ads;
- (4) statement from a bank, broker, local merchant or expert on tools

and equipment;

- (5) additional items as listed in ISD 135, “proof checklist”; or
- (6) if documentary evidence is not readily available, use other

acceptable methods of verification as in 8.100.130.9 NMAC.

G. Real property: Documents which may be used to verify the value of real property the applicant/recipient does not use include:

- (1) a written statement from a real estate agent or broker stating the fair market value of property;
- (2) statement from a bank or financial institution stating value and equity;
- (3) additional items as listed in ISD 135, "proof checklist"; or
- (4) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

[8.100.130.23 - Rp, 8.100.130.14 NMAC, 08/01/2008]

8.100.130.24 FINANCIAL VERIFICATION STANDARDS - UNEARNED

INCOME: Verification of income is mandatory for all programs.

A. Social security benefits (OASDI, SSI): Documents which may be used to verify OASDI/SSI benefits include

- (1) award letter (Form SSA 1610);
- (2) copy of a check(s) - amount of medicare premium must be added in;
- (3) letter from SSA;
- (4) direct deposit receipt - amount of medicare premium must be added in;
- (5) additional items as listed in ISD 135, "proof checklist"; or
- (6) if documentary evidence is not readily available or is questionable, a collateral contact with the social security administration (TPQY) may be selected as verification of OASDI/SSI or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

B. Veteran's benefits: Documents which may be used to verify veteran's benefits include:

- (1) award letter;
- (2) copy of a check(s);
- (3) written verification from a regional VA office;
- (4) direct deposit receipt(s);
- (5) additional items as listed in ISD 135, "proof checklist"; or
- (6) if documentary evidence is not readily available or is questionable, a collateral contact with the veteran's administration may be selected as verification of veteran's benefits use other acceptable methods of verification as in 8.100.130.9 NMAC.

C. Railroad retirement benefits: Documents which may be used to verify railroad retirement benefits include:

- (1) award letter;
- (2) copy of a check;
- (3) letter from SSA;
- (4) direct deposit receipt;
- (5) additional items as listed in ISD 135, "proof checklist"; or
- (6) if documentary evidence is not readily available or is questionable, a collateral contact with the regional director of retirement claims may be selected as verification of railroad retirement benefits or use acceptable methods of verification as in 8.100.130.9 NMAC.

D. Military allotments: Documents which may be used to verify military allotment include:

- (1) written statement from the appropriate military service center;
- (2) copy of the allotment authorization;
- (3) copy of a check;
- (4) direct deposit receipt;
- (5) additional items as listed in ISD 135, "proof checklist"; or
- (6) if documentary evidence is not readily available or is questionable,

a collateral contact with the appropriate military service center may be selected as verification of a military allotment or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

E. Workers' compensation benefits: Document which may be used to verify worker's compensation includes:

- (1) employer's statement;
- (2) written statement from workers' compensation administration;
- (3) written statement from insurance company;
- (4) additional items as listed in ISD 135, "proof checklist"; or
- (5) if documentary evidence is not readily available or is questionable,

a collateral contact with the New Mexico department of workforce solutions (NMDWS) or with the insurance company may be selected as verification of workers' compensation benefits or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

F. Unemployment compensation benefits (UCB): Verification of unemployment compensation benefits should first be explored through the NMDWS web link. If it is not available through the NMDWS web link, the following documents may be used to verify UCB include:

- (1) award letter;
- (2) copy of a check;
- (3) statement from the New Mexico DWS;
- (4) additional items as listed in ISD 135, "proof checklist"; or
- (5) if documentary evidence is not readily available, a collateral

contact with the NMDWS may be selected as verification of unemployment compensation benefits or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

G. Child/spousal support: Verification of child or spousal support should first be explored through the CSED automated system. If it is not available through the CSED system, documents which may be used include:

- (1) written statement from the contributor;
- (2) written statement from the court;
- (3) copy of a check or a canceled check;
- (4) divorce or separation decree;
- (5) court order;
- (6) support agreement;
- (7) correspondence from the contributor regarding support payments;
- (8) court records';
- (9) attorney's records;
- (10) income tax return from the prior year;
- (11) employer's record of attached wages;

(12) additional items as listed in ISD 135, “proof checklist”; or
(13) if documentary evidence is not readily available or is questionable, a collateral contact may be selected to verify child/spousal support or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC;

(14) no contact with the absent parent shall be made without the consent of the applicant/recipient. If good cause for failure to cooperate with CSED has been filed, contact with the absent parent must not be made.

H. Educational scholarships, grants or loans: Documents which may be used to verify amounts of an educational scholarship, grant, or loan include:

- (1) financial aid award letter or a budget sheet from the institution;
- (2) written statement from the institution;
- (3) written statement from veteran's administration;
- (4) additional items as listed in ISD 135, “proof checklist”;
- (5) as educational expenses are deducted from the educational

scholarship, grant or loan, it will be necessary to obtain verification of the expenses; verification may be obtained from the institution; or

(6) if documentary evidence is not readily available or is questionable, a collateral contact with the institution may be selected as verification of an education scholarship, grant or loan or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

I. Non-recurring lump sum: See Subsection E of 8.100.130.23 NMAC.

J. Contributions: Documents which may be used to verify contributions include:

- (1) written statement from the contributor;
- (2) additional items as listed in ISD 135, “proof checklist”; or
- (3) if documentary evidence is not readily available or is questionable,

a collateral contact with the contributor may be selected as verification of a contribution or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

K. Loans: Verification of a loan must contain the name of the person making the loan, the amount of the loan, date the loan was made and the repayment arrangement for the loan. Documents which may be used to verify loans include:

- (1) written statement from the person or organization making the loan;
- (2) promissory note;
- (3) loan agreement;
- (4) additional items as listed in ISD 135, “proof checklist”; or
- (5) if documentary evidence is not readily available or is questionable,

a collateral contact with the person or organization making the loan may be selected as verification of a loan or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

L. Individual development accounts (IDA)

(1) The IDA is verified by reviewing the trust documents creating the IDA and documents verifying deposits and withdrawals from the account during the period since the previous certification. The trust documents must show the terms and conditions governing the IDA, including withdrawal provisions.

(2) [~~The caseworker~~] ISD shall review deposits and withdrawals to ensure that no funds are being withdrawn except for those allowed under IDA policy and to ensure that the individual was employed during the time that any deposits were made. [8.100.130.24 NMAC - Rp, 8.100.130.14 NMAC, 08/01/2008]

8.100.130.26 DEDUCTIONS/ALLOWANCES VERIFICATION STANDARDS - SHELTER:

A. The applicant/recipient's statement is acceptable for verification of shelter expenses, if the information given is not questionable. If information is questionable or inconsistent; [~~the caseworker~~] ISD must clearly document why the household's statement was unacceptable and what information requires additional verification. When further information or verification is requested the following items shall be acceptable:

(1) An obligation to pay for shelter is considered a deduction [~~in the food stamp program~~] for SNAP. If the expense is questionable and verification of a shelter expense is requested and not provided, [~~food stamp~~] SNAP benefits will be determined without allowing a deduction for shelter expenses. When further verification is requested, documents which may be used to verify an obligation to pay for shelter include:

- (a) mortgage payment book;
- (b) written statement from the bank or other financial institution;
- (c) rent receipt;
- (d) written statement from the landlord;
- (e) lease agreement;
- (f) copies of bills for property taxes or house insurance;
- (g) correspondence with the taxing authority or insurance agency; or

(h) additional items as listed on ISD 135 "proof checklist".

(2) If documentary evidence is not readily available or is questionable, a collateral contact may be selected to verify the obligation to pay shelter or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

B. Utilities: The applicant/recipient's statement is acceptable for verification of utility expenses, if the information given is not questionable. If information is questionable or inconsistent; [~~the caseworker~~] ISD must clearly document why the household's statement was unacceptable and what information requires additional verification. Documents which may be used to verify an obligation to pay for utilities include:

- (1) utility bills;
- (2) rent receipt, lease agreement, or written statement from the landlord showing the household is responsible for payment of utilities;
- (3) written statement from a utility provider;
- (4) additional items as listed on ISD 135 "proof checklist"; or
- (5) if documentary evidence is questionable, a collateral contact with the landlord or the utility provider may be selected to verify the obligation to pay for utilities or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

[8.100.130.26 NMAC - Rp, 8.100.130.15 NMAC, 08/01/2008]

8.100.130.27 DEDUCTIONS/ALLOWANCES VERIFICATION STANDARDS- MEDICAL EXPENSES:

A. Verification of medical expenses is mandatory for [~~the food stamp program~~] SNAP if the applicant/recipient meets one of the criteria listed below. The applicant/recipient's statement that no reimbursement will be received will be accepted unless questionable. If the household claims a reimbursement, a deduction cannot be allowed until the un-reimbursed portion of the expense is verified.

- (1) the individual claiming the medical expense is age 60 or older or disabled; and
- (2) the amount of the medical expenses exceeds \$35; or
- (3) allowance of the medical expenses would potentially result in a deduction;
- (4) failure to provide verification of medical expenses will result in a determination of eligibility and amount of benefits without considering medical expenses.

B. Documents which may be used to verify a medical expense include:

- (1) current bill;
- (2) monthly statement from the provider;
- (3) medical insurance policy;
- (4) appointment cards, travel receipts (lodging and transportation) to verify travel costs associated with obtaining medical care;
- (5) additional items as listed in ISD 135 "proof checklist"; or
- (6) if documentary evidence is questionable, a collateral contact with the landlord or the utility provider may be selected to verify the obligation to pay for utilities or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

[8.100.130.27 NMAC - Rp, 8.100.130.15 NMAC, 08/01/2008]

8.100.130.28 DEDUCTIONS/ALLOWANCES VERIFICATION STANDARDS - DEPENDENT CARE:

A. The applicant/recipient's statement is acceptable for verification of dependent care expenses, if the information given is not questionable. If information is questionable or inconsistent; [~~the caseworker~~] ISD must clearly document why the household's statement was unacceptable and why information requires additional verification.

B. Documents which may be used to verify dependent care costs:

- (1) current bill;
- (2) written statement from the provider;
- (3) additional items as listed in ISD 135 "proof checklist"; or
- (4) if documentary evidence is not readily available, or is questionable a collateral contact with the care provider may be used as verification of dependent care costs or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

[8.100.130.28 NMAC - Rp, 8.100.130.15 NMAC, 08/01/2008]

These are the PROPOSED amendments to 8.139.110 NMAC, Section 6, 8, 9, 10, 11, 12, 13, 14, and 16.

8.139.110.6 OBJECTIVE: Issuance of the revised [~~food stamp program~~] SNAP policy manual is intended to be used in administration of [~~the food stamp program~~] SNAP in New Mexico. This revision incorporated the latest federal policy changes in [~~the food stamp program~~] SNAP not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.

[02/01/95; 8.139.110.6 NMAC - Rn, 8 NMAC 3.FSP.000.6, 05/15/2001]

8.139.110.8 APPLICATION PROCESS: The application process includes completing an application form on paper or electronically, filing the completed application form, being interviewed, and having certain information verified. [~~ISD must act promptly on all applications and provide SNAP benefits retroactive to the date the application was received by the ISD when applicants are eligible for benefits. Application forms and information on how to submit an electronic application will be readily available to potentially eligible individuals as well as to local agencies and organizations that regularly have contact with potential applicants and recipients. If there is any indication that an applicant may be eligible for supplemental security income (SSI), the relative advantages of the SSI program will be explained and the applicant will be referred to the local social security office to apply for SSI benefits.] ISD will make application forms readily accessible to potentially eligible households and to anyone who requests the form. If HSD maintains a web page, the application will be available on the web page in each language for which the printed application is available. Information on how to submit an electronic application will be readily available to potentially eligible individuals as well as to local agencies and organizations that regularly have contact with potential applicants and recipients. The web page will provide the addresses and phone numbers of all ISD field offices and a statement that the household should return the application form to its nearest local office. Households may submit the application in person, mail, fax, electronic device, or through an authorized representative. Applications will be accessible to persons with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974.~~

[02/01/95, 06/01/95; 8.139.110.8 NMAC - Rn, 8 NMAC 3.FSP.110, 05/15/2001; A, 07/15/2013]

8.139.110.9 RIGHT TO APPLY:

A. [~~Anyone has the right to apply for any benefits provided by ISD whether or not it appears that the individual will be found eligible. An individual requesting information or assistance shall be informed of the right to apply, whether or not it appears the individual will be found eligible.] Each individual shall have the opportunity to apply for public assistance programs administered by the department or to have an authorized~~

representative do so on his or her behalf. Paper application forms must be readily accessible in the ISD local office lobby and provided to any person who requests the form. Applications are made in a format prescribed by the department to include paper forms or electronic submissions. ISD will post signs in local field offices which explain the application processing standards and the right to file an application on the day of initial contact.

B. An individual who requests information or assistance and who wishes to apply, shall be encouraged to complete an application the same day that contact is made with the office.

(1) An individual shall be informed that the date of application affects the benefit amount.

(2) An individual shall be informed that an incomplete application may be filed as long as the form has the applicant's name and address and is signed by a responsible household member or authorized representative.

(3) An interview shall not be required before filing an application.

(4) A household shall be informed, except for a SNAP requirement, that any disadvantages or requirements for applying for or receiving cash assistance do not apply to SNAP and that receiving SNAP shall have no bearing on any other program's time limits that may apply to the household.

(5) If an individual contacts the office by phone or mail and does not wish to come to the office to pick up an application the individual will be mailed an application the same day the office is contacted and offered the option of submitting an electronic application through the YES-New Mexico web portal.

C. SSI applicants:

(1) Whenever a household consists only of SSI applicants or recipients, the household has the right to apply for SNAP benefits and to transact all SNAP business at a social security administration (SSA) office, provided it has not applied for SNAP benefits in the preceding 30 days or does not have a SNAP application pending at a local ISD office.

(a) Such applications are considered filed for normal processing purposes when the signed application is received by SSA.

(b) SSA is required to forward every application to the appropriate ISD office within one working day of receipt.

(c) SSI clients are not required to see ~~[an ISD caseworker]~~ ISD or be otherwise subjected to a second interview, although additional information or verification may be requested.

(2) **SSI/[FS] SNAP prerelease applications:** A resident of a public institution who applies for SSI prior to release from the institution under the social security administration (SSA) prerelease program for the Institutionalized [42 U.S.C. 1383 (j)] shall be permitted to apply for SNAP benefits at the same time the individual applies for SSI. The SNAP application shall be processed at a local ISD office in accordance with Paragraph 1 of Subsection C of 8.139.110.9 NMAC above and with the following processing and timeliness standards for joint SSI/SNAP prerelease applications.

(a) **Application date:**

(i) When a resident of an institution files a joint application for SSI and SNAP benefits with SSA prior to release from the institution, the date of application for filing purposes at the local ISD office shall be the date of release.

(ii) An application shall be denied upon receipt if the applicant is not otherwise eligible, except for the resident of an institution provision as found at 8.139.110.9 NMAC.

(b) Normal processing standard:

(i) An application shall be processed as soon as possible and the applicant afforded an opportunity to participate no later than 30 days from the date of release from the institution.

(ii) Benefits for the initial month of certification shall be prorated from the date of the month the applicant is released from the institution.

(c) **Expedited service:** An applicant who qualifies for expedited service shall receive benefits no later than the seventh calendar day following the applicant's release from the institution.

(d) **Categorical eligibility:** A potential categorically eligible applicant shall not be considered as such until the individual has been released from the institution and SSA has made a final SSI eligibility determination.

(e) **Restored benefits:** SSA must notify the local ISD office of the date of the applicant's release from the institution. If for any reason notification is not provided on a timely basis, [~~the caseworker~~] ISD shall only restore SNAP benefits retroactively to the date of release.

D. Authorized representatives:

(1) **Designation:** The head of the household or the spouse or any other responsible member of the household may designate an individual who is a non-household member to act on its behalf in:

(a) applying for SNAP benefits; or

(b) obtaining SNAP benefits; or

(c) using the SNAP benefits.

(i) [~~The caseworker~~] ISD shall obtain a copy of the household's written authorization for the authorized representative and maintain it in the household's case record. No limit shall be placed on the number of households an authorized representative may represent; however, each household may only have one authorized representative at a time.

(ii) Even if the household member is able to make application and obtain benefits, the household should be encouraged to name an authorized representative to use the SNAP benefits in case illness or other circumstances prevent household members from using the benefits themselves.

(iii) The authorized representative's identity shall be verified and a copy of the document maintained in the household's case file.

(2) **Liability of households:** The head of the household or spouse should prepare or review the household's application whenever possible, even though another household member or the authorized representative will actually be interviewed. The household is liable for any over-issuances resulting from incorrect or untrue information given by the authorized representative.

(3) **Application:** When the head of the household or spouse cannot apply, another adult member may do so, or an adult who is not a member of the household may be designated as the authorized representative. Nonmember adults shall be designated as authorized representatives for certification purposes only if they are:

(a) designated in writing by the head of the household, or spouse, or another responsible member of the household; and

(b) sufficiently aware of relevant household circumstances to represent it.

(4) **Changing authorized representative:** An authorized representative may be designated at the time an application is completed; the authorized representative shall be named on the ID card. This does not preclude the right of the household to make a designation after it has made application to the program. If a household develops a need for a representative, or needs to change the authorized representative before, during, or after the certification process, a new authorized representative may be appointed and a new ID card shall be issued to the household. The authorized representative designated to apply for the household may be the same individual who obtains or uses the benefits for the household, or may be a different individual.

(5) **Using SNAP benefits:** The authorized representative may use the SNAP benefits to purchase food for the household's consumption with the household's full knowledge and consent, provided that the authorized representative has the household's ID card.

(6) **Kinds of authorized representatives:**

(a) **Emergency authorized representatives:**

(i) An emergency authorized representative is someone who obtains benefits for a particular month when the household is unable to obtain the benefits because of unforeseen circumstances.

(ii) A household may designate in writing, on a one-time basis, an emergency authorized representative.

(iii) The household member whose signature is on the household's ID card must sign a designation authorizing the emergency authorized representative to obtain the benefits.

(b) **Non-household members:** If the only adult living with a household is classified as an excluded household member or nonmember, that individual may be the authorized representative for the minor members who are eligible.

(c) **Addiction treatment centers:**

(i) Residents of public or private, nonprofit drug or alcohol treatment centers must apply and be certified for program participation through the use of an authorized representative who is an employee of, and designated by, the organization or institution administering the treatment and rehabilitation program.

(ii) The drug or alcohol treatment center [may] which acts as authorized representative for residents of the facility must use SNAP benefits [receive and spend SNAP benefits] for food prepared by [and/or] and served to the center residents, and is responsible for complying with requirements governing treatment centers.

(d) **Group homes:**

(i) A resident of a group living arrangement may apply for SNAP benefits and be certified through use of an authorized representative employed and designated by the group home; or on the resident's own behalf; or through an authorized representative of the applicant's choice.

(ii) A resident of a group home does not have to be certified through an authorized representative or individually in order for one or the other method to be used.

(iii) The facility is responsible for determining if any resident may apply for benefits on the resident's own behalf. The decision should be based on the resident's physical and mental ability to handle his/her own affairs. The facility is also encouraged to consult with any other agencies of the state providing other services to such a resident prior to this determination.

(iv) Applications shall be accepted for any individual applying as a one-person household, or for any grouping of residents applying as a household.

(v) If a resident applies through a facility's authorized representative, the resident's eligibility shall be determined as a one-person household.

(vi) If a resident is certified on the resident's own behalf, the benefits may either be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents; used by eligible residents to purchase and prepare food for their own consumption; and/or used to purchase meals prepared and served by the facility.

(7) Disqualification as authorized representative:

(a) Any ~~person~~ authorized representative who misrepresents a household's circumstances and knowingly provides false information pertaining to a household, or has made improper use of SNAP benefits, shall be disqualified from participating as an authorized representative for up to one year.

(b) ~~The caseworker~~ ISD shall be required to send written notification to the affected household(s) and the authorized representative 30 days prior to the date of disqualification. The notification ~~shall include~~ must specify the proposed action; the reason for the proposed action; the right to request a fair hearing; the telephone number of the office; and, if possible, the name of the person to contact for additional information.

(c) This provision is not applicable to drug or alcoholic treatment centers ~~nor~~ and to those group homes that act as authorized representatives for their residents.

(8) Restrictions: HSD employees involved in the certification or issuance process, and retailers who are authorized to accept benefits, cannot act as authorized representatives without the specific written approval of the ISD county director, and then only if the county director determines that no one else is available to serve as an authorized representative. Individuals disqualified for fraud cannot act as authorized representatives during the period of disqualification, unless the disqualified individual is the only adult member of the household able to act on its behalf and only if the county director has determined that no one else is available to serve as an authorized representative. The county director shall decide separately whether such individuals are needed to apply on behalf of the household and use the benefits to purchase food.

[02/01/95, 06/01/95; 8.139.110.9 NMAC - Rn, 8 NMAC 3.FSP.111, 05/15/2001; A, 02/14/2002; A, 07/15/2013]

8.139.110.10 SUBMISSION OF FORMS

A. Joint cash assistance (CA)/SNAP applications:

(1) To facilitate participation in the SNAP, households in which all members are applying for cash assistance (Title IV-A or GA) shall be allowed to apply for SNAP benefits at the same time they apply for other assistance. However, SNAP

eligibility and benefit amounts shall be based solely on SNAP eligibility factors pending determination of cash assistance eligibility. All households shall be certified in accordance with the notice and procedural and timeliness requirements of ~~[FSP]~~ SNAP regulations. (See subsection B of 8.139.110.11 NMAC, combined CA/~~[FS]~~ SNAP interviews, for further information.)

(2) A household shall be notified of the Privacy Act regarding application information and shall be provided the following information:

(a) The collection of information, including the social security number of each household member, is authorized under the Food Stamp Act of 1977, as amended 7 U.S.C. 2011-2036.

(b) The information shall be used to determine whether a household is eligible or continues to be eligible to participate in the SNAP program.

(c) The information shall be verified through computer matching programs.

(d) The information shall be used to monitor compliance with program regulations and for program management.

(e) The information provided may be disclosed to other federal and state agencies for official examination, and to law enforcement officials for the purpose of apprehending persons fleeing from the law.

(f) If a SNAP claim is filed against a household, the information on the application, including all SSNs, may be referred to federal and state agencies, as well as private claims collection agencies, for claims collection action.

(g) That providing the requested information, including the SSN of each household member, is voluntary, but that failure to provide required information shall result in the denial of SNAP benefits to a household.

B. Items completed: SNAP regulations require only that an application contain the name, address and signature, or witnessed mark, of the applicant in order to be filed and registered.

C. Who completes the application: The application must be completed by a household member or designated authorized representative. If an authorized representative or adult member of the SNAP household completes the application form, the applicant should still review the completed form, since the applicant is liable for improper payments resulting from erroneous information given by an authorized representative. If an applicant needs help completing the form, ~~[the caseworker]~~ ISD shall determine if the applicant has a friend or relative to help complete the form. If there is no one to help the applicant, ~~[the caseworker]~~ ISD shall help the applicant complete the form.

D. Signature:

(1) The application must be signed by the applicant and the authorized representative, if one is designated. A signature means that the applicant is verifying the information provided by the household and has read and agrees with all of the statements on the application or other form requiring a signature.

(2) A signature is the depiction of the individual's name(s) that is, handwritten, electronic or recorded telephonically. Electronic and telephonically recorded signatures are valid only if provided in a format or on a system approved by the department, which includes verification of the identity of the person providing the signature.

(3) If the applicant receives help completing the form, that person must also sign at the bottom of the form.

(4) A person who is unable to sign his own name may sign the application with a mark and have it witnessed. A mark that is not witnessed cannot be accepted as a valid signature. The witness shall be someone other than the interviewer.

E. Filing the application:

(1) An application can be filed in person, through an authorized representative, by mail or by fax or other electronic transmission, including on-line electronic transmission. An application submitted electronically or by fax and containing a handwritten or electronic signature shall be considered an acceptable application.

(2) An application shall be filed at the ISD field office serving the community or county where the applicant lives or through the YES-NM web portal. ISD shall provide households that complete an on-line electronic application in person at the ISD office the opportunity to review the information that has been recorded electronically and provide them with a copy of that information for their records, upon request.

~~[(3) If an applicant files an application with the wrong office, that office shall immediately forward the form to the correct office. Households shall be informed that SNAP applications shall not be considered filed and the processing time limit does not begin until the application is received by the correct office. Applications received through the YES-NM web portal are automatically sent to the correct office.]~~

F. Registration of the application: ~~[Completed and signed in-state applications]~~ Applications submitted to ISD with at least the applicant's name, address and signature of the applicant, spouse, other adult household member or authorized representative shall be registered effective the date on which an application is received by ISD at the field office or electronically during regular business hours. Applications that are dropped off or submitted electronically after regular business hours will be considered received as of the next business day. Regular business hours are Monday through Friday from 8 a.m. to [5] 4:30 p.m., excluding state holidays or other days/times when the field office is officially closed. Processing deadlines shall be calculated based on the application date.

G. Incomplete applications: Applications that do not contain, at a minimum, the applicant's name, address, and signature, or witnessed mark, are incomplete and cannot be registered. Prompt action shall be taken to return the application form for completion of the minimum required entries. Other missing information does not constitute an incomplete application for purposes of registering the application.

H. Computer inquiries: Computer inquiries shall be completed prior to certification and, where feasible, prior to the interview in order to prevent dual participation and to reveal undetected income and resources. These inquiries include scans for wage and unemployment benefits, SSI benefits, and licensed vehicle ownership, as well as for other available information and appropriate IEVS data.

I. Action on discrepancies:

(1) If computer interfaces show a household member is currently participating in another household or receiving benefits from the food distribution on Indian reservations program (FDPIR), ~~[the caseworker]~~ ISD shall discuss the situation with the applicant. The household can be certified only after the other project area has been informed of the situation and the case has been adjusted or transferred whichever is appropriate. If an inquiry shows that the case is on file in another project area, residence

shall be established. The application shall be forwarded to the project area in which the applicant household has established residency.

(2) **Available information:** The household shall be given an opportunity to verify information from another source if information is contradictory to that already provided or is questionable. A decision on eligibility and benefit amount shall not be delayed beyond normal application processing standards if other sources of data are unavailable. The final decision to approve or deny shall be based on the available information.

[02/01/95, 06/01/95, 07/01/97, 06/01/99; 8.139.110.10 NMAC - Rn, 8 NMAC 3.FSP.112, 05/01/2001; A, 02/14/2002; A, 07/15/2013]

8.139.110.11 INTERVIEWS

A. Purpose and scope of interview: The interview is an official and confidential discussion of household circumstances with the applicant. It is intended to provide the applicant with program information, and the worker with the facts needed to make a reasonable eligibility determination. The interview is not simply to review the information on the application, but also to explore and clarify any unclear and incomplete information. The scope of the interview shall not extend beyond examination of the applicant's circumstances that directly relate to determining eligibility and benefit amounts. The interview shall be held prior to disposition of the application.

B. Joint cash assistance/~~[food stamp]~~ SNAP interview: At initial application for cash assistance (CA), a single interview shall be conducted concurrently for both cash assistance and ~~[food stamp]~~ SNAP benefits if the client wishes to apply for both programs. Federal ~~[food stamp]~~ SNAP regulations specifically provide that applicants for both programs shall not be required to see a different caseworker or be otherwise subjected to two interviews in order to obtain the benefits of both programs. Following the single interview, the application may be processed by separate workers to determine eligibility for ~~[food stamp]~~ SNAP benefits and cash assistance. In an expedited ~~[food stamp]~~ certification situation, a second interview is permitted if an immediate interview for cash assistance cannot be arranged.

C. Individuals interviewed: Applicants, including those who submit applications by mail, shall be interviewed in person at the local ISD office. When circumstances warrant, the household shall be interviewed by telephone, or at another place reasonably accessible and agreeable to both the applicant and ~~[the caseworker]~~ ISD. The applicant may bring any person he chooses to the interview.

D. Out of office interviews:

(1) ~~[A food stamp]~~ An applicant shall not be required to have an initial office interview if the applicant is unable to appoint an authorized representative and the household has no member(s) able to come to ~~[the food stamp office]~~ ISD because the member(s) is elderly or disabled, as defined.

(2) The initial office interview can also be waived if requested by any household that is unable to appoint an authorized representative who is willing and able to perform this function, and who lives in a location not served by a certification office.

(3) **Hardship conditions:** The office interview for ~~[food stamp]~~ SNAP households shall be waived when the applicant meets one of the following conditions:

(a) over the age of 60;

- (b) disabled;
- (c) employed 20 or more hours per week;
- (d) has a dependent child under the age of 6;
- (e) has transportation difficulties;
- (f) illness;
- (g) care of a household member;
- (h) resides in a rural area;
- (i) prolonged severe weather;
- (j) other hardship identified as situations warrant; as

authorized by the county director.

(4) A face-to-face interview must be granted to any recipient who requests one.

E. Face-to-face/telephone interviews: A household [~~shall~~] must have a face-to-face interview at initial certification and at least once every 12 months thereafter.

(1) A household certified for longer than 12 months is excluded.

(2) At recertification, a household is considered to have met the face-to-face requirement when alternative recertification interviews are conducted by telephone.

(3) No household shall have the face-to-face interview waived for two consecutive recertifications.

(4) The requirement for a face-to-face interview may be waived on a case-by-case basis because of household hardship conditions.

F. Applicant information: During the application interview all reasonable steps shall be taken to make the applicant feel at ease and protect the applicant's right to privacy.

(1) [~~Providing information:~~ The caseworker shall explain all program information and that, to the best of his/her ability, the caseworker is available to assist the household in gathering information.

~~(2)]~~ All applicants shall be provided with the following information at initial certification and recertification:

- (a) ISD's nondiscrimination policy and procedures;
- (b) complaint and fair hearing procedures and clients' rights;
- (c) program procedures, including the use of IEVS, SDX, BENDEX information, and CSED and MVD interfaces;
- (d) application processing standards, including time limits;
- (e) procedures in cases of [~~overissuance~~] over-issuance or under-issuance;

(f) regular reporting responsibility to report changes within ten days of the date the change becomes known to the household;

(g) [~~semiannual~~] simplified reporting requirements for those households assigned to [~~semiannual~~] simplified reporting including the following:

~~(i)~~ requirement to submit a semiannual report in the sixth month of the food stamp certification period;

~~(ii)~~ requirement to report by the tenth day of the month following the month the household income exceeds 130% of federal poverty guidelines for the size of the household; and

~~(iii)~~ option to report a change between reporting periods if the household thinks that it will result in an increase in food stamp benefits;]

(i) A written and oral explanation of how simplified reporting works;

(ii) A written and oral explanation of the reporting requirements which includes: what needs to be reported and verified; when the report is due; how to obtain assistance; and the consequences of failing to file a report.

(h) requirement for cooperation with quality control reviewers (QC), including penalties for non-cooperation;

(i) work requirements and penalties for non-cooperation, including voluntary quit and associated penalties;

(j) responsibility to contact the local ISD office to reschedule missed appointments; and

(k) exemption from gross receipts tax collection by the retailer on eligible food purchased with ~~[food-stamp]~~ SNAP benefits.

(l) At the initial certification, recertification and when the household is transferred to simplified reporting, the ISD shall provide the household with the following:

(i) A written and oral explanation of how simplified reporting works;

(ii) A written and oral explanation of the reporting requirements which includes: what needs to be reported and verified; when the report is due; how to obtain assistance; and the consequences of failing to file a report.

~~[(3)]~~ **(2) Fair hearing information:**

(a) **Notification of right to request hearing:** At the time of application each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or representative, such as a legal counsel, relative, friend or other individual.

(b) **Periodic notification:** At any time a household informs the local office that it disagrees with an HSD action, the household shall be reminded of the right to request a fair hearing.

(c) **Forwarding hearing request:** A request for a hearing made either orally or in writing by a household or representative shall be forwarded to the fair hearings bureau. If it is unclear from a request what action a household or representative wishes to appeal, a clarification may be requested by HSD. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

(d) **Providing a hearing:** The fair hearing process shall be available to any household which feels an action taken by HSD is incorrect, and which affects participation of the household in the ~~[food-stamp program]~~ SNAP.

(e) **Other representation:** If there is an individual or organization available that provides free legal representation, the household shall be informed of the availability of that source.

~~[(4)]~~ **(3) Agency conference information:** A household shall be informed of the availability of an agency conference to resolve a dispute. HSD shall schedule an agency conference for a household when a dispute arises.

(a) **Denial of expedited service:** An agency conference shall be offered to a household which wishes to contest a denial of expedited service. An agency conference for such a household shall be scheduled within two (2) working days,

unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

(b) **Adverse actions:** HSD may also offer an agency conference to a household adversely affected by an HSD action.

(c) **Use of agency conference:** HSD shall inform a household that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

G. Scheduling interviews: ~~[The interview on an initial application shall be scheduled within ten (10) working days, and, to the extent possible, at a time that is most convenient for the applicant.]~~ ISD will schedule an interview to be held within ten (10) working days of the date the application was received that is, to the extent possible, convenient for both the applicant and the department. The application received date is the first day the application is received within regular business hours. ISD will provide the applicant with a written appointment letter that will include: the date, time and place of the appointment, the name and telephone number of the local county office, the consequences of missing an appointment, how to reschedule an appointment, the possibility of a waiver of the in-office interview, and that the spouse, any other responsible person in the household, or an authorized representative may attend the interview with the applicant or in the applicant's place.

H. Missed interviews: ~~[HSD]~~ ISD shall notify a household that it missed its first interview appointment and that the household is responsible for rescheduling a missed interview. ISD shall send the household a notice of missed interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the ISD shall schedule a second interview. The household is responsible for rescheduling a missed interview. If the household contacts the caseworker within the 30-day application-processing period, ~~[the caseworker]~~ ISD shall schedule a second interview. When the applicant contacts the local ISD office, either orally or in writing, ~~[the caseworker]~~ ISD shall reschedule the interview as soon ~~[thereafter]~~ as possible within the 30-day processing period, without requiring the applicant to provide good cause for failing to appear. If the household is determined eligible, benefits must be prorated from the date of application. If the applicant does not contact the office or does not appear for the rescheduled interview, the application shall be denied on the 30th day (or the next work day) after the application was filed (see Section 8.139.110.12 NMAC).

I. Verification standards: Verification is use of third-party information or documentation to establish the accuracy of statements on the application, or information provided by the applicant or recipient.

(1) **Initial certification:** Verification is mandatory for the following information prior to initial certification for both new and reopened cases.

(a) **Financial information:**

- (i) gross nonexempt income, and
- (ii) resources.

(b) **Any of the following if the expense would result in a deduction:**

- (i) utility expenses;
- (ii) continuing shelter expenses;
- (iii) dependent care expenses;

(iv) deductible medical expenses including the amount of reimbursements;

(v) legally obligated child support expenses, and amount actually paid;

(vi) if any of the above expenses will not result in a deduction, verification shall not be required (for example, less than \$35 in medical expenses, or shelter expenses that do not exceed 50% of income after all other deductions).

(c) **Nonfinancial information:**

(i) residence;

(ii) citizenship, if questionable, and alien status of household members only;

(iii) identity of the applicant and authorized representative, if designated;

(iv) household size and composition;

(v) disability, if necessary;

(vi) social security numbers, except that eligibility or issuance of benefits shall not be delayed solely to verify the social security number of a household member, and

(vii) any questionable information that must be verified to determine eligibility.

(2) **Recertification:** Verification of the following is mandatory at recertification or for cases reopened within 30 days of expiration:

(a) a change in income if the source has changed or the amount has changed by more than \$50.00;

(b) a change in utility expenses if the source has changed;

(c) previously unreported medical expenses, and total recurring medical expenses which have changed by more than \$25.00;

(d) new social security numbers that shall be verified as detailed in 8.139.410.8 NMAC;

(e) any other information which has changed or is questionable;

(f) unchanged information shall not be re-verified unless it is incomplete, inaccurate, inconsistent, or outdated.

(3) **[Semiannual] Simplified reporting:** Verification standards for those households assigned to ~~[semiannual]~~ simplified reporting are set forth at 8.139.120.9 NMAC.

(4) **Need-based determination:** For households that have completed the application process for SNAP benefits and provided all mandatory verification to determine eligibility, ISD must approve, deny, or approve reduced benefits, no later than the 30th day after the application date or by the preceding work day if the 30th day falls on a weekend or holiday.

~~[(4)]~~ **(5) Providing verification:**

(a) The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.

(b) ~~[The caseworker]~~ ISD shall assist a household in obtaining verification, provided the household is cooperating in the application process.

(c) A household or their authorized representative may supply documentary evidence in person, [~~through the mail or through an authorized representative~~] by mail, fax, electronic device or through the YES NM web portal.

(d) A household shall not be required to supply verification in person at the [~~food stamp~~] ISD office or to schedule an appointment to provide such verification.

(e) [~~The caseworker~~] ISD shall accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application.

~~[(5) — Designating a collateral contact:~~

~~(a) — Whenever evidence is insufficient to make a firm determination of eligibility or benefit amount, or cannot be obtained, the caseworker may require a collateral contact or a home visit.~~

~~(b) — The caseworker shall rely on the household to provide the name of a collateral contact.~~

~~(c) — A household may request assistance in designating a collateral contact.~~

~~(d) — The caseworker shall not be required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide accurate third party verification.~~

~~(e) — When a collateral contact designated by the household is unacceptable, the caseworker shall either designate another collateral contact, ask the household to designate another collateral contact, or provide another alternative form of verification such as a home visit.~~

~~(f) — The caseworker is responsible for obtaining verification from acceptable collateral contacts.]~~

(6) Documentation: A case file shall be documented to support eligibility, ineligibility, and benefit amount determination. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

[02/01/95, 06/01/95, 10/01/95, 06/01/99; 8.139.110.11 NMAC - Rn, 8 NMAC 3.FSP.113, 05/01/2001; A, 02/14/2002; A, 01/01/2004; A, 08/01/2008]

8.139.110.12 PROCESSING APPLICATIONS

A. HSD is responsible for timely and accurate issuance of benefits to eligible households. All applications for assistance will be processed as soon as possible. Applicants who complete the application process will have their eligibility determined and be given an opportunity to participate within the time limits mandated for expedited or normal application processing. [~~The ISS~~] ISD will explain the time limits to the applicant and inform [~~him/her~~] them of the date by which the application will be processed. With the exception of those manual provisions that specify "working days," time limits begin on the first calendar day following the action that triggered the time limit.

B. Household cooperation: To determine eligibility an application form must be completed and signed, a household or its authorized representative interviewed, and certain information on the application verified.

(1) **At application:** If a household refuses to cooperate in completing the process, the application will be denied at the time of refusal. For a determination of refusal to be made, a household must be able to cooperate, but clearly demonstrates that it will not take action that it can take and that is required to complete the application process. If there is any question that a household has failed to cooperate as opposed to refused to cooperate, it will not be denied. Once denied for refusal to cooperate, a household may reapply but will not be determined eligible until it cooperates with [~~the~~ ISS] ISD.

(2) **Subsequent reviews:** A household will be determined ineligible if it refuses to cooperate in a subsequent review of eligibility. Such reviews include those because of reported changes and at application for recertification. Once terminated for refusal to cooperate, a household may reapply, but will not be determined eligible until it cooperates with [~~the~~ ISS] ISD.

(3) **Outside sources:** A household will not be determined ineligible when an individual outside the household fails to cooperate with a request for verification. Individuals identified as ineligible household members in 8.139.400.12 NMAC will not be considered as individuals outside the household.

(4) **Cooperation with quality control (QC):** A household will be determined ineligible if it fails or refuses to cooperate in a QC review of eligibility and benefit amount.

(a) **Period of ineligibility:**

(i) A household that refuses to cooperate with a state QC review will be determined ineligible effective the month following the month the adverse action notice time limit expires. Ineligibility will continue until 95 days from the end of the annual QC review period (January 5) during which non-cooperation is found. The annual QC review period begins October 1 and ends September 30.

(ii) A household that refuses to cooperate with a federal QC review will be ineligible effective the month following the month the adverse action notice time limit expires. Ineligibility will continue until seven (7) months from the end of the annual review period (May 1) during which non-cooperation is found. The annual QC review period begins October 1 and ends September 30.

(b) **Re-establishing eligibility:**

(i) A household may reapply during the period of ineligibility, but will not be determined eligible until it cooperates with the QC review, and is otherwise eligible.

(ii) A household which reapplies at the end of the period of ineligibility will not be determined ineligible because of its failure or refusal to cooperate with a state or federal QC review. The household must provide verification necessary to determine eligibility at reapplication in accordance with Subsection H of 8.139.110.11 NMAC.

[02/01/95, 06/01/95, 06/15/96; 8.139.110.12 NMAC - Rn, 8 NMAC 3.FSP.114, 05/15/2001]

8.139.110.13 TIME LIMITS

A. **Opportunity to participate:** "Opportunity to participate" means having benefits authorized on or before the 27th day after the application is filed, so that the household will have benefits available by the 30th day after the application was filed. Residents of institutions who apply for [~~food-stamp~~] SNAP benefits prior to their release

from the institution will be provided the opportunity to participate as soon as possible but no later than 30 calendar days from the date of the applicant's release from the institution.

B. Move during eligibility determination: When an office that is processing an application for assistance learns that the applicant has moved to another county, that office will immediately transfer the case in pending status. The application will be processed by the new office using the original registration date from the first office.

C. Withdrawing the application: An applicant may voluntarily withdraw his/her application at any time prior to the determination of eligibility. A notice will be sent advising the household of the action taken. An applicant will be advised that withdrawal of his/her application has no effect on his/her right to apply for assistance in the future. The agency will document the reason for withdrawal, if any was given.

D. Delayed eligibility determinations:

(1) **Establishing cause for delay:** When an application for ~~[food stamps]~~ SNAP is not processed by the end of the thirty (30) day time limit, a determination as to whether the delay is the fault of the applicant or HSD will be made.

(2) **Applicant delays:** A delay is the fault of the applicant if he/she has failed to complete the application process. ~~[The ISS]~~ ISD will send the household a delay notice on the 30th day in accordance with 7 CFR 273.2(h), after the application is filed when the interview has not been held by the 30th day and the appointment has been rescheduled beyond the 30th day, and when the applicant has requested an extension of time to provide information. The notice will inform the applicant that all changes in circumstances since the application was filed must be reported. ~~[The ISS]~~ ISD must have taken the following actions, as appropriate, before the delay can be considered the fault of the household:

(a) For applicants who have failed to complete the application form, ~~[the ISS]~~ ISD must have offered, or attempted to offer, assistance in its completion.

(b) For applicants who have failed to provide complete verification, ~~[the ISS]~~ ISD must have provided the household with a statement of required verification, offered assistance as required, and allowed the household sufficient time to provide the missing verification. Sufficient time is at least ten (10) days from the date of ~~[the ISS's]~~ ISD's initial request for the particular verification that is missing.

(c) For applicants who have failed to appear for the initial interview and request another, ~~[the ISS]~~ ISD must have attempted to reschedule the interview, if feasible, within thirty (30) days following the date of application. If the applicant has failed to appear for the first interview and a subsequent interview is postponed at the applicant's request or cannot otherwise be rescheduled until after the twentieth (20th) day but before the thirtieth (30th) day following the date of application, the applicant must appear for the interview, bring verification, and register household members for work by the thirtieth (30th) day. Otherwise, the delay is the fault of the applicant.

(d) If the applicant has failed to appear for the first interview and a subsequent interview is postponed at the applicant's request until after the thirtieth (30th) day following the date of application, the delay is the fault of the applicant. If the applicant misses both scheduled interviews and requests another interview, any further delay is the fault of the applicant.

(3) **Denial of the household application:** If the delay is the fault of the applicant and eligibility cannot be determined, the applicant will be sent a denial

notice on the ~~[thirtieth (30th)]~~ sixtieth (60th) day after the application was filed, or on the following work day if the ~~[thirtieth (30th)]~~ sixtieth (60th) day is on a weekend or holiday, unless the household has requested an extension. ~~[If an action by the applicant is needed to complete the application process, the denial notice will explain what must be done, and that an additional thirty (30) days is granted to take the actions required to complete the original application before a new application must be filed.]~~

(4) Benefits provided: If the applicant was at fault for the delay during the first 30-day period but is found eligible during the second 30-day period, the [ISS] ISD must ensure that benefits are provided only from the date that the applicant took the required action. The household is not entitled to benefits retroactive to the original date of application.

(5) HSD delays: Delays that are the fault of HSD include, but are not limited to, cases where ~~[the ISS]~~ ISD fails to provide the required assistance, fails to observe time limits, fails to schedule timely interviews, or fails to provide other proper procedural help to the applicant. HSD is at fault when the applicant has met his obligations in a timely manner, but ~~[the ISS]~~ ISD fails to complete the application process in a timely manner.

(a) Action on HSD delays: If the delay in the initial 30-day period is caused by HSD, the application will not be denied. The applicant will be notified that the application is pending and informed of any action to take to complete the application process, including reporting any changed circumstances since the application was filed. ISD will send the applicant a notice of delay in accordance with 7 CFR 273.2(h).

(b) Retroactive benefit rights: If the applicant's eligibility is determined during the second 30-day period, the household is entitled to benefits retroactive to the date of application.

(c) Denial of an application: If the household is determined ineligible, the application will be denied and a notice sent no later than the sixtieth (60th) day after the application was filed, or the following work day if the 60th day falls on a weekend or holiday.

(6) Delays beyond 60 days:

(a) HSD delays:

(i) If HSD is at fault for not completing the application process by the end of the second 30-day period, and the record is otherwise complete, the application process will be continued until an eligibility determination is accomplished.

(ii) If the household is determined eligible, it is entitled to benefits retroactive to the date of original application, but only for those months that it is determined eligible.

(b) Household delays:

(i) If the household is at fault for not completing the application process by the end of the second 30-day period, the application will be denied and the household will be required to file a new application, if it still wishes to participate in the program.

(ii) If the initial delay was the household's fault the household will receive ~~[food stamp]~~ SNAP benefits retroactive only to the month following the month of application. The household is not entitled to any lost benefits, even if HSD caused the delay in the initial 30-day period.

(c) Incomplete information:

(i) If HSD is at fault for not completing the application process by the end of the second 30-day period, but the case record is not complete enough to reach an eligibility determination, the application will be denied and the household advised to file a new application. The household will also be informed that it may be entitled to lost benefits caused by an HSD delay.

(ii) If HSD was at fault for the delay in the initial 30-day period, the amount of lost benefits will be calculated from the date of application. [02/01/95, 06/01/95; 8.139.110.13 NMAC - Rn, 8 NMAC 3.FSP.115, 05/15/2001]

8.139.110.14 DISPOSITION OF APPLICATION/NOTICES:

A. Approval of SNAP: Notification of the final eligibility determination will be mailed via US postal service and or through approved electronic methods to the applicant in time to be received not later than the last day of the time limit that is, mailed by the 28th day after the date of application to be received by the 30th day.

B. Contents of the notice: The notice of approval provides the household with written notice, sent by mail or electronically, of the amount of the benefits and the beginning and ending dates of the certification period. If the initial benefit amount is prorated or contains benefit amounts for both the month of application and the current month, the notice will explain that the initial month's SNAP benefit amount differs from the benefit amount for the remainder of the certification period. The notice also states that if households that have applied jointly for financial assistance and SNAP begin to receive a financial assistance check, their SNAP benefit amount will be reduced or terminated without advance notice.

C. Denial of SNAP: If the application is denied, a written or electronic notice will be sent to the applicant explaining the basis for the denial, the right to request a fair hearing, and the telephone number of the ISD office where the household can get information concerning an individual or organization that provides legal representation. Households determined to be ineligible will be sent a denial notice as soon as possible, but not later than 30 days following the date the application was filed, unless an extension was requested. The household must file a new application if it wishes to have eligibility re-determined, subsequent to the initial denial.

[02/01/95, 06/01/95; 8.139.110.14 NMAC - Rn, 8 NMAC 3.FSP.116, 05/15/2001; A, 07/15/2013]

8.139.110.16 EXPEDITED SNAP SERVICE

A. Identifying eligible households: Households reporting little or no income or resources may be entitled to receive SNAP benefits within seven days after they file an application. Applications will be screened to identify such households as soon as possible in order to ensure that the seven-day limit is met.

(1) **Entitlement to expedited service:** The following households will be expedited, provided that they are otherwise SNAP eligible:

(a) households with less than \$150 in gross monthly income, and with liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, lump sum payments, and the like) not exceeding \$100;

(b) households with combined gross monthly income and liquid resources less than the household's monthly rent, or mortgage, and utilities. The

mandatory SUA may be used in making this determination, provided that the household qualifies for the SUA; or

(c) migrant or seasonal farm worker households with \$100 or less in liquid resources and determined to be destitute as defined by the special income calculations in 8.139.400.14 NMAC, migrant and seasonal farm workers.

(2) **Verification requirements:** All households entitled to expedited service must verify identity through readily available documentation or through a collateral contact. All other eligibility factors may be postponed. Reasonable efforts must be made by [~~the caseworker~~] ISD to verify residence, income, liquid resources, and all other eligibility factors. Benefits will not be delayed because of an inability to verify such factors or any questionable information.

(3) **SSNs and work registration:** Applicant households are specifically permitted to receive their first expedited SNAP benefit amount before providing social security numbers (SSN) or applying for them. Such households are required to do so before their next benefit issuance, but will remain eligible for participation as long as good cause exists. Unless exempt, the household's work registration status will be established at the time of certification for expedited service. If an individual's work registration exemption status is in question, benefits will not be delayed solely to verify the exemption.

B. Time limits:

(1) **Expedited time limits:** All households entitled to expedited service will receive their benefits no later than the seventh calendar day after the date the application was filed.

(2) **Out-of-office interview:** If a household is entitled to expedited service and waiver of the office interview, the interview will be conducted and the eligibility determination completed within the expedited service time limits, unless the household cannot be reached. The first day of this count is the first calendar day after the application is filed. If a telephone interview is conducted and the application must be mailed to the household for signature, the mailing time involved will not be calculated in the expedited service time limits.

(3) **Late identification:** If screening fails to identify a household as being entitled to expedited service and it is subsequently determined that the household was so entitled, the household's application will be processed immediately; the time limits in such instances are calculated from the date that it is discovered that the household was entitled to expedited service.

(4) **Certification periods:** Households entitled to expedited service which provide all necessary verification prior to certification may be certified for up to twelve months, if circumstances warrant. Households whose verification requirements are postponed will be certified for the month of application, and the following month, or for households whose circumstances warrant, a normal certification period will be assigned. When a certification period of more than one month is assigned, the written notification to the household will state that no further benefits will be issued until the postponed verification requirement is completed. The notice also advises that if verification results in changes in eligibility or SNAP benefit amount, [~~the caseworker~~] ISD will act on these changes without advance notice of adverse action.

(5) **Continuation of benefits:** Households providing the postponed verification by the 30th day after the application date will have their benefits continued.

The second month's benefits will be issued within five working days from the date verification is received, or the first day of the second month, whichever is later.

(6) Termination of benefits: Except for migrant farm workers needing out-of-state verification, when the postponed verification requirement is not completed within 30 days of the date of application, the household's participation in the program will be terminated and no further benefits issued.

(7) Denial of expedited service: Households determined ineligible for expedited service will have their applications processed according to normal standards. A household wishing to contest a denial of expedited service will be offered an agency conference to discuss the denial. The conference will be scheduled within two (2) working days of the request for a conference, unless the household requests a later date or states that it no longer wishes to have an agency conference.

C. Number of expedited issuances:

(1) Limits: There is no limit to the number of times a household can be certified under expedited procedures, as long as prior to each expedited certification the household either has completed the verification requirements postponed at the last expedited certification or has been certified under normal processing standards since the last expedited certification.

(2) At every application: Expedited services will be available at initial application based on the circumstances existing in the month of application. If a participating household applies for recertification before the end of its current certification period, the expedited service provision will not be applied.

[02/01/95, 06/01/95, 01/01/97, 07/01/98, 08/01/99; 8.139.110.16 NMAC - Rn, 8 NMAC 3.FSP.119, 05/15/2001; A, 07/15/2013]

These are the PROPOSED amendments to 8.139.120 NMAC, Section 6, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

8.139.120.6 OBJECTIVE: Issuance of the revised [~~food stamp program~~] supplemental nutrition assistance program (SNAP) policy manual is intended to be used in administration of [~~the food stamp program~~] SNAP in New Mexico. This revision incorporated the latest federal policy changes in [~~the food stamp program~~] SNAP not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.

[02/01/95; 8.139.120.6 NMAC - Rn, 8 NMAC 3.FSP.000.6, 05/15/2001]

8.139.120.8 RECERTIFICATION: When a household's certification period expires, its eligibility to participate in [~~the food stamp program~~] SNAP ends. [~~Food stamp~~] SNAP benefits will not be continued beyond the certification period. Timely applications for recertification will be approved or denied before the end of the current certification period. The ISD must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods.

A. Notice and time standards: ISD shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. The ISD shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next-to-the-last month. Jointly processed Public Assistance ("PA") (as defined at 7 C.F.R. 271.2), and General Assistance ("GA") (as defined at 7 C.F.R. 271.2) households need not receive a separate SNAP notice if they are recertified for SNAP at the same time as their PA or GA redetermination. Every household will be provided with a notice of expiration, as follows:

(1) For a household certified for one or two months, the notice of expiration will be provided at the time of certification. The household will have 15 days from the date the notice is received to submit a timely application for recertification. The household will be approved and provided an opportunity to participate, if eligible, or be denied, within 30 days after obtaining its last food stamp benefit amount.

(2) For all other households, a notice of expiration will be sent by HSD prior to the start of the last month of the household's certification period. A household has reapplied timely if the application for recertification is filed by the 15th day of the last month of the household's certification period.

(3) [~~The caseworker~~] ISD will complete the application process if the household meets all requirements and finishes the necessary processing steps; [~~the caseworker~~] ISD will approve or deny timely applications before the end of the household's current certification period.

B. Failure to submit timely application:

(1) A household that does not submit a timely application for recertification by the 15th day of the expiration month loses its right to uninterrupted benefits.

(2) Food stamp benefits will be prorated from the date of application if a household's application is received in the month after its certification period has expired or participation has been terminated for any reason.

(3) ~~[The caseworker]~~ ISD will ensure that any eligible household that does not submit a timely application for recertification be provided the opportunity to participate, if eligible, within 30 calendar days after the date the application is filed.

C. HSD failure to act: A household that has made a timely application for recertification, but because of agency error, is not determined eligible in sufficient time to provide for issuance by the household's normal issuance cycle in the following month, will receive an immediate opportunity to participate and will receive a notice of delay. A household will be entitled to restoration of lost benefits if, as a result of such error, it was unable to participate for the month following the expiration of the certification period, or benefits were prorated in the month after expiration.

D. Scheduling interviews: An interview will be scheduled on the date or after a timely application for recertification is filed by a household. ISD shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires. A household will not be required to appear for an interview, or to file an application for recertification, in the month before the last month of its current certification period. An interview may be scheduled in the month before the last month of certification, or prior to the date the application is timely filed, provided the household is not denied for failing or refusing to appear for the interview. If an interview was scheduled, or if household member or authorized representative failed to attend an interview which was scheduled prior to the date a household files a timely application, ~~[the caseworker]~~ ISD will schedule an interview on or after the date an application is timely filed.

E. Failure to appear: If a household member or authorized representative fails to appear for a recertification interview scheduled on or after a timely application is filed, the household loses the right to uninterrupted participation. ISD shall send the household a notice of missed interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the ISD shall schedule a second interview. The household is responsible for rescheduling a missed interview. ~~[The caseworker]~~ ISD does not need to take any further action to schedule another interview, unless the household member or authorized representative requests another interview.

F. Prospective eligibility determination: A household's eligibility and ~~[food stamp]~~ SNAP benefit amount at recertification will be determined prospectively based on circumstances anticipated for the certification period, beginning with the month following the expiration of the current certification period.

G. Eligibility and benefits: Eligibility will be determined at recertification according to the standards described below.

(1) **Timely reapplication:** Applications filed before the 15th of the expiration month will be considered timely. A household member or authorized representative that attends an interview and provides all necessary verification by the end of the household's current certification period, will have the opportunity to participate by

the household's normal issuance cycle in the month following the end of the current certification period, if all eligibility factors have been met.

(2) **Reapplication after the 15th:** If an application for recertification is submitted after the 15th but before the end of a household's certification period and the household is determined eligible for the first month following the end of the certification period, that month is not considered an initial month and benefits are not prorated.

(3) **First month ineligibility:** If an application for recertification is submitted before the end of a household's certification period, but the household is determined ineligible for the first month following the end of the certification period, the first month of any subsequent certification period will be considered an initial month and food stamp benefits will be prorated.

(4) **Late applications:**

(a) Recertification verification standards in Paragraph 2 of Subsection I of 8.139.110.11 NMAC will be used when an application is received within 30 days after the certification period expires. Initial month verification standards in Subsection I of 8.139.110.11 NMAC will be used if the application is received more than one calendar month after the certification period expires or the case has been closed for any reason.

(b) Initial month certification provisions and proration of benefits for migrant and seasonal farmworker households will apply when more than 30 days have passed since the household was certified for participation. (See 8.139.400.14 NMAC for more information on migrant and seasonal farmworker households).

(5) **Pending verification:** A household member or authorized representative that has reapplied timely, attended an interview, and is required to provide verification, will be given 10 days to provide the verification, or until the certification period expires, whichever is longer. If the certification period expires before the 10-day deadline for submitting the required verification, the household will have the opportunity to participate, if eligible, within five working days after verification is submitted. The household is entitled to a full month's benefits.

[02/01/95, 10/01/95, 01/01/97; 8.139.120.8 NMAC - Rn, 8 NMAC 3.FSP.122, 05/15/2001; A/E, 10/15/2008; A, 12/31/2008]

8.139.120.9 SIMPLIFIED REPORTING: Simplified reporting includes two types of reporting requirements for households that receive [~~food stamp~~] SNAP benefits semiannual and annual reporting.

A. Household responsibilities at application:

(1) An applicant must report all changes affecting eligibility and food stamp benefit amount that may have occurred since the date the application was filed and before the date of the certification interview.

(2) Changes occurring after the interview must be reported by the household subject to simplified reporting requirements contained in this section.

B. Households excluded from simplified reporting: The following household are excluded from simplified reporting, shall be certified for no longer than three months and are subject to the reporting requirements at 8.139.120.12 NMAC:

(1) A household determined by the county director to have insufficient stability and warrants an alternative reporting requirement.

(2) A household that reports an imminent change in residence to another state.

C. Certification periods for households assigned to simplified reporting:

(1) The following households shall be assigned a semiannual 12 month reporting period with an interim report due at 6 months:

- (a) a household in which all members are ABAWDs;
- (b) a household in which all members are elderly or disabled with earned income;
- (c) a household in which all members are migrant or seasonal farm workers.

(2) A household in which all members are elderly or disabled as defined at 8.139.100.7 NMAC or are determined to be categorically eligible as defined at Subsection A of 8.139.420.8 NMAC shall be assigned a 24 month reporting period with an interim report due at 12 months.

(3) A household may report an increase in medical expenses for a household member eligible to claim a medical deduction. Food stamp benefits will be adjusted in the month following the month in which the change is reported and verified by ~~[the caseworker]~~ ISD.

(4) The household's food stamp benefit amount will be adjusted in accordance with the mass change requirements as set forth in 8.139.120.13 NMAC.

D. Applicant household: A household that is approved for food stamp benefits on or after October 1, 2008 shall be assigned a certification period in accordance with the household's circumstances as stated at Subsection C of 8.139.120.9 NMAC, retroactive to the month of application.

E. Participating household: If a household reports a change that makes them ineligible for simplified reporting, they shall be assigned an alternative reporting period when they file an interim report or recertify, whichever comes first.

F. Reporting changes for simplified reporting households: A household assigned to simplified reporting must report, during its certification period, when the household's income reaches or exceeds the food stamp program monthly gross income limit for the size of the household. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.

G. At the initial certification, recertification and when the household is transferred to simplified reporting, ISD shall provide the household with the following:

(1) A written and oral explanation of how simplified reporting works;

(2) A written and oral explanation of the reporting requirements including:

- (a) what needs to be reported and verified;
- (b) when the report is due;
- (c) how to obtain assistance; and
- (d) the consequences of failing to file a report.

[02/01/95, 10/01/95, 06/15/96, 09/14/96, 11/01/96, 07/01/98, 06/01/99; 8.139.120.9 NMAC - Rn, 8 NMAC 3 FSP.123, 05/15/2001; 8.139.120.9 - N, 02/14/2002; A, 01/01/2004; A, 07/16/2008; A, 08/15/2008; A/E, 10/15/2008; A, 12/31/2008]

8.139.120.10 REQUIREMENTS FOR SEMIANNUAL HOUSEHOLDS:

A. Household responsibilities at application: Changes occurring after the interview, but before the date of the approval notice, must be reported by the household within 10 days of the date the household receives its approval notice.

B. A household subject to semiannual reporting shall be required to file a semiannual report no later than the tenth day of the sixth month of the 12-month certification period. The following information, along with required verification, must be provided with the report:

- ~~_____ (1) any change in household composition, whether a member has moved in or out of the home, and the date the change took place;~~
- ~~_____ (2) the gross monthly income received from employment by each household member;~~
- ~~_____ (3) the gross monthly unearned income received by each household member;~~
- ~~_____ (4) changes in countable resources if the total of all countable resources for the food stamp household exceeds the applicable resource limit;~~
- ~~_____ (5) dependent care expenses;~~
- ~~_____ (6) a change in medical expenses;~~
- ~~_____ (7) a change in child support obligations;~~
- ~~_____ (8) student status for anyone living in the home over the age of 17 years, including but not limited to:~~
 - ~~_____ (a) a change in status from non-college to college student;~~
 - ~~_____ (b) a change in status from college student to non-college status;~~
 - ~~_____ (c) a change in post-secondary curriculum to or from at least halftime; and~~
 - ~~_____ (d) participation in or termination of work study;~~
- ~~_____ (9) a change in immigrant (alien) status for a household member.]~~
- (1) a change of more than fifty dollars (\$50.00) in the amount of unearned income, except changes in public assistance or general assistance programs when jointly processed with SNAP cases;
- (2) a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;
- (3) changes in either:
 - (a) the wage rate or salary or a change in full-time or part-time employment status as defined in 8.102.461.11(C) NMAC, provided the household is certified for no more than six months; or
 - (b) a change in the amount earned of more than \$100 a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.
- (4) all changes in household composition, such as the addition or loss of a household member;
- (5) changes in residence and the resulting shelter costs;
- (6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at 8.139.420.8 and 9 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, and money in a bank account or savings institution reach or exceed standards set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at 8.139.420.8 and 9 NMAC; and

(8) changes in the legal obligation to pay child support.

(9) For able-bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged monthly, as defined in 7 CFR 273.24(a)(1)(i). An individual shall report this information in accordance with the reporting system for income to which they are subject.

C. Budgeting methodology for semiannual reporting:

(1) Prospective budgeting shall be used for an applicant household at initial application and at recertification as set forth at 8.139.500.9 NMAC.

(2) **Initial application:** Eligibility and amount of payment for the applicant household shall be determined prospectively for the each of the first six months of the certification.

(3) **Processing the semiannual report:** Eligibility and food stamp benefit amount shall be determined prospectively for the six months following the month the semiannual report is due.

(4) **Recertification:** Eligibility and amount of payment shall be determined prospectively for each of the six months following the last month of the previous certification period.

D. Determining a household's eligibility and ~~food stamp~~SNAP benefit amount:

(1) **Income received weekly, bi-weekly, semi-monthly or monthly:** The household must submit and the department shall accept as verification the income received from any consecutive 30 day period that includes 30 days prior to the month the report is due and the month the report is due.

(2) **Income received more frequently than weekly:** For households with income received more often than weekly:

(a) exact income rather than averaged and converted income shall be used to determine eligibility and food stamp benefit amount; and

(b) the household must submit, and the department shall accept as verification income received from any consecutive 30 day period that includes 30 days prior to the month the semiannual report is due and the month the report is due.

(3) If a determination is made that the use of the pay data for the budgeting methods described in (1) and (2), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; ~~the caseworker~~ISD shall use whatever method gives the most accurate estimate of earnings.

(4) **Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover, including but not limited to income sources from sharecropping, farming, self-employment, contract income and income for a school employee or teacher who may not have a contract.

(5) **Self-employment:**

(a) Requirements for determination of net self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment income are set forth at Subsection B of 8.100.130.14 NMAC.

(b) A household assigned to semiannual reporting that has its self-employment income annualized shall be required to report changes in self-employment income on the semiannual report if the household has filed a tax return after its last approval or recertification of food stamps.

(c) A household assigned to semiannual reporting whose self-employment income is not annualized must report self-employment income on the semiannual report. The income reported on the semiannual report will be calculated in the following manner.

(i) When a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the six-month period covered by the semiannual report.

(ii) **Seasonal income:** Self-employment income that is intended to meet a household's needs for only part of the year shall be averaged over the time the income is intended to cover.

(d) A household that fails to provide verification of an allowable deduction shall not be allowed the deduction. [The caseworker] ISD shall process the report if all other mandatory verification has been provided.

(6) **Use of conversion factors:** Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(a) income received on a weekly basis is averaged and multiplied by 4.0;

(b) income received on a biweekly basis is averaged and multiplied by 2.0;

(c) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

~~[(7) Effective April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Subsection D of 8.139.120.10 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.~~

~~(a) Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.~~

~~(b) Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.]~~

E. Time limits for processing a semiannual report received by the county office:

(1) The semiannual report form and all verification provided shall be reviewed for completeness within 10 working days of receipt.

(a) A form that is complete and all verifications are provided, shall be processed within 10 working days of receipt.

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:

and (i) shall be notified that verification is questionable;

(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.

(c) A deduction that is verified within the month the semiannual report is due shall be processed as part of the semiannual report.

(d) A deduction that is verified in the month after the semiannual report is due shall be processed as a change reported by the household.

(2) Incomplete semiannual report is received:

(a) A semiannual report form that is not signed shall be returned to the household for a signature.

(b) A semiannual report that is incomplete because required verification is not provided shall not be returned to the household. The household shall be notified that the form is incomplete and what information must be provided to complete the semiannual report.

(3) A household must return the completed semiannual report form by the end of the month in which the report is due in order to process the report for the following month.

F. A household that fails to submit a semiannual report by the end of the month in which the report is due shall lose its right to uninterrupted benefits and shall be issued an adequate notice of closure.

G. Information requirements for the semiannual report: The semiannual report form shall specify:

(1) the deadline date to submit the form to ensure uninterrupted benefits if the household is determined eligible;

(2) the consequences of submitting a late or incomplete form;

(3) that verification of some allowable expenses may be required in order for the deduction to be allowed;

(4) where to call for help in completing the form;

(5) the consequences of providing incorrect information;

(6) the notice of rights.

H. Disaster victims: A household participating in the food stamp program and subject to semiannual reporting shall be required to comply with semiannual reporting requirements during the disaster period. The household remains responsible for submitting the required information set forth in 8.139.120.9 NMAC, to the field office that handles its ongoing case.

I. Reporting requirement for semiannual reporting households: A household assigned to semiannual reporting shall only be required to report when the household's gross income exceeds the federal poverty guidelines for the size of the household. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.

J. Action on changes reported between reporting periods for households assigned to semiannual reporting: The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:

(1) a household not entitled to CE reports income in excess of 130% of federal poverty guidelines for the size of the household;

(2) a household entitled to CE reports income in excess of 165% of federal poverty guidelines for the size of the household;

- (a) a household reports or HSD receives documented evidence that the household has moved or intends to move out of the state on a specific date;
- (b) a household requests closure;
- (c) HSD receives documented evidence that the head of household has died; or
- (d) a household that fails to comply with work requirements as specified at 8.139.410.12 and 8.102.620.10 and 11 NMAC.

(3) A newborn shall be added to the household effective the month following the month the change is reported, if the addition is reported to the agency by the household or by the hospital for medicaid purposes.

(4) The loss of earned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification, whichever is first, provided that:

- (a) the loss of income was reported and verified by the household;

- (b) the loss of income was not due to voluntary quit.

(5) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the household.

K. Transitional ~~[food stamps]~~SNAP: A household assigned to semiannual reporting that is approved for transitional ~~[food stamps]~~ SNAP shall have the semiannual reporting requirements terminated during the transitional ~~[food stamp]~~ SNAP benefit period.

L. Action on cash assistance applications:

(1) A ~~[food stamp]~~ SNAP household assigned to semiannual reporting that is later approved for cash assistance shall be required to file the scheduled semiannual report or to recertify eligibility at the intervals set at initial ~~[food stamp]~~ SNAP application. The timing of the cash certification and semiannual reporting requirements shall be set to match the requirements of the food stamp program.

(2) A household assigned to semiannual reporting that is approved for ~~[TANF, GA, or EWP]~~ cash assistance a day or more after ~~[food stamp]~~ SNAP approval shall have ~~[food stamp]~~ SNAP benefits adjusted in the month following the month of cash assistance approval.

[02/01/95, 07/01/98; 8.139.120.10 NMAC - Rn & A, 8.139.120.9 NMAC, 02/14/2002; A, 01/01/2004; A/E, 10/15/2008; A, 12/31/2008; A, 04/01/2010]

8.139.120.11 REQUIREMENTS FOR ANNUAL REPORTING HOUSEHOLDS:

A. Household responsibilities at application: An applicant must report all changes affecting eligibility and food stamp benefit amount that may have occurred since the date the application was filed and before the date of the certification interview. Changes occurring after the interview must be reported by the household subject to the annual reporting requirements in this section.

B. Reporting requirements for annual reporting households: A household subject to annual reporting shall be required to file an annual report no later

than the tenth day of the twelfth month of the 24-month certification period. The following information, along with verification, must be provided with the report:

- ~~_____ (1) — any change in household composition, whether a member has moved in or out of the home, and the date the change took place;~~
- ~~_____ (2) — the gross monthly income received from employment by each household member;~~
- ~~_____ (3) — the gross monthly unearned income received by each household member;~~
- ~~_____ (4) — changes in countable resources if the total of all countable resources for the food stamp household exceeds the applicable resource limit, such as but not limited to:
 - ~~_____ (a) — the account number and balance for a new checking or savings account belonging to any household member; or~~
 - ~~_____ (b) — the amount of any new stocks or bonds or other financial instruments belonging to any household member;~~
 - ~~_____ (5) — dependent care expenses;~~
 - ~~_____ (6) — expenses for shelter, utilities, and telephone, only if a change has occurred since the last certification, or a change will occur in the month following the month the report is due, including but not limited to:
 - ~~_____ (a) — a change in residence;~~
 - ~~_____ (b) — a change in shelter expense;~~
 - ~~_____ (c) — a change in billing for utilities, but not including variances in utility bills from month to month for the same service; or~~
 - ~~_____ (d) — an increase in shelter expenses that will take place in the month following the report month; or~~
 - ~~_____ (e) — a termination of any shelter, utility, or telephone expense;~~~~
 - ~~or~~
 - ~~_____ (f) — a new shelter or utility expense;~~
 - ~~_____ (7) — a change in medical expenses;~~
 - ~~_____ (8) — a change in child support obligations;~~
 - ~~_____ (9) — student status for anyone living in the home over the age of 17 years, including but not limited to:
 - ~~_____ (a) — a change in status from non-college to college student;~~
 - ~~_____ (b) — a change in status from college student to non-college status;~~
 - ~~_____ (c) — a change in post-secondary curriculum to or from at least halftime; and~~
 - ~~_____ (d) — participation in or termination of work study;~~~~
 - ~~_____ (10) — a change in immigrant (alien) status for a household member.]~~
 - _____ (1) — a change of more than fifty dollars (\$50.00) in the amount of unearned income, except changes in public assistance or general assistance programs when jointly processed with SNAP cases;
 - _____ (2) — a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;
 - _____ (3) — changes in either:~~

(a) the wage rate or salary or a change in full-time or part-time employment status (as defined 8.102.461.11(C) NMAC), provided the household is certified for no more than six months; or

(b) a change in the amount earned of more than \$100 a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.

(4) all changes in household composition, such as the addition or loss of a household member;

(5) changes in residence and the resulting shelter costs;

(6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at 8.139.420.8 and 9 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, and money in a bank account or savings institution reach or exceed standards set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at 8.139.420.8 and 9 NMAC; and

(8) changes in the legal obligation to pay child support.

C. Budgeting methodology for annual reporting at initial application and interim review:

(1) Prospective budgeting shall be used for an applicant household at initial application and at interim review as set forth at 8.139.500.9 NMAC.

(2) **Initial application:** At approval, eligibility and amount of payment for the applicant household shall be determined prospectively for the each of the first 12 months of the certification.

(3) **Recertification:** At approval, eligibility and amount of payment shall be determined prospectively for each of the 12 months following the last month of the previous certification period.

D. Budgeting methodology for processing an annual report:

(1) **Processing the annual report:** Eligibility and food stamp benefit amount shall be determined prospectively for the 12 months following the month the annual report is due.

(2) **Determining a household's eligibility and food stamp benefit amount:**

(a) Income received weekly, bi-weekly, semi-monthly or monthly: the household must submit and the department shall accept as verification the income received from any consecutive 30 day period that includes 30 days prior to the month the report is due and the month the report is due.

(b) **Income received more frequently than weekly:** For households with income received more often than weekly:

(i) exact income rather than averaged and converted income shall be used to determine eligibility and food stamp benefit amount; and

(ii) the household must submit, and the department shall accept as verification income received from any consecutive past 30 day period that includes 30 days prior to the month the semiannual report is due and the month the report is due.

(c) If a determination is made that the use of the pay data for the budgeting methods described in (a) through (b), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; [~~the caseworker~~] ISD shall use whatever method gives the most accurate estimate of earnings.

(d) Income received less frequently than monthly: The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover, including but is not limited to income sources from sharecropping, farming, self-employment, contract income and income for a tenured teacher who may not have a contract.

(3) Use of conversion factors: Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

- (a)** income received on a weekly basis is averaged and multiplied by 4.0;
- (b)** income received on a biweekly basis is averaged and multiplied by 2.0;
- (c)** averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

~~[(4) Effective April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Paragraph (4) of Subsection F of 8.102.120.11 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.~~

~~(a) Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.~~

~~(b) Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.]~~

E. Time limits for annual report received by the county office:

(1) The annual report form and all required verification provided shall be reviewed for completeness within 10 working days of receipt.

(a) A form that is complete and all required verifications are provided, shall be processed within 10 working days of receipt.

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:

(i) shall be notified that verification is questionable;
and

(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.

(c) A deduction that is verified within the month the annual report is due shall be processed as part of the annual report.

(d) A deduction that is verified in the month after the annual report is due shall be processed as a change reported by the household.

(2) Incomplete annual report is received:

(a) An annual report form that is not signed shall be returned to the household for a signature.

(b) An annual report that is incomplete because required verification is not provided shall not be returned to the household. The household shall

be notified that the form is incomplete and what information must be provided to complete the semiannual report.

(3) A household must return the completed annual report form by the end of the month in which the report is due in order to process the report for the following month.

F. A household that fails to submit an annual report by the end of the month in which the report is due shall lose its right to uninterrupted benefits and shall be issued an adequate notice of closure.

G. **Information requirements for the annual report:** The annual report form shall specify:

- (1) the deadline date to submit the form to ensure uninterrupted benefits if the household is determined eligible;
- (2) the consequences of submitting a late or incomplete form;
- (3) that verification of some allowable expenses may be required in order for the deduction to be allowed;
- (4) where to call for help in completing the form;
- (5) the consequences of providing incorrect information;
- (6) the notice of rights.

H. **Disaster victims:** A household participating in [~~the food stamp program~~] SNAP and subject to annual reporting shall be required to comply with annual reporting requirements during the disaster period. The household remains responsible for submitting the required information set forth in 8.139.120.11 NMAC, to the field office that handles its ongoing case.

I. **Reporting requirement for annual reporting households:** A categorically eligible household assigned to annual reporting shall have no further reporting requirement, until they must file an annual report or recertify, whichever comes first. All other households must file a report if their income exceeds 130% of the federal poverty guidelines and if the household remains eligible have no further reporting requirement until the household must file an annual report or recertify, whichever comes first. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.

J. **Action on changes reported between reporting periods for households assigned to annual reporting:**

- (1) The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:
 - (a) a household not entitled to categorical eligible reports income in excess of 130% of federal poverty guidelines for the size of the household;
 - (b) a household entitled categorically eligible reports income in excess of 165% of federal poverty guidelines for the size of households;
 - (c) household reports or HSD receives documented evidence that the household has moved or intends to move out of the state on a specific date;
 - (d) a household requests closure; or
 - (e) HSD receives documented evidence that the head of household has died.
- (2) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of

certification whichever is first, provided that the loss of income was reported to the agency, and verified by the household.

(3) If a household reports a change that makes them ineligible for annual reporting, they shall be assigned an alternative reporting period when they file an annual report or recertify, whichever comes first.

[02/01/95; 8.139.120.11 NMAC - Rn & A, 8.139.120.10 NMAC, 02/14/2002; 8.139.120.11 NMAC - N/E, 10/15/2008; A, 12/31/2008; A, 04/01/2010]

8.139.120.12 REQUIREMENTS FOR HOUSEHOLDS ON REGULAR REPORTING:

A. A regular reporting household includes all households not assigned to simplified reporting. If changes occur during a [~~households~~] household's certification period, that affect eligibility or benefit amount, [~~the caseworker~~] ISD shall take action to adjust the household's eligibility or SNAP benefit amount.

B. Benefit determinations or changes on or after April 1, 2010, to earned and unearned income shall be calculated using the conversion factors at Paragraph (6) of Subsection D of 8.139.120.10 NMAC provided income is reported to the agency, and verified by the household. All other households shall have their income calculated at the next interim report or recertification.

C. Household responsibilities:

(1) **At application:** An applicant must report all changes affecting eligibility and SNAP benefit amount that may have occurred since the date the application was filed and before the date of the certification interview.

(2) Changes occurring after the interview, but before the date of the approval notice, must be reported by the household within 10 days of the date the household receives its approval notice.

(3) **Reporting during the certification period:** A household must report changes within 10 days of the date a change becomes known to the household. No change reporting requirements may be imposed except as provided in (a) through (f) below. A household must report:

(a) **earned income:** a change in the source of earned income, including starting or stopping a job; or

(i) changing jobs if the change in employment results in a change in income;

(ii) a change in the amount of gross earned income received by a member of the household, if the amount changes by more than \$100 per month.

(b) **unearned income:**

(i) a change in the source of unearned income;

(ii) a change of more than \$50 in the amount of unearned income except that changes in cost of living increases (COLAs), and mass changes in the social security and SSI benefits and changes in cash assistance amounts in programs administered by ISD including TANF, GA, EWP, and RRP do not have to be reported;

(c) changes in household composition, such as when an individual moves into or leaves the household;

(d) changes in residence and the resulting change in shelter costs;

(e) when cash on hand, stocks, bonds or money in a bank account reach or exceed \$2,250, or \$3,250 for elderly/disabled households;

(f) changes in the legal obligation to pay child support, including termination of the obligation; a household with less than a 3-month record of child support payments shall be required to report changes greater than \$50.00 from the amount used in the most recent certification action.

(4) Time limits:

(a) The 10-day period begins with the date the change becomes known to the household. For the purposes of reporting:

(i) a financial change shall be considered as timely if the change is reported no later than 10 days after the household receives the first payment or makes the first payment attributable to the change;

(ii) a non-financial change shall be considered timely if the change is reported no later than 10 days after it occurs.

(b) The change is considered reported on the date the report of change is received by the local county office or, if mailed, the date of the postmark on the household's report plus three days mailing time.

(c) Households shall be encouraged to use a change report form to document changes, although changes may also be reported by personal visit or telephone.

(d) In the absence of a written report, a 13-day advance notice is required if the change will result in a reduction or termination of benefits.

D. HSD responsibilities: ~~[The caseworker]~~ ISD shall inform the household of its responsibility to report changes. ~~[The caseworker]~~ ISD shall review any change reported by the household to determine if the change must be acted on and shall take the required action if the change affects eligibility or benefit amount. ~~[The caseworker]~~ ISD shall document the date a change is reported, and whether the change affects eligibility or SNAP benefit amount.

(1) Action on changes for regular reporting households:

(a) When a household reports a change, ~~[The caseworker]~~ ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 days of the date the change is reported.

(b) For changes that result in a decrease or termination of household benefits, ~~[The caseworker]~~ ISD shall act on the change as follows:

(i) If ~~[the caseworker]~~ ISD receives a written report from the household that meets the standards of Subsection C of 8.139.120.15 NMAC, action shall be taken for the following month without an advance notice of adverse action. The household shall be provided with adequate notice. If the certification period will expire before the expiration notice time limit, no action shall be required to reduce or terminate benefits.

(ii) If the change is reported by any other means, e.g., by phone, in person, etc., within 10 days ~~[the caseworker]~~ ISD shall take action to issue a notice of adverse action (Subsection B of 8.139.120.15 NMAC) to reduce or terminate benefits effective the month following the month the adverse action time limit expires. If the certification period will expire before the expiration of the adverse action time limit, no action shall be required to reduce or terminate benefits.

(c) During the certification period, ~~[the caseworker]~~ ISD shall not act on changes in medical expenses of households eligible for the medical expense deduction which it learns of from a source other than the household and which, in order to take action, requires ~~[the caseworker]~~ ISD to contact the household for verification. ~~[The caseworker]~~ ISD shall act only on those changes in medical expenses that are learned about from a source other than the household, if those changes are verified upon receipt and do not necessitate contact with the household.

(2) Increased benefits:

(a) For changes resulting in an increase, other than changes described in (b) below, ~~[The caseworker]~~ ISD shall make the change effective no later than the first benefit amount issued 10 days after the date the change was reported [~~(conforms to ISD2 mass run date)~~].

(b) For changes resulting in an increase in SNAP benefits because of the addition of a new household member who is not a member of another certified household or a decrease of \$50.00 or more in the household's gross monthly income, ~~[The caseworker]~~ ISD shall make the change effective not later than the first SNAP benefit amount issued 10 days after the date the change was reported [~~(conforms to ISD2 mass run date)~~]. In no event shall these changes take effect any later than the month following the month the change was reported. If the change is reported timely but the increase cannot be made effective the following month, ~~[The caseworker]~~ ISD shall issue a supplement to the household in the following month.

(c) **Providing verification:** The household shall be allowed 10 days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If necessary verification is not provided at the time a change is reported, the household shall be allowed 10 days, plus 3 days if a notice is mailed, to provide verification. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its SNAP benefit amount shall revert to the original benefit amount.

(3) **Decreased benefits:** When a household timely reports a change which will decrease benefits, ~~[the caseworker]~~ ISD shall issue an adverse action notice to the household (Subsection B of 8.139.120.15 NMAC). If the adverse action time limit expires in the following month, there is no ~~[overissuance]~~ over issuance in the following month and the household is entitled to the greater benefit amount. The decrease shall be effective in the month following the month the notice expires.

(4) **Termination of benefits:** When the household reports a change that will result in a termination of benefits, ~~[the caseworker]~~ ISD shall issue an adverse action notice.

(a) If the adverse action time limit expires in the following month, there is no ~~[overissuance]~~ over issuance to the household in the following month and the household shall be entitled to the greater benefit amount. No claim shall be filed.

(b) If the adverse action time limit will expire after the certification period ends, action shall be taken to terminate benefits; the certification period shall be allowed to expire. The caseworker shall document the change in the case record.

(5) **No change in SNAP benefit amount:** When a reported change has no effect on the SNAP benefit amount, [~~the caseworker~~] ISD shall document the change in the case file and notify the household of the receipt of the report and that there is no change in SNAP benefits.

E. Failure to report changes:

(1) If [~~the caseworker~~] ISD discovers that the household failed to report a change as required, [~~the caseworker~~] ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled. After verifying the change, [~~the caseworker~~] ISD shall initiate a claim against the household for any month in which the household was [~~overissued~~] over issued SNAP benefits. The first month of the [~~overissuance~~] over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Paragraph (2) of Subsection B of 8.139.120.12 NMAC above.

(2) **Increased benefit amount:** When a household fails to make a timely report of a change which will result in an increased SNAP benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 days after the date the change was reported.

F. Other changes:

(1) **Eligibility standard:** When a household becomes entitled to a different eligibility standard, [~~the caseworker~~] ISD shall apply the new standard whenever there is a change in household eligibility, benefit amount, or certification period, whichever occurs first.

(2) **Reconstituted household:** If members in the household separate into two or more households, the individuals who left the original household shall not be eligible for separate status in the month the change occurs. An adverse action notice is required whenever members leave the household. If the adverse action time limit expires in the month the change occurs, the individuals in the reconstituted household may be certified in the month following the month the change occurs. If the notice of adverse action time limit expires in the month following the month the change occurred, the reconstituted household shall not be certified until the month following the month the notice time limit expires.

(3) **Shortened certification period:** Whenever a determination is made that a household's certification period must be shortened, the household is entitled to an expiration notice. A household shall be informed that its certification period shall end the month following the month the expiration notice is sent. The household shall be given an opportunity to timely reapply for benefits.

(4) **Unreported changes:** [~~The caseworker~~] ISD shall act on all changes of which [~~the caseworker~~] ISD becomes aware. At a minimum, this means documenting changes in the case record. All discrepancies and questionable information shall be resolved to make sure that the correct SNAP benefit amount is issued to the household.

[05/15/97; 8.139.120.12 NMAC - Rn & A, 8.139.120.11 NMAC, 02/14/2002; 8.139.120.12 NMAC - Rn & A/E, 8.139.120.10 NMAC, 10/15/2008; A, 12/31/2008; A, 04/01/2010; A/E, 03/01/2015]

8.139.120.13 REQUIREMENTS FOR MASS CHANGES:

A. Mass changes: Certain changes initiated by the state or federal government may affect the entire caseload or significant portions of it.

(1) Mass changes include, but are not limited to, increases in excluded or deducted items or amounts.

(2) Mass changes affecting income include annual adjustments to social security, SSI, and other federal benefit programs, and any other changes in eligibility criteria based on legislative or regulatory actions.

(3) Information concerning mass change notice and hearing requirements are set forth in 8.100.180.15 NMAC.

(4) **Notice of mass changes:** Adverse action notices are not required for mass changes resulting from federal adjustments to eligibility standards, the maximum [~~food stamp~~] SNAP allotment, standard deduction, shelter deduction, and state adjustments to the mandatory utility standard. Announcement of anticipated mass changes may be made through the media, posters in ISD offices, and other likely places frequented by households, or through a general notice mailed to a participating household. When HSD makes a mass change in food stamp eligibility or benefit amount affecting the entire caseload or a part of it, affected households shall be mailed a notice of any change, reduction or termination of benefits. HSD shall issue a notice to affected households as far in advance of the household's next scheduled issuance date as is reasonably possible, but by no later than the date the affected benefit is issued.

B. Federal changes: Authorized adjustments which may affect [~~the food stamp~~] SNAP benefit amount for participating households include the maximum [~~food stamp~~] SNAP allotment, standard deduction, excess shelter and dependent care deductions, and income eligibility standards. These changes go into effect for all households annually on October 1. Adjustments to federal standards are made prospectively.

C. Cost of living adjustments: Cost of living increases and any other mass changes in federal benefits, such as social security and SSI benefits, shall be treated as mass changes for [~~food stamp~~] SNAP purposes. The human services department is responsible for automatically adjusting a household's [~~food stamp~~] SNAP benefit amount to reflect such a change. Households shall not be responsible for reporting these changes.

D. Mass changes in public assistance: When overall adjustments to cash assistance payments are made, corresponding adjustments in [~~food stamp~~] SNAP benefits shall be handled as a mass change. Households shall be given advance notice of any adjustment in the [~~food stamp~~] SNAP benefit amount. If a household requests a fair hearing, benefits shall continue at the former amount only if the issue being appealed is that eligibility or [~~food stamp~~] SNAP benefit amount was determined incorrectly.

E. Utility standard: Authorized adjustments shall be effective for all October [~~food stamp~~] SNAP issuances. Households whose certification periods overlap annual adjustments in the state's mandatory utility allowance shall be informed at the time of certification that the adjustment shall be effective in October 1; the household

shall be informed of the adjusted benefit amount, if known at the time of certification. Adjustments in the state's mandatory utility allowance are made prospectively. [8.139.120.13 NMAC - Rn & A, 8.139.120.12 NMAC, 02/14/2002; 8.139.120.13 NMAC - N/E, 10/15/2008; A, 12/31/2008]

8.139.120.14 OTHER CHANGES AFFECTING ~~[FOOD STAMP]~~ SNAP HOUSEHOLDS:

A. Failure to report changes:

(1) If ~~[the caseworker]~~ ISD discovers that the household failed to report a change as required, ~~[the caseworker]~~ ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled.

(2) After verifying the change, ~~[the caseworker]~~ ISD shall initiate a claim against the household for any month in which the household was ~~[overissued food stamp]~~ over issued SNAP benefits. The first month of the ~~[overissuance]~~ over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change.

(3) If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced.

(4) No claim shall be established because of a change in circumstances that a household is not required to report.

B. Noncompliance with program requirements or fraud:

(1) **Intentional failure to comply or fraud:** No household shall receive an increase in ~~[food stamp]~~ SNAP benefits when benefits from another program have been decreased (reduced, suspended or terminated) for intentional failure to comply with the other program eligibility requirements or for an act of fraud. This provision applies in cases where the other program is a means-tested, federal, state or local welfare or public assistance program, which is governed by welfare or public assistance laws or regulations and which distributes public funds.

(2) Failure to comply shall be determined as provided in Paragraph (3) of Subsection I of 8.139.520.9 NMAC.

(3) **Verification of recoupment:** Agencies administering means-tested, publicly funded assistance programs provide recipients with written advance notice of proposed changes in benefit amounts. Such notices provide information which shall determine if the reduction in cash assistance is because of a properly reported change in circumstances. In most cases, the notice shall document whether the reduction is because of a recoupment of overpaid benefits resulting from intentional failure to report changes. If the notice is not detailed enough to make a determination, the agency which initiated recoupment shall be contacted to obtain the necessary information. ~~[Food stamp]~~SNAP benefits shall not be delayed beyond normal processing standards pending the outcome of this determination.

(4) **Calculating benefits:** When a recipient's assistance benefits are decreased to recoup an overpayment, that portion of the decrease that is the recoupment shall first be identified. The recoupment is the amount of decrease attributed to the repayment of benefits ~~[overissued]~~ over issued. If a Title IV-A recipient intentionally underreports income, the Title IV-A grant is first reduced to reflect the corrected income, then reduced further by the recoupment amount. In such a case, the ~~[food stamp]~~ SNAP

calculation would reflect the Title IV-A amount reduced because of income, but not the second reduction caused by recoupment.

[8.139.120.14 NMAC - N/E, 10/15/2008; A, 12/31/2008]

8.139.120.15 CHANGE NOTICES:

A. Agency responsibilities:

(1) [~~The caseworker~~] ISD shall take action on any change reported by a household, and on any change which becomes known through other sources.

(2) The household shall be issued a change notice.

(a) If there is a reduction or termination of benefits, the household shall be issued an adverse action notice, unless the change has been reported by the household in writing.

(b) If the household reports the change in writing, advance notice of the change in benefit amount is required before the household's next issuance.

(c) If there is no change in the benefit amount, the household shall be notified that the change resulted in no change in benefit amount.

(3) If a household receiving cash assistance reports a change, it shall be considered to have also reported the change for [~~food stamp~~] SNAP purposes. A notice shall be sent to the household acknowledging the reported change, even if there is no change in benefits. A notice of adverse action shall be sent if there is a reduction or termination in the [~~food stamp~~] SNAP benefit amount and the change was not reported in writing.

B. Notice of adverse action:

(1) Prior to any action to reduce or terminate a household's [~~food stamp~~] SNAP benefits within the certification period, the household shall be provided with a timely and adequate advance notice before the adverse action is taken, unless the change was reported by the household in writing. A written change report submitted by the household is subject to the adequate notice requirements in subsection C of 8.139.120.15 NMAC.

(2) At a minimum, the adverse action notice shall include the following information:

(a) proposed action and reason for the action;

(b) month in which the change takes effect;

(c) adjusted benefit amount;

(d) household's right to request a fair hearing, circumstances under which the household can continue benefits at the greater amount, and deadline dates for requesting a hearing;

(e) household's liability for any benefits [~~overissued~~] over issued if the decision of the fair hearing is that the department took the correct action;

(f) general information on whom to contact for additional information, including the right to representation by legal services.

(3) Individual notices of adverse action shall not be provided when:

(a) there is a mass change;

(b) [~~the caseworker~~] ISD determines on the basis of reliable information that the household has moved from the project area;

(c) [~~the caseworker~~] ISD determines on the basis of reliable information that all members of a household have died;

(d) the household has received an increased benefit amount to restore lost benefits, the restoration is complete, and the household has been notified in writing of the date the increased benefit amount would terminate;

(e) the household's benefit amount varies from month to month within the certification period to take into account changes anticipated at the time of certification, and the household was notified of such variations at the time of certification;

(f) the household applied for cash assistance and ~~[food stamp]~~ SNAP benefits at the same time, has been receiving ~~[food stamp]~~ SNAP benefits pending approval of cash assistance, and the household was notified at the time of certification that ~~[food stamp]~~ SNAP benefits would be reduced upon approval of the cash assistance grant;

(g) a household member is disqualified for intentional program violation, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of the household member.

(h) the household was certified on an expedited basis, is assigned a certification period longer than one month, and verification has been postponed; the household must have received written notice that receipt of benefits beyond the month of application is contingent on the household providing the postponed verification;

(i) the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement is terminated because the treatment center or group living arrangement loses either its certification or its status as authorized representative;

(j) the household voluntarily requests, in writing or in the presence of ~~[the caseworker]~~ ISD, that its participation be terminated.

C. Adequate notice: If a change was reported in writing that will result in a reduction or termination in ~~[food stamp]~~ SNAP benefits, the household shall be provided with adequate advance written notice confirming the change. Adequate notice does not preclude the household's right to request a fair hearing. The household shall be notified that its benefits are being reduced or terminated no later than the date the household will receive, or would have received, its ~~[food stamp]~~ SNAP benefits. Adequate notice shall be provided when changes reported in writing meet the following conditions:

(1) the household reports the information which results in the reduction or termination;

(2) the reported information is in writing and signed by a member of the household;

(3) ~~[the caseworker]~~ ISD can determine the household's reduced benefit amount or ineligibility based solely on the information provided by the household in the written report;

(4) the household retains its right to a fair hearing;

(5) the household retains its right to continued benefits if the fair hearing is requested within the advance notice time limit;

(6) ~~[the caseworker]~~ ISD continues the household's previous benefit amount if required, within five working days of the household's request for a fair hearing. [8.139.120.15 NMAC - Rn & A/E, 8.139.120.11 NMAC, 10/15/2008]

8.139.120.16 TRANSFER OF HOUSEHOLDS: When a household transfers from one project area to another, the households case record and computer file shall be transferred accordingly. Procedures for handling households which transfer between project areas within the state and between offices within a single project area are described below.

A. Transfer of inactive cases: Inactive cases are those that have been certified and are subsequently closed. ~~[The caseworker]~~ ISD in the new project area is responsible for requesting that the case record be transferred. The former project area is responsible for transferring case records and making sure they are complete.

B. Transfer of active cases: Active cases are those presently certified.

(1) Timely reporting: Transfers within the state shall be considered like any other reported change in circumstances. The household must timely report a move and verify its new address and shelter expenses, as well as any change in household composition and income, before benefits may continue or be issued (see Subsection A of 8.139.120.12 NMAC). The former project area shall update the household's address on its computer file and transfer the case in active status to the new project area. The new project area shall verify the household's new circumstances, including but not limited to, address, shelter expenses, income, and household composition (see Paragraph 1 of Subsection B of 8.139.120.12 NMAC).

(2) Not reported: If a project area becomes aware that a household has moved but has not been informed of a new in-state address, either by the household or its designee or by another project area, participation shall be terminated immediately based on unverified residence. If the household wishes to continue participation, it must file a new application.

C. Procedures for nonreceipt of benefits: If a household which has moved to a different project area has not received its current month's ~~[food stamp]~~ SNAP benefits, action required by ~~[the caseworker]~~ ISD shall depend on circumstances described below:

(1) If the ~~[food stamp]~~ SNAP benefits are returned to the central mail issuance unit, reissuance is authorized by the new project area to the household's address in the new project area.

(2) If the ~~[food stamp]~~ SNAP benefits are not returned to the central mail issuance unit, an affidavit shall be submitted by the new project area, as described in Subsection G of 8.139.610.14 NMAC, replacement of benefits lost in the mail, even though the original issuance was from the former project area. The new project area shall make sure that the household's residence and mailing address are changed prior to submitting the affidavit.

[8.139.120.16 NMAC - Rn & A/E, 8.139.120.12 NMAC, 10/15/2008]

These are the PROPOSED amendments to 8.139.410 NMAC, Section 3, 6, 8, 9, 11, 12, and 13.

8.139.410.3 STATUTORY AUTHORITY: The ~~[food stamp program]~~ supplemental nutrition assistance program (SNAP) is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering ~~[the food stamp program]~~ SNAP is contained in Chapter 27 NMSA, 1978. Administration of the human services department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).
[02/01/95; 8.139.410.3 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.000.3, 05/15/2001]

8.139.410.6 OBJECTIVE: Issuance of the revised ~~[food stamp program]~~ SNAP policy manual is intended to be used in administration of ~~[the food stamp program]~~ SNAP in New Mexico. This revision incorporated the latest federal policy changes in ~~[the food stamp program]~~ SNAP not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.
[02/01/95; 8.139.410.6 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.000.6, 05/15/2001]

8.139.410.8 ENUMERATION (SOCIAL SECURITY NUMBER):

A. Requirement: The social security number is required for every individual who receives ~~[food stamp]~~ SNAP benefits. Providing the social security number of a household member is voluntary. However, failure to provide the social security number shall result in the denial of ~~[food stamp]~~ SNAP benefits to the household member.

- (1) A household participating in ~~[the food stamp program (FSP)]~~ SNAP must provide the social security number of each household member before certification. An actual social security card is not mandatory to fulfill the verification requirement.
- (2) If an individual has more than one number, all numbers must be provided.
- (3) If an individual does not have a social security number, or if the household does not know if an individual member has a social security number, the household must apply for a social security number for the individual(s) before certification.
- (4) ~~[A caseworker]~~ ISD shall inform the household where to apply and what information is needed, and shall advise the household that proof of application from the social security administration (SSA) office for a social security number is required before certification.
- (5) ~~[The caseworker]~~ ISD shall explain to applicants and participants that refusal or failure to comply, without good cause, shall result in disqualification of the individual household member for whom a social security number has not been provided

or obtained.

(6) For a newborn, the household must provide a social security number or proof of application for a social security number at the next recertification or within six months, whichever is later.

B. Validation of social security number:

(1) ~~[The caseworker]~~ ISD shall record, in the case file and the computer file, the social security number of each household member at certification, recertification, or at any contact with the household. The social security number is validated by the SSA on a periodic basis.

(2) Immediate validation of an individual's social security number is not required for participation in ~~[the FSP]~~ SNAP. Household certification or issuance of SNAP benefits shall not be delayed solely to validate the social security number of a household member.

(3) ISD shall offer to:

(a) complete, or help the applicant complete, an application for a social security number, form SS-5.

(b) verify identity, age, and citizenship or alien status, as required by SSA;

(c) forward the SS-5 application to the SSA.

~~[(3)]~~ (4) When a social security number has been validated by the SSA, ~~[the caseworker]~~ ISD shall make a permanent annotation on the client case file to prevent validation of the social security number in the future.

~~[(4)]~~ ~~The caseworker shall offer to:~~

~~(a) complete, or help the applicant complete, an application for a social security number, form SS-5.~~

~~(b) verify identity, age, and citizenship or alien status, as required by SSA;~~

~~(c) forward the SS-5 application to the SSA.]~~

(5) For those individuals who do not have an SSN, ISD shall:

(a) If an enumeration agreement with SSA exists, complete the application for an SSN, Form SS-5. To complete Form SS-5, ISD must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS-5 to SSA.

(b) If no enumeration agreement exists, an individual must apply at the SSA, and ISD shall arrange with SSA to be notified directly of the SSN when it is issued. ISD shall inform the household where to apply and what information will be needed, including any which may be needed for SSA to notify ISD of the SSN. ISD shall advise the household member that proof of application from SSA will be required prior to certification. SSA normally uses the Receipt of Application for a Social Security Number, Form SSA-5028, as evidence that an individual has applied for an SSN. ISD may also use their own documents for this purpose.

(c) ISD shall follow the procedures described in paragraphs (a) and (b) of this section for individuals who do not know if they have an SSN, or are unable to find their SSN.

(d) If the household is unable to provide proof of application

for an SSN for a newborn, the household must provide the SSN or proof of application at its next recertification or within 6 months following the month the baby is born, whichever is later. If the household is unable to provide an SSN or proof of application for an SSN at its next recertification within 6 months following the baby's birth, the ISD shall determine if the good cause provisions of paragraph (d) of this section are applicable.

C. Disqualification from ~~[food stamps]~~ SNAP: If ~~[a caseworker]~~ ISD determines that the household has refused or failed to provide or apply for a social security number without good cause, the individual who does not have a social security number shall be ineligible to participate in ~~[the FSP]~~ SNAP.

(1) **Refusal to comply:** Refusal to provide or apply for a social security number shall result in the disqualification of the individual for whom a social security number is required. Any remaining household members are eligible to participate in ~~[the FSP]~~ SNAP.

(2) **Failure to comply:** Individuals who fail, without good cause, to meet the enumeration requirement within the required time period are ineligible. The disqualification applies to an individual(s), not to an entire household. An individual becomes eligible to participate, and the disqualification ends, when the social security number is provided.

(3) **Determining good cause:** If a household can show good cause why an application has not been completed in a timely manner, the household member without a social security number shall be allowed to participate for one month in addition to the application month. To determine good cause, information from the household member, the social security administration, and HSD records shall be considered. Documentary evidence or collateral information [~~(8.139.100.7 NMAC definitions)~~] that the member has applied for a social security number or has made every effort to provide the social security administration with the information needed to complete an application is considered good cause for not complying timely with this requirement. If a household member applying for a social security number is unable to obtain the documents required by the social security administration, ~~[the caseworker]~~ ISD shall make every effort to help the household get these documents.

(a) If a household can show good cause why an application for a social security number has not been made in a timely manner, the household member concerned shall be allowed to continue to participate each month that good cause exists.

(b) Good cause does not include delays caused by illness, lack of transportation, or temporary absence, since the SSA provides for the application process to be conducted entirely by mail. A personal interview is not required except for persons age 18 or over who must apply for an original social security number at a local SSA office.

(4) **Participation pending notification:** When an application for a social security number has been filed, as verified by a receipt of application for a social security number from the social security administration (SSA), an individual shall be permitted to participate in ~~[the food stamp program]~~ SNAP, pending notification by the SSA of the household member's social security number.

(5) **Subsequent actions:** If the social security number is not verified at recertification for a number already provided, or has not been computer-verified in the interim, ~~[the caseworker]~~ ISD shall disqualify the individual for noncompliance with the enumeration requirement. ~~[The caseworker]~~ ISD shall have offered to help the individual

complete an application for a duplicate social security number. Any household member disqualified for noncompliance with the enumeration requirement becomes eligible upon providing verification of a valid social security number.

D. Resources and income: The resources of a disqualified individual count in their entirety. A pro rata share of the disqualified individual's income shall be considered available to the remaining household members.

E. Use of social security number: HSD is authorized to use social security numbers in the administration of [~~the food stamp program~~] SNAP. To the extent determined necessary, HSD may access computer information regarding individual applicants and participants who receive benefits or services under Title XVI of the Social Security Act. The social security number shall be used to prevent duplicate participation, to facilitate mass changes in federal benefits, and to request and exchange information on individuals through [~~the IEVS and SAVE~~] computer match programs [~~and the department of labor~~].

[02/01/95, 07/01/98; 8.139.410.8 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.411, 05/15/2001; A, 02/14/2002]

8.139.410.9 CITIZENSHIP AND ALIEN STATUS: Participation in [~~the food stamp program~~] SNAP is limited to individuals who live in the United States, and who are U.S. citizens or aliens with eligible alien status. Among those ineligible for participation are alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in another country.

A. Eligibility: No individual is eligible to participate in [~~the food stamp program~~] SNAP unless that individual is otherwise eligible and is:

- (1) a U.S. citizen;
- (2) a U.S. non-citizen national
- (3) an American Indian who is:

(a) an American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply; or

(b) a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians;

- (4) **Hmong or Highland Laotian who is:**

(a) a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975 who is lawfully residing in the U.S.;

(b) the spouse, or surviving spouse of such Hmong or Highland Laotian, or

(c) an unmarried or surviving dependent child who is under the age of 18 or if a full-time student under the age of 22; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday of such Hmong or Highland Laotian.

- (5) **Human trafficking victim who is:**

(a) certified by the DHS, to the same extent as an alien who is

admitted to the United States as a refugee under Section 207 of the INA;

(b) under the age of 18, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA;

(c) the spouse, child, parent or unmarried minor sibling of a victim of a severe form of trafficking in persons under 21 years of age, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA;

(d) the spouse or child of a victim of a severe form of trafficking in persons 21 years of age or older, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA.

(6) **Qualified and eligible alien:** An individual who is both a “qualified alien” and an “eligible alien” as defined in Subsection B of 8.139.410.9 NMAC.

B. Qualified and eligible aliens: An alien may qualify for participation in ~~[the food stamp program]~~ SNAP if the alien meets at least one definition of “qualified alien” from Paragraph (1) below and one definition of “eligible alien” as defined in Paragraph (2) below.

(1) **Qualified alien:** A “qualified alien” means:

(a) an alien who is lawfully admitted for permanent residence under the INA;

(b) an alien who is granted asylum under section 208 of the INA;

(c) a refugee who is admitted to the United States under section 207 of the INA;

(d) an alien who is paroled into the U.S. under section 212(d)(5) of the INA for a period of at least 1 year;

(e) an alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA;

(f) an alien who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;

(g) an alien, an alien child’s parents or an alien child who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of the abuse;

(h) an alien who is a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(2) **Eligible aliens not subject to the five year bar:** A qualified alien, as defined in Paragraph (1) of this Subsection, is eligible to receive ~~[food stamps]~~ SNAP and is not subject to the requirement to be in a qualified status for five years as set forth in Subparagraph (b) of Paragraph (2) of this section, if the individual meets at least one of the criteria of Paragraph (2):

(a) an alien age 18 or older lawfully admitted for permanent residence under INA who has 40 qualifying quarters as determined under Title II of the SSA, including qualifying quarters of work not covered by Title II of the SSA, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or

adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.

- (b) an alien admitted as a refugee under section 207 of the INA;
- (c) an alien granted asylum under section 208 of the INA;
- (d) an alien whose deportation is withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA;
- (e) an alien granted status as a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980);
- (f) an Amerasian admitted pursuant to section 584 of Public Law 100-202, as amended by Public Law 100-461;
- (g) an alien with one of the following military connections:
 - (i) a veteran who was honorably discharged for reasons other than alien status, who fulfills the minimum active-duty service requirements of 38 U.S.C 5303A(d), including an individual who died in active military, naval or air service;
 - (ii) an individual on active duty in the armed forces of the U.S. (other than for training);
 - (iii) the spouse or surviving spouse of a veteran or active duty military alien described above provided the spouse has not remarried;
 - (iv) a child or surviving child of a deceased veteran (provided such child was dependent upon the veteran at the time of the veteran's death) who is under the age of 18 (if a full- time student, under the age of 22); or an unmarried disabled child age 18 or older if the child was disabled and dependent on the veteran prior to the child's 18th birthday;
- (h) a qualified alien who is lawfully residing in the U.S. and is receiving benefits or assistance for blindness or disability as defined in Paragraph (23) of Subsection A of 8.139.100.7 NMAC;
- (i) an individual who on August 22, 1996, was lawfully residing in the U.S., and was born on or before August 22, 1931; or
- (j) an individual who is lawfully residing in the U.S. and is under 18 years of age.

(3) **Eligible aliens subject to the five year bar:** The following qualified aliens, as defined in Paragraph (1), must be in a qualified status for five years before being eligible to receive [~~food stamps~~] SNAP. The five years in qualified status may be either consecutive or non-consecutive. Temporary absences of less than six months from the United States with no intention of abandoning U.S. residency do not terminate or interrupt the individual's period of U.S. residency. If the resident is absent for more than six months, the department shall presume that U.S. residency was interrupted unless the alien presents evidence of their intent to resume U.S. residency. In determining whether an alien with an interrupted period of U.S. residency has resided in the U.S. for five years, the agency shall consider all months of residency in the U.S., including any months of residency before interruption:

- (a) an alien 18 or older lawfully admitted for permanent residence under the INA;
- (b) an alien who is paroled into the U.S. under section 212(d)(5) of the INA for a period of at least one year;

(c) an alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of abuse, an alien whose child has been battered or subjected to cruelty, or an alien child whose parent has been battered;

(d) an alien who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980.

(4) Quarters of coverage:

(a) SSA reports quarters of coverage through the quarters of coverage history system (QCHS).

(b) An alien lawfully admitted for permanent residence under the INA who has 40 qualifying quarters as determined under Title II of the Social Security Act, including qualifying quarters of work not covered by Title II of the Social Security Act, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.

(i) A spouse may not get credit for quarters of a spouse when the couple divorces prior to a determination of ~~[food stamp]~~ SNAP eligibility.

(ii) If eligibility of an alien is based on the quarters of coverage of the spouse, and then the couple divorces, the alien's eligibility continues until the next recertification. At that time, ~~[the caseworker]~~ ISD shall determine the alien's eligibility without crediting the alien with the former spouse's quarters of coverage.

(c) **Disputing quarters:** If an applicant disputes the SSA determination of quarters of coverage reported by QCHS, the individual may participate for up to six (6) months pending the results of an SSA investigation. The individual or HSD must have requested an investigation from SSA in order to participate. The household is responsible for repayment of any ~~[food stamp]~~ SNAP benefits issued for such individual during the investigation if SSA determines that the individual cannot be credited with 40 quarters of coverage under Title II of the Social Security Act.

(5) **Federal means-tested benefit:** After December 31, 1996, a quarter in which an alien received any federal means-tested public benefit, as defined by the agency providing the benefit, or actually received ~~[food stamps]~~ SNAP benefits is not creditable toward the 40-quarter total. A parent's or spouse's quarter is not creditable if the parent or spouse actually received any federal means-tested public benefit or actually received ~~[food stamps]~~ SNAP in that quarter. If the alien earns the 40th quarter of coverage prior to applying for ~~[food stamps]~~ SNAP benefits or any other federal means-tested public benefit in that same quarter, ~~[the caseworker]~~ ISD shall allow that quarter toward the 40 qualifying quarters total.

(a) Federal means-tested benefits include, but may not be limited to, benefits from:

(i) ~~[the food stamp program]~~ SNAP;

(ii) the food assistance block grant programs in Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(iii) supplemental security income (SSI);

(iv) TANF block grant under Title IV of the Social Security Act.

(b) For purposes of determining whether an alien has or has not

received a federal means-tested benefit during a quarter, the definition of federal means-tested benefit shall not include:

(i) medical assistance under Title XIX of the Social Security Act (medicaid) for emergency treatment of an alien, not related to an organ transplant procedure, if the alien otherwise meets eligibility for medical assistance under the state plan;

(ii) short-term, non-cash, in-kind emergency disaster relief;

(iii) assistance or benefits under the National School Lunch Act;

(iv) assistance or benefits under the Child Nutrition Act of 1966;

(v) public health assistance (not including any assistance under Title XIX medicaid) for immunizations, and testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by communicable diseases;

(vi) payments for foster care and adoption assistance under Part B and E of Title IV of the Social Security Act for a parent or child who would, in the absence of the restriction of eligibility for aliens contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, be eligible for such payments made on the child's behalf, but only if the foster or adoptive parent (or parents) of such child is a qualified alien;

(vii) programs, services, or assistance, delivering in-kind services at the community level and necessary for the protection of life or safety, that do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided, on the individual recipient's income or resources;

(viii) programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act;

(ix) means-tested programs under the Elementary and Secondary Education Act of 1965;

(x) benefits under the Head Start Act;

(xi) benefits under the Workforce Investment Act.

(6) **Adjustments in status:** Each category of eligible alien status stands alone for purposes of determining eligibility.

(a) When a qualified alien determined to be an eligible alien not required to meet the five year bar adjusts to an eligible alien status that must meet the five year bar they will not lose ~~[food stamp]~~ SNAP eligibility.

(b) Upon expiration of one eligibility status, the department must determine if eligibility exists under another status.

C. Verification of citizenship/eligible alien status: U.S. citizenship is verified only when client statement of citizenship is inconsistent with statements made by the applicant or with other information on the application, previous applications, or other documented information known to HSD.

(1) **U.S. citizenship:** Any member whose U.S. citizenship is questionable is ineligible to participate until proof of U.S. citizenship is obtained. The member whose citizenship is questionable shall have all of his resources and a pro rata share of income considered available to any remaining household members.

(2) **Eligible alien status:** Verification of eligible alien status is mandatory at initial certification. Only those household members identified as aliens with qualified and eligible alien status are eligible to participate in ~~[the FSP]~~ SNAP.

(3) **Ineligible or questionable alien status:** Any household member identified as an ineligible alien, or whose alien status is in question cannot participate in ~~[the FSP]~~ SNAP. ~~[The caseworker]~~ ISD is responsible for offering to contact the immigration and naturalization service if the alien has a document that does not clearly indicate eligible or ineligible alien status.

D. Need for documentation:

(1) Household members identified as aliens must present documentation, such as but not limited to, a letter, notice of eligibility, or identification card which clearly establishes that the alien has been granted legal status.

(2) ~~[A caseworker]~~ ISD shall allow aliens a reasonable time to submit acceptable documentation of eligible alien status. A reasonable time shall be 10 days after the date ~~[the caseworker]~~ ISD requests an acceptable document, or until the 30th day after application, whichever is longer.

(3) If verification of an individual's eligible status is not provided by the deadline, the eligibility of the remaining household members shall be determined. Verification of eligible alien status provided at a later date shall be treated as a reported change in household membership.

(4) During the application process, if an individual has been determined to be a qualified alien and either the individual or HSD submits a request to a federal agency for documentation to verify eligible alien status, HSD must certify the individual for up to six months pending the results of the inquiry. The six-month time limit begins in the month the original request for verification is made.

(5) If ~~[a caseworker]~~ ISD accepts a non-INS document and determines that it is reasonable evidence of eligible alien status, the document shall be copied and sent to INS for verification. ~~[The caseworker]~~ ISD shall not delay, deny, reduce, or terminate the individual's participation pending verification from INS.

(6) **Inability to obtain INS documentation:** If a household indicates an inability to provide documentation of alien status for any member of the household, that member shall be considered an ineligible alien. ~~[The caseworker]~~ ISD shall not continue efforts to contact INS when the alien does not provide any documentation from INS.

E. Failure to cooperate: If a household, or a household member, indicates an unwillingness to provide documentation of alien status for any member, that member shall be considered an ineligible alien. ~~[The caseworker]~~ ISD shall not continue efforts to get documentation.

F. Reporting illegal aliens:

(1) HSD shall inform the local DHS office only when an official determination is made that any member of a household who is applying for or receives benefits is present in the US in violation of the INA. An official determination that an illegal alien is in the US in violation of the INA is only made when:

(a) the illegal alien's unlawful presence is a finding of fact or conclusion of law that is made by HSD as part of a formal determination about the individual's eligibility; and

(b) HSD's finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully

residing in the US, such as a final order of deportation.

(2) A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.

(3) Illegal alien status is considered reported when [~~the caseworker~~] ISD enters the information about the non-citizen on the household's computer file.

G. Income and resources of ineligible aliens: All the resources and a prorated share of income of an ineligible alien, or of an alien whose alien status is unverified, shall be considered in determining eligibility and SNAP benefit amount for the remaining eligible household members.

[02/01/95, 07/01/98, 02/01/99; 8.139.410.9 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.412, 05/15/2001; A, 02/14/2002; A, 10/01/2002; A, 04/01/2003; A, 10/01/2003; A, 06/01/2011]

8.139.410.11 NONCONCURRENT RECEIPT OF ASSISTANCE (DUAL PARTICIPATION)

A. In no event may an individual receive [~~food-stamp~~] SNAP benefits in more than one household in the state of New Mexico in the same month, with the exception of [~~women and children in battered women's shelters~~] individuals residing in shelters for battered persons (Subsection B of 8.139.410.10 NMAC). In addition, an individual may not receive [~~food-stamp~~] SNAP benefits in the state of New Mexico and any other state, or the territories of Guam, the Virgin Islands, or Puerto Rico, in the same month. An individual or household participating in a commodity distribution program administered by any Indian tribal organization (ITO) on an Indian reservation is not eligible to receive [~~food-stamp~~] SNAP benefits in the same month that commodities are received. A household need not be living on the Indian reservation to participate in an Indian tribal commodities program. If [~~an ISS~~] ISD determines that an individual or household has received [~~food-stamp~~] SNAP benefits to which it was not entitled because of dual participation, a claim will be filed for any month in which there was an over-issuance of [~~food-stamp~~] SNAP benefits.

B. Disqualification for receipt of multiple benefits: A finding that an individual has received multiple [~~food-stamp~~] SNAP benefits simultaneously as a result of an administrative disqualification hearing and IPV, or a conviction in federal or state court, will result in a ten year disqualification period. The income and resources of the disqualified individual will continue to count in their entirety to the household while the individual remains in the home.

[02/01/95, 07/01/98; 8.139.410.11 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.414, 05/15/2001]

8.139.410.12 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) WORK PROVISIONS AND EMPLOYMENT AND TRAINING PROGRAM

(E&T): Any SNAP recipient may be subject to work requirements. SNAP recipients who do not meet a federal exemption must meet the work requirements in accordance with Subsection B of this section. Federal exemptions from work requirements are found at 7 Code of Federal Regulation (CFR) 273.7(a)(6) and (b). SNAP recipients may be

subject to E&T program participation requirements. SNAP recipients who do not meet a state or federal exemption for E&T work program participation are general participants (participants). The state and federal exemptions are listed in Paragraphs (1) and (2) of Subsection C of this section. A participant will follow all program requirements per 7 CFR 273.7 and as contained in this rule. Participants are voluntary until October 1, [2016] 2017, when they become mandatory, unless exempted, at the time of initial application or at recertification, whichever occurs first.

A. Work requirements: The department will administer the work requirements in accordance with 7 CFR 273.7[(a), (b) and (e)]. As a condition of eligibility for participation in SNAP, every household member who does not qualify for a federal exemption, must meet work requirements as outlined in Subsection B of this section. Federal exemptions from work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be:

- (1) obvious to the department and documented in the case file; or
- (2) not obvious to the department, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

B. Compliance with work requirements and consequences of noncompliance: An individual who is not temporarily waived or exempt in accordance with 7 CFR 273.7(a)(6) and (b) must:

- (1) register for work at the time of application and every 12 months thereafter; all SNAP participants are considered registered for work with the head of household's signature on an application or recertification form for SNAP participation;
- (2) participate in an E&T program to the extent required by law;
- (3) provide ISD or E&T program service provider with information regarding employment status, participation in E&T program status, or availability for work;
- (4) report to an employer referred to by ISD or its designee if the potential employment meets the suitability requirements in accordance with 7 CFR 273.7(h);
- (5) accept a bona fide offer of suitable employment at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the federal or state minimum wage or eighty percent of the wage that would have governed had the minimum hourly rate of the Fair Labor Standards Act been applicable to the offer of employment; and
- (6) not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week within the 30 day period prior to the household's application date, or any time after filing an application, or any time during the household's certification period in accordance with 7 CFR 273.7(a)(vii) [and 8.139.410.13 NMAC].

(7) Consequences of non-compliance with work requirements will be in accordance with 7 C.F.R. 273.7(f).

(a) For the first occurrence of noncompliance, the individual will be disqualified for 3 months or until compliance, whichever occurs later;

(b) For the second occurrence of noncompliance, the individual will be disqualified for 6 months or until compliance, whichever occurs later; and

(c) For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months or until compliance, whichever occurs later.

C. E&T program participation exemptions: The department will screen each work registrant in accordance with 7 CFR 273.7(c). SNAP recipients not otherwise exempted as determined by the department are subject to the E&T program participation requirements beginning on October 1, 2016. Failure to comply with the requirements, without good cause, will result in disqualification in accordance with Subsection L of 8.139.410.12 NMAC.

(1) Federal exemptions: Individuals are temporarily waived or exempt from the E&T program participation in accordance with 7 CFR 273.7(a)(6), (b)(1), and (d)(4)(v).

(2) State exemptions: The following individuals are exempt from E&T program participation:

(a) a parent or other household member who is responsible for the care of a dependent child under age 13; if the child has their thirteenth birthday during the certification period, the individual responsible for the care of the child is required to participate in the E&T program as part of the next scheduled recertification, unless the individual qualifies for another exemption;

(b) a pregnant woman;

(c) workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

(d) any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by the department, will not be required to participate in the E&T program;

(e) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by the department; or

(f) any individual determined to be an able bodied adult, in accordance with 8.139.410.14 NMAC.

(3) Interim changes in status: Anyone losing exempt status because of changes required to be reported under 7 CFR 273.12, will have their E&T status determined at recertification. Anyone gaining exempt status because of changes reported will have their E&T status updated when it is reported.

(4) Relocation changes: Participants who relocate within the state retain their E&T participation status at their new location unless their circumstances change or their new location falls under a waiver as defined by the department.

D. General E&T program procedures:

(1) **Good cause for non-compliance with E&T participation:** ISD will address good cause in accordance with 7 CFR 273.7(i).

(a) Good cause is determined by considering the facts and circumstances involved, including information submitted by the individual, the individual's representative, the work experience service site or community service site.

(b) Good cause includes circumstances beyond an individual's control, such as, but not limited to:

- (i) participant illness;
- (ii) illness of another household member requiring the presence of the participating member;
- (iii) an individual or family crisis or a family circumstance that may preclude participation;
- (iv) lack of transportation and the distance to walk to the activity site exceeds five miles roundtrip;
- (v) participant whose physical residence is more than 30 miles away from an income support field office, workforce solutions office or E&T program service provider;
- (vi) court appearance of participant or household member;
- (vii) farmworkers who are away from their permanent residence or home base who travel to work in agriculture or a related industry during part of the year;
- (viii) an absence of dependent care or transportation support services necessary for participation;
- (ix) participant's receipt of job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;
- (x) participant is a victim of family violence; or
- (xi) no available jobs within reasonable commuting distance; a distance is considered unreasonable if the round trip exceeds two hours by public or private transportation.

(2) E&T program service provider responsibilities: The E&T program service provider is responsible for providing participants referred to the E&T program with an explanation of exemptions, assessment, orientation, development of individual responsibility plan (IRP), a work participation agreement (WPA) and good cause. The department and the E&T program service provider will provide language access services and any necessary reasonable accommodations to SNAP participants, in accordance with 7 CFR 15.

(a) Scheduling and conducting assessment and orientation sessions: The E&T program service provider will inform each participant of:

- (i) E&T program requirements and opportunities, including rights, responsibilities, good cause and exemptions;
- (ii) services; and
- (iii) benefits.

(b) Placing a participant in an activity component: A participant may be placed in any component deemed appropriate in accordance with 7 CFR 273.7(c) by the E&T program service provider;

(c) Authorizing reimbursements: The E&T program service provider staff will notify ISD of requests for reimbursement of expenses that are reasonably necessary and directly related to participation in the E&T program. ISD will authorize allowable reimbursements up to the monthly limit established by the department in accordance with 7 CFR 273.7(d)(4).

(d) Reporting changes to the department: The following changes, if reported by the participant to the E&T program service provider, will be shared with ISD:

- (i) participants who become exempt;
- (ii) potential good cause;
- (iii) participants who request closure of SNAP benefits;
- (iv) participants who relocate;
- (v) participants who fail or refuse to comply; or
- (vi) voluntary work participants who no longer wish to

volunteer.

E. Assessment: An assessment must be completed by a participant and the E&T program service provider no later than 15 calendar days after an application or recertification form for SNAP participation is approved. Assessment tools and forms will be used to address the participant's education, skills, prior work experience, employability, and barriers. The assessment will be utilized to identify exemptions, potential good cause, and to determine appropriate activity placement.

F. Orientation: Participants will be provided a program orientation that explains the program and its objectives. The orientation will include the following information:

- (1) the participants rights and responsibilities;
- (2) support services;
- (3) benefits of participation in the E&T work program; and
- (4) consequences of non-compliance with the E&T work program

requirements.

G. Individual responsibility plan (IRP): Participants may complete an IRP with the assistance of the E&T program service provider. The IRP shall include a specific achievable goal or goals and a plan for securing and maintaining employment.

H. Work participation agreement (WPA):

(1) **Requirements:** The WPA is an agreement between the participant and the department. Participants must complete the WPA with the E&T program service provider:

- (a) no later than 30 calendar days from date of approval for benefits;
- (b) no later than five calendar days after the expiration of an existing WPA; and
- (c) the WPA will be reevaluated by the parties at recertification and for changes in circumstances as reported.

(2) **WPA Elements:** The WPA will:

- (a) list the participant's approved E&T allowable component(s);
- (b) list the level of effort for each activity;
- (c) list the support services available and to be provided by the department;
- (d) list the reasonable accommodations that may be necessary to ensure meaningful engagement;
- (e) be explained to the participant; and
- (f) be approved and signed by the E&T program service

provider.

I. E&T allowable components: ISD will administer E&T components in accordance with 7 CFR 273.7(e).

(1) **Determination of required hours:** At initial eligibility and recertification, participants will be required to participate in any combination of the components below, as assigned by the E&T program service provider, for a minimum requirement of up to 12 or 24 activity hours within the initial consecutive three month period during the 12 month certification period from the date of SNAP benefit approval.

(a) Individuals in a rural area will be required to complete up to 12 activity hours. Rural area is defined as a county containing a core urban area of 50,000 or fewer people as defined by office of management and budget (OMB) metropolitan statistical area designation. An individual residing on a tribe, pueblo, or nation that is also within such a county, will be defined as living in a rural area. Individuals residing in an area that is determined to be non-rural, as defined by OMB, will be required to complete up to 24 activity hours.

(b) The collective hours a household must complete will be determined in accordance with 7 CFR 273.7(e)(3)(ii).

(2) **Individual or group job search with employer contacts:**

(a) **General:** The purpose of the job search component is to provide the participant a reasonable opportunity to find suitable employment.

(b) **Component activities:** All participants are required to register as a “job seeker” through the New Mexico department of workforce solutions (DWS), “New Mexico workforce connection”. The department will verify registration in accordance with 8.100.130.9 NMAC. All participants in this component are required to complete the individual or group job search training with employer contacts. One job search activity is equal to one hour of activity. Job search activity examples can be found at 7 CFR 273(e).

(3) **Work experience:**

(a) **General:** The purpose of the work experience component is to improve the employability of participants.

(b) **Component activities:**

(i) on-the-job skills training;

(ii) work experience related to their occupational

interests.

(c) The number of hours necessary for compliance in this component are calculated in accordance with 7 CFR 273.7(e)(1).

(4) **Community service:**

(a) **General:** The purpose of the community service component is to provide on-the-job skills training and to assist the communities of participants.

(b) **Component activities:**

(i) on-the-job skills training;

(ii) work-like experience.

J. Federal financial participation: Federal financial participation will be in accordance with 7 CFR 273.7(d).

K. Reimbursement: Participants who incur expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by the department, in accordance with 7 CFR 273.7(d)(4).

L. Disqualification for non-compliance: Participants who fail to:

(1) timely complete the assessment;

(2) timely complete a WPA; and
(3) comply with assigned component requirements and their required hours of participation as outlined in their WPA will be disqualified in accordance with 7 CFR 273.7(f).

(4) **Individual disqualification:** A participant who fails or refuses to comply with the E&T program participation will be considered an ineligible household member in accordance with 7 CFR 273.7(f). Any participant who fails or refuses to comply with the E&T participation, without good cause will be disqualified as follows:

(a) first occurrence: for three months or until compliance, whichever occurs [~~earlier~~] later;

(b) second occurrence: for six months or until compliance, whichever occurs [~~earlier~~] later;

(c) third occurrence: for one year or until compliance, whichever occurs [~~earlier~~] later.

(5) **Individual that is voluntarily participating:** Any individual that is voluntarily participating in the E&T program is not subject to disqualification for non-compliance.

(6) **Treatment of income and resources:** All the income and resources of an individual disqualified for non-compliance with work requirements will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520 NMAC.

(7) **Notice of adverse action:** Within 10 days of determining that a participant has failed to meet an E&T requirement, the department shall issue a notice of adverse action in accordance with 7 CFR 273.7(c)(3).

(8) **Determining the SNAP ineligibility period:** ISD will determine, track and notify participants of disqualification periods in accordance with 7 CFR 273.7(f) and 273.13.

M. Head of household provisions:

(1) **Designation:** The household may designate a head of household in accordance with 7 CFR 273.1(d).

(2) **E&T requirements:** For purposes of determining compliance with the E&T program, the head of household will be considered as an individual household member. If the head of household fails to comply, the head of household will be disqualified in accordance with the disqualification penalties in 8.139.410.12 NMAC.

N. Fair hearings: Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status, or a state agency determination of failure to comply with SNAP work requirements, in accordance with 7 CFR 273.7(f)(6).

[02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013; A, 10/01/2014; A, 01/01/2016; A, 01/01/2016]

8.139.410.13 [VOLUNTARY QUIT AND REDUCTION OF HOURS

~~A. **Voluntary quit/reducing work hours:** When a household reports a loss of income or reduction in work hours, a determination must be made whether any member has voluntarily quit a job or reduced work hours without good cause or if the individual is an employee of the federal government, or state or a political subdivision of~~

the state, who is dismissed for participating in a strike against the federal government, state or political subdivision of the state.

_____ **(1) — Period for establishing voluntary quit or a reduction in work hours:** A determination of voluntary quit or reduction in work hours shall be made within the 60 day period prior to the household's application date, or any time after filing an application, or any time during the household's certification period.

_____ **(2) — Verification requirements:** Verification of the circumstances surrounding the quit or reduction in work hours is required. Verification is mandatory for all individuals participating in the SNAP program. Benefits may not be conditionally granted pending verification of voluntary quit or reduction in work hours, except when verification cannot be obtained prior to the expedited service time limit.

_____ **(3) — Providing verification:** The primary responsibility for providing verification of the circumstances surrounding a quit or reduction in work hours rests with the household.

_____ **(a) —** Acceptable sources of verification include, but are not limited to: the employer at the time of quit, employee associations, union representatives, grievance committees or organizations.

_____ **(b) —** If documentary evidence cannot be obtained, a collateral contact may be used. The ISD will obtain verification from acceptable collateral contacts provided by the household.

_____ **(c) —** If the household and ISD are unable to obtain requested verification because the reason for the quit or reduction in work hours resulted from circumstances that cannot be verified for good cause, the ISD will use the best source of information available. The household will not be denied access to the FSP.

_____ **(d) —** Circumstances which cannot be verified for good cause may include a refusal by an employer to provide information, discriminatory practices or unreasonable demands by an employer, or an inability to locate the employer.

_____ **(4) — Applicant households:** In the case of an applicant household, if any household member subject to SNAP E&T work requirements voluntarily quit a job or reduced work effort, that individual shall be disqualified according to Subsection F of 8.139.410.12 NMAC. The disqualification is effective upon a determination of eligibility for the remaining household members.

_____ **(5) — Participating households:** In the case of a participating household, if a household member is determined to have voluntarily quit a job or reduced work effort without good cause, that individual shall be disqualified according to Subsection F of 8.139.410.12 NMAC. The disqualification is effective the first month following the expiration of the notice of adverse action time limit.

_____ **B. — Disqualification for voluntary quit or a reduction in work hours:** No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in the SNAP program if the individual has voluntarily quit or reduces work hours, without good cause, or is striking against the government.

_____ **(1) — Individual disqualification:** Any individual who voluntarily quits a job, or reduces work hours without good cause will be disqualified as follows:

_____ **(a) — first occurrence:** for three months;

_____ **(b) — second occurrence:** for six months;

_____ **(c) — third occurrence:** for one year.

_____ **(2) — Lifting the disqualification:** An individual who has been disqualified due to voluntary quit or reduction in work hours may resume participation

when the disqualification period expires or by becoming exempt from E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible.

~~(3) Treatment of income and resources:~~

~~(a) All the income and resources of an individual disqualified for voluntary quit or reduction of work hours will be counted to determine the household's income and resource maximum levels, and benefit amount (see Subsection C of 8.139.520.10 NMAC).~~

~~(b) In the case of an applicant household, where there has been a determination of voluntary quit or reduction in work hours without good cause within 60 days prior to the application date, the earned income lost as a result of the quit or reduction in hours shall not be counted.~~

~~(c) When a determination is made that a household member has voluntarily quit or reduced work hours without good cause after an application is filed, but before approval, the earned income of the disqualified individual that would have been countable at application shall be calculated and used to determine the eligibility and benefit amount of the remaining household members.~~

~~(d) In the case of a participating household, where there has been a determination of voluntary quit or reduction in work hours without good cause, the department shall ensure that, as a result of the individual disqualification:~~

~~(i) the household's SNAP benefits do not increase for the length of the disqualification period;~~

~~(ii) the household's SNAP benefit amount for the length of the disqualification period is calculated by using the disqualified individual's income prior to the quit or reduction; and~~

~~(iii) the household will be issued the lesser of the SNAP benefit amount the household is eligible for prospectively or the SNAP benefit amount the household was receiving prior to the individual's disqualification.~~

~~(e) Any reported change that does not relate to the individual disqualification shall be processed after the appropriate determination in (a), (b) or (c) or (d) above is made. SNAP benefits shall be increased or decreased according to the change processing requirements at 8.139.120.10 NMAC.~~

~~C. Suitability and good cause: The ISD must make a determination whether there was good cause for the voluntary quit or reduction in work hours. Individuals determined to have good cause will be registered for work and must comply with E&T work requirements, unless an exemption in Paragraph (2) of Subsection D of 8.139.410.12 NMAC is met. For purposes of determining suitability of employment and good cause for noncompliance with the work requirements in Subsection C of 8.139.410.12 NMAC, the following considerations may be evaluated:~~

~~(1) Unsuitable employment: In addition to any suitability requirements established under the E&T work program, employment is not considered suitable if:~~

~~(a) the wage offered is less than the higher of:~~

~~(i) the applicable federal or state minimum wage; or~~

~~(ii) 80% of the federal minimum wage that would have governed had the minimum hourly rate under Section 6(a)(1) of the Fair Labor Standards Act of 1938 been applicable to the offer of employment;~~

~~(b) the employment offered is on a piece-rate basis and the~~

average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified in (a);

_____ (e) — the household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization;

_____ (d) — the work offered is at a site subject to a strike or lockout at the time of the offer, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act [29 U.S.C. 178] commonly known as the Taft Hartley Act, or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160);

_____ (e) — the degree of risk to health and safety is unreasonable;

_____ (f) — the member is physically or mentally unfit to perform the job duties, as documented by medical evidence or by reliable information from other sources;

_____ (g) — the employment offered within the first 30 days is not in the member's major field of experience;

_____ (h) — the distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting; employment is not considered suitable if daily commuting exceeds two hours per day, not including transporting a child to and from a child care facility; nor is employment considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site;

_____ (i) — the working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs; for example, a Sabbatarian may refuse to work on the Sabbath.

_____ (2) — **Good cause for voluntary quit/reducing work hours:** Good cause includes the following and must be evaluated on a case by case basis:

_____ (a) — circumstances beyond the individual's control, such as those that prevent compliance with E&T work registration as described in Paragraph (2) of Subsection E of 8.139.410.12 NMAC;

_____ (b) — resigning from a job that does not meet the criteria used to establish suitable employment in Paragraph (1) of Subsection B of 8.139.410.13 NMAC;

_____ (c) — discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;

_____ (d) — work demands or conditions that make continued employment unreasonable, such as working without being paid on schedule;

_____ (e) — enrollment of an individual at least half-time in a recognized school, training program, or institution of higher education which requires the individual to leave employment, or which requires the household to move to another county or political subdivision;

_____ (f) — resignations by individuals under age 60 which are recognized by the employer as retirement;

_____ (g) — acceptance of a bona fide offer of employment of more than 20 hours per week in which the weekly earnings are equivalent to the federal minimum wage multiplied by 20, which because of circumstances beyond the control of the individual, subsequently either does not materialize or results in employment of less than 20 hours per week or weekly earnings of less than the federal minimum wage

multiplied by 20 hours;

~~(h) leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm workers or construction workers; even though work at the new site has not actually begun, quitting previous employment is considered to be for good cause if it is part of the pattern of that type of employment.]~~ **Reserved**

[8.139.410.13 NMAC - N, 04/01/2010]