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## Manual Revision Memorandum

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**ISD-MR 16-02**

**TO:** ISD Employees  
**FROM:**  Marilyn Martinez, Director, Income Support Division  
**DATE:** January 26, 2016  
**RE:** Manual Revision (MR) for NM Human Services Register Vol. 38 No. 37

**BACKGROUND:**

This MR is being sent in coordination with the NM Human Services Register Vol. 38 No. 37 which can be located at:

<http://www.hsd.state.nm.us/uploads/files/Looking%20For%20Information/General%20Information/Procedures/ISD%20-%20MRs/HSR%20Vol%2038%20%20No%2037.pdf>

The changes to the New Mexico Administrative Code (NMAC) place the NM Income Support Division (ISD) in compliance with federal and state laws and regulations.

**RECESSION AND SUPERSESSION OF OTHER POLICY STATEMENTS:**

This MR supersedes all previous MRs, IPPs, GIs, and all other memorandums, directives, flow charts, organizational charts, procedures, and policies published by the Income Support Division dealing with the subject contained in this MR.

**Instructions:**

Delete - 8.139.410 NMAC, Sections 12 and 14  
Replace - 8.139.410 NMAC, Sections 12 and 14 (as amended)

If you have any questions regarding this memorandum, please contact Marisa Vigil at 505-827-1326 or [Marisa.Vigil@state.nm.us](mailto:Marisa.Vigil@state.nm.us).

Attachment: 1- Resource and policy update guide

## **REVISED SECTIONS:**

Sections 12 and 14 of 8.139.410 NMAC were amended to separate and clearly define federal work registration requirements, Employment and Training (E&T) participation requirements, and the federally mandated ABAWD three month time limit.

### **Work Registration requirements:**

- As a condition of eligibility for participation in SNAP, every household member who does not qualify for a federal exemption must meet work requirements.

### **E&T participation requirements:**

- SNAP recipients not otherwise exempted as determined by the department are subject to the E&T program participation requirements beginning on October 1, 2016.

### **ABAWD three month time limit:**

- Individuals identified as an ABAWD can only receive SNAP benefits for 3 months in a fixed 36 month period unless they meet the ABAWD work requirement. The department will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This rule becomes effective as of January 1, 2016. The first fixed period will be in effect from January 1, 2016 through December 31, 2018.

These sections, as amended, also separate and clearly define Federal exemptions, State exemptions and Federal exceptions and waivers that apply to ABAWDs.

### **Federal exemptions:**

- Exempt an individual from work requirements, E&T participation requirements and the federally mandated ABAWD three month time limit.

### **State exemptions:**

- Exempt an individual from E&T participation requirements; individuals may still subject to work requirements, unless otherwise exempt.

### **Federal exceptions:**

- Except an individual from the ABAWD three month time limit; individuals may still be subject to work requirements and E&T participation requirements, unless otherwise exempt.

**Federal waiver:** The department will waive the three month time limit requirement for the following in accordance with 7 CFR 273.24(f):

- Any individual residing in or relocating to a county that has an unemployment rate 20 percent above the national average as defined by the department.

- 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.

The department amended the disqualification process to state “whichever is earlier” instead of “whichever is later”; this means an individual’s disqualification may be lifted before the occurrence level disqualification period ends.

- Section 12 of 8.139.410 NMAC defines SNAP recipients, who are classified as general E&T participants, must participate in the SNAP E&T program effective October 1, 2016, on initial approval of benefits or recertification, whichever is first.
- Section 14 of 8.139.410 NMAC reinstates the federally mandated three month time limit for able bodied adults effective January 1, 2016. Various individuals will be exempt, excepted and waived from ABAWD participation.

**Changes made to these policy sections are effective January 1, 2016.**

<b>POLICY (NMAC) UPDATE GUIDE</b>		
<b>NMAC Citation</b>	<b>PREVIOUS</b>	<b>FINAL</b>
8.139.410.12 (A), (B), (C)	Previously, these sections referred to E&T work registration, Compliance with E&T work requirements and non-compliance with E&T work requirements.	<p>As amended, 8.139.410.12(A) and (B) outline Work Requirements and Compliance with Work Requirements. 8.139.410.12(C) outlines E&amp;T program participation exemptions.</p> <p>As amended, the department made a clear distinction between federal and state exemptions.</p> <p>The department is applying the federal exemptions in accordance with 7 CFR 273.7(a)(6), (b)(1), and (d)(4)(v).</p> <p>The department has added the following state exemptions:</p> <ul style="list-style-type: none"> <li>• any individual residing in or relocating to a county that has an unemployment rate 20 percent above the national average as defined by the department, will not be required to participate in the E&amp;T program</li> <li>• 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</li> <li>• any individual determined to be an able</li> </ul>

		<p>bodied adult, in accordance with 8.139.410.14 NMAC</p> <p>Interim Changes and Relocation changes were previously in 8.139.410.12(D)(3) and have been moved to 8.139.400.12(C)(3) and (4).</p>
<p>8.139.410.12(D)</p>	<p>Previously this section outlined E&amp;T work requirements:</p> <ul style="list-style-type: none"> <li>• General conditions of registration.</li> <li>• Individuals exempt from registration.</li> <li>• Interim changes in status.</li> <li>• Processing Changes.</li> <li>• Residing in a non-work program county.</li> </ul>	<p>As amended, this section outlines General E&amp;T program procedures:</p> <ul style="list-style-type: none"> <li>• Good Cause for non-compliance.</li> <li>• E&amp;T program service provider responsibilities.</li> </ul> <p>ISD will address good cause in accordance with 7 CFR 273.7(i). The department has amended the rule to include additional good cause reasons, such as:</p> <ul style="list-style-type: none"> <li>• an individual or family crisis or a family circumstance that may preclude participation</li> <li>• lack of transportation and the distance to walk to the activity site exceeds five miles roundtrip</li> <li>• participant whose physical residence is more than 30 miles away from an income support field office, workforce solutions office or E&amp;T program service provider</li> <li>• court appearance of participant or household member</li> <li>• 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</li> <li>• an absence of dependent care or transportation support services necessary for participation</li> <li>• 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</li> <li>• participant is a victim of family violence</li> <li>• no available jobs within reasonable commuting distance; a distance is considered unreasonable if the round trip exceeds two hours by public or private transportation</li> </ul> <p>As amended, the rule states that the E&amp;T service provider must explain exemptions and provide an</p>

		<p>assessment <i>prior</i> to completing the orientation.</p> <p>As amended, ISD is now responsible to approve and issue reimbursements; previously it was the responsibility of the E&amp;T service provider. The E&amp;T program service provider staff will notify ISD of the request for reimbursement of expenses that are reasonably necessary and directly related to participation in the E&amp;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).</p>
8.139.410.12(E)	<p>Previously this section was the E&amp;T work program and outlined:</p> <ul style="list-style-type: none"> <li>• Work Registrant responsibilities</li> <li>• HSD responsibilities</li> <li>• Reporting changes to the E&amp;T work program</li> <li>• Work Program responsibilities</li> <li>• Good cause for noncompliance with E&amp;T work requirements</li> </ul>	<p>As amended, this section of the rule states that the assessment must be completed by a participant and the E&amp;T program service provider no later than 15 calendar days after an application or recertification form for SNAP participation is approved.</p>
8.139.410.12(G)	<p>Previously this section outlined the Assessment that is provided by the E&amp;T work program.</p>	<p>As amended, this section of the rule outlines the Individual Responsibility Plan (IRP) that may be completed by the NMW Service Provider with the participant.</p>
8.139.410.12(H)	<p>Previously this section outlined the IRP:</p> <ul style="list-style-type: none"> <li>• Requirements.</li> <li>• General purpose.</li> <li>• Elements.</li> </ul>	<p>As amended, this section of the rule outlines the Work Participation Agreement (WPA):</p> <ul style="list-style-type: none"> <li>• Requirements.</li> <li>• WPA elements.</li> </ul>

<p>8.139.410.12(I)</p>	<p>Previously this section outlined the WPA:</p> <ul style="list-style-type: none"> <li>• General purpose.</li> <li>• Contents of the agreement.</li> <li>• Completion of the WPA.</li> <li>• Disqualification.</li> </ul>	<p>As amended, this section of the rule outlines E&amp;T allowable components. ISD will administer E&amp;T components in accordance with 7 CFR 273.7(e). This section includes:</p> <ul style="list-style-type: none"> <li>• Determination of required hours.</li> <li>• Individual or group job search with employer contacts.</li> <li>• Work Experience.</li> <li>• Community Service.</li> </ul> <p>The department removed the verbiage that referred to “<i>successful completion</i>” of the individual or group job search with employer contacts in order to be eligible for the transportation reimbursement; this is no longer a requirement.</p>
<p>8.139.410.12(J)</p>	<p>Previously this section outlined E&amp;T component:</p> <ul style="list-style-type: none"> <li>• Allowable components</li> <li>• Individual or group Job Search with employer contacts</li> </ul>	<p>As amended, this section of the rule outlines Federal Financial Participation will be in accordance with 7 CFR 273.7(d).</p>
<p>8.139.410.12(K)</p>	<p>Previously this section outlined E&amp;T work program support services:</p> <ul style="list-style-type: none"> <li>• Child Care</li> <li>• Transportation</li> </ul>	<p>As amended, this section of the rule outlines reimbursements. There is no longer a requirement to successfully complete an activity to be eligible for reimbursements. The rule now states:</p> <ul style="list-style-type: none"> <li>• Participants who incur expenses that are reasonably necessary and directly related to participation in the E&amp;T program will be reimbursed up to the monthly limit as determined by the department, in accordance with 7 CFR 273.7(d)(4).</li> </ul>
<p>8.139.410.12 (L)</p>	<p>Previously disqualifications were for the extent of the occurrence level whether compliance occurred or not.</p> <ul style="list-style-type: none"> <li>• <b>First occurrence</b> – until compliance or for three months, whichever is later;</li> <li>• <b>Second occurrence</b> - until</li> </ul>	<p>The verbiage “whichever is later” was removed and replaced with:</p> <ul style="list-style-type: none"> <li>• <b>First occurrence</b> - for three months or until compliance; whichever is earlier.</li> <li>• <b>Second occurrence</b> - for six months or until compliance; whichever is earlier.</li> <li>• <b>Third occurrence</b> - for one year or until compliance; whichever is earlier.</li> </ul> <p>This means an individual’s disqualification may be</p>



	<p>compliance or for six months, whichever is later;</p> <ul style="list-style-type: none"> <li>• <b>Third occurrence:</b> - until compliance or for one year, whichever is later.</li> </ul>	<p>lifted before the occurrence level if compliance is met.</p>
8.139.410.12(N)	N/A	<p>As amended, this section of the rule outlines the right to 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).</p>
8.139.410.14	<p>Previously this section was suspended based on the American Recovery and Reinvestment Act of 2009 effective April 1, 2009.</p>	<p>As amended this rule is effective January 1, 2016. The department is re-implementing the federally mandated 3 month time limit for ABAWDs. The department will use a fixed 36 month period for measurement and tracking purposes. The first fixed period will be in effect from January 1, 2016 through December 31, 2018.</p>
8.139.410.14(A)	<p>Previously this section outlined ABAWD exemptions.</p>	<p>As amended, this section of the rule outlines how an able bodied adult can comply.</p> <p>The rule was amended to define “unpaid work”.</p> <p>The rule was amended to define what makes Job Search an acceptable ABAWD activity.</p>
8.139.410.14(B)	<p>Previously this section outlined the Time limited eligibility for ABAWDs:</p> <ul style="list-style-type: none"> <li>• 36 month period.</li> <li>• Countable months.</li> </ul>	<p>As amended, this section of the rule outlines how good cause is determined and provides possible good causes that an individual may qualify for.</p>
8.139.410.14(C)	<p>Previously this section outlined how an ABAWD could fulfill the 20-hour-a-week work requirement.</p> <ul style="list-style-type: none"> <li>• Working</li> <li>• Work activities</li> <li>• Work program</li> </ul>	<p>As amended, this section of the rule outlines individuals that are waived from the time limit requirements. The department will waive the three month time limit requirement for the following in accordance with 7 CFR 273.24(f).</p>
8.139.410.14(D)	<p>Previously this section outlined reporting and verifying work participation.</p>	<p>As amended, this section of the rule outlines that an ABAWD can regain eligibility in accordance with</p>

		7 CFR. 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).
8.139.410.14(E)	Previously this section outlined Good Cause for failure to meet the work requirement.	As amended, this section of the rule outlines the federal Exceptions found at 7 CFR 273.24(c) to the 3 month time limit.  As amended, this section defines physical and mental unfitness and defines how physical and mental unfitness can be verified if it is not obvious.
8.139.410.14(F)	Previously this section outlined Regaining Eligibility	As amended, this section of the rule outlines how the department will administer the 15 percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by the department, in accordance with 7 CFR 273.24(g).
8.139.410.14(G)	Previously this section outlined failure to meet the work requirements after regaining eligibility	As amended, this section of the rule was removed and this information was included in 8.139.410.14(D).  This section outlines that an ABAWD can regain eligibility in accordance with 7 CFR. 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).
8.139.410.14(H)	Previously this section outlined costs.	As amended, this section of the rule was removed.  The department will only administer reimbursement to individuals who participate in an E&T component in order to meet their ABAWD requirement. ABAWDs who do not utilize an E&T component will not be eligible for a reimbursement.

### FORMS

FSP 200- Able Bodied Adult Time Limit Exemption Request 12/17/2015	FSP 300- SNAP Medical & Caretaker Exemption Form 11/15/2015
FSP 400- Verification of Able Bodied Adult Time Limit Requirement 12/21/2015	FSP 020- SNAP Employment and Training Program (E&T) Transportation Reimbursement Claim Form 11/04/2015
FSP 013- SNAP Worker Checklist 12/22/2015	FSP 005- E&T Work Activity Placement 10/29/2015
DWP 273- Community Service Agreement 10/03/2014	DWP 272- Work Experience Training 10/03/2014

The forms are posted on [\ditsfasv025\ISDForms](#)



## **PROCEDURES/FURTHER DISCUSSION**

### **E&T Program Participant Requirement**

Currently the E&T program is voluntary. Effective October 1, 2016, SNAP recipients, who are classified as general E&T participants who are not exempt, will be mandatory to participate in the SNAP E&T program effective on initial approval of benefits or recertification, whichever occurs first.

### **ABAWD 3 month time limit**

Effective January 1, 2016, SNAP recipients identified as ABAWDs, will only be able to receive SNAP for 3 months, in a fixed 36 month period, unless they are meeting the ABAWD requirement or otherwise exempt. The first 36 month period will begin on January 1, 2016 and end on December 31, 2018.

ABAWD's that reside in the following counties, tribes, pueblos and nations are waived from the ABAWD time limit.

#### Counties

Cibola County	Rio Arriba County
Guadalupe County	Sierra County
Luna County	Taos County
McKinley County	Torrance County
Mora County	Valencia County

#### Tribes, Pueblos and Nations

Pueblo of Acoma	Pueblo of Cochiti
Pueblo of Isleta	Pueblo of Jemez
Jicarilla Apache Nation	Pueblo of Laguna
Mescalero Apache Nation	Pueblo of Nambe
Navajo Nation	Ohkay Owingeh Pueblo
Pueblo of Picuris	Pueblo of Pojoaque
Pueblo of Sandia	Pueblo of San Felipe
Pueblo of San Ildefonso	Pueblo of Santa Ana
Pueblo of Santa Clara	Pueblo of Santo Domingo
Pueblo of Taos	Pueblo of Zia
Pueblo of Zuni	Fort Sill Apache

## **REFERENCES**

Human Service Register Volume 38 Number 37

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

New Mexico Administrative Code (NMAC) 8.139.410.12 and 8.139.410.14

<http://www.hsd.state.nm.us/LookingForInformation/income-support-division-1.aspx>

Code of Federal Regulations (CFR) 7 CFR 273.7 and 7 CFR 273.24

[http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-idx?SID=be2e50425ae537db02e34778784bd584&mc=true&tpl=/ecfrbrowse/Title07/7cfr273_main_02.tpl)

[idx?SID=be2e50425ae537db02e34778784bd584&mc=true&tpl=/ecfrbrowse/Title07/7cfr273\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=be2e50425ae537db02e34778784bd584&mc=true&tpl=/ecfrbrowse/Title07/7cfr273_main_02.tpl)