



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

ELECTRONIC BENEFIT TRANSFER (EBT) TRANSACTIONS

III. PROGRAMS AFFECTED

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
EDUCATION WORKS PROGRAM
STATE TANF FOR QUALIFIED ALIENS
GENERAL ASSISTANCE
GENERAL ASSISTANCE FOR UNRELATED CHILDREN

IV. ACTION

PROPOSED REGULATION

V. BACKGROUND

Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) requires states receiving TANF grants to “maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

VI. PROPOSED REGULATIONS

This register and proposed regulations are available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/registers/ISDRegisters.html>. If you do not have Internet access, a copy of the proposed regulations may be requested by contacting Income Support Division Policy and Program Development Bureau at 505-827-7219.

VII. PUBLIC HEARING

A public hearing to receive testimony on this regulation will be held on March 10, 2014 from 9:00 a.m. to 10:00 a.m. The hearing will be held at the Income Support Division Conference Room at Pollon Plaza, 2009 S. Pacheco St., Santa Fe, NM 87505. The Conference room is located in room 120 on the lower level. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling toll free 1-800-432-6217.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the New Mexico Human Services Department toll free at 1-800-432-6217, in Santa Fe at 827-9454, or through the New Mexico Relay system, toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

IX. ADDRESS

Interested persons may address written or recorded comments to:

Sidonie Squier, Secretary
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to:

brandi.sandoval@state.nm.us

X. PUBLICATION

Publication of these regulations approved on 1/27/14 by:



SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 102 CASH ASSISTANCE PROGRAMS
PART 610 DESCRIPTION OF PROGRAM/BENEFITS - BENEFIT DELIVERY

8.102.610.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.102.610.1 NMAC - Rp 8.102.610.1 NMAC, 07/01/2001]

8.102.610.2 SCOPE: The rule applies to the general public.
[8.102.610.2 NMAC - Rp 8.102.610.2 NMAC, 07/01/2001]

8.102.610.3 STATUTORY AUTHORITY:

A. New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

B. Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, the New Mexico works program was created to replace the aid to families with dependent children program.

C. Under authority granted to the governor by the federal Social Security Act, the human services department is designated as the state agency responsible for the TANF program in New Mexico.

D. Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and Title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its cash assistance programs.

E. In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.
[8.102.610.3 NMAC - Rp 8.102.610.3 NMAC, 07/01/2001; A, 11/15/2007]

8.102.610.4 DURATION: Permanent.
[8.102.610.4 NMAC - Rn 8.102.610.4 NMAC, 07/01/2001]

8.102.610.5 EFFECTIVE DATE: July 1, 2001, unless a later date is cited at the end of a section.
[8.102.610.5 NMAC - Rp 8.102.610.5 NMAC, 07/01/2001]

8.102.610.6 OBJECTIVE:

A. The purpose of the New Mexico works (NMW) program is to improve the quality of life for parents and children by increasing family income, resources and support. The further purpose of the program is to increase family income through family employment and child support and by utilizing cash assistance as a support service to enable and assist parents to participate in employment.

B. The objective of education works program (EWP) is to provide cash assistance to a benefit group where at least one individual is enrolled in a post-secondary, graduate or post-graduate institution. Education and training are essential to long-term career development. The applicant or participating benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.
[8.102.610.6 NMAC - Rp 8.102.610.6 NMAC, 07/01/2001; A, 11/15/2007]

8.102.610.7 DEFINITIONS: [Reserved]
[8.102.610.7 NMAC - Rp 8.102.610.7 NMAC, 07/01/2001]

8.102.610.8 CASH ASSISTANCE:

A. Method of payment: Cash assistance benefits are paid by issuing funds into an EBT transfer account.

B. Initial issuance: The EBT card is issued to the payee or designated authorized representative during the application process prior to the application being approved. The applicant or participant shall receive training on the use of the EBT card prior to activation of the EBT card.

C. Replacement card: The caseworker, the HSD EBT help desk or the contractor customer service

help desk shall have the card deactivated once reported by participant that the card is lost, stolen, or destroyed. The card will be deactivated immediately and a replacement card provided to the participant. Once the card is deactivated, it cannot be reactivated for any reason.

D. Authorizing payments:

(1) Cash assistance benefits are authorized, changed, and terminated through the automated benefit delivery system.

(2) Initial payments are issued on the first mailing day following authorization. In the case of EBT, the transfer of funds takes place on the first working day after the day of authorization.

E. Initiation of payment:

(1) Payment is initiated and prorated from the date of authorization or from the 30th day after the day of application, whichever is earlier.

(2) If the case was eligible in a month prior to the month of approval, but is not eligible for payment in the month following the month of disposition, the benefit group is not eligible for payment in any of these months.

(3) **Payments effective in the current month:** A payment that is issued during the month is deposited into the EBT account no later than the business day after payment is approved.

(4) **Payments effective in the ongoing month:**

(a) When authorized, the payment amount remains the same from month to month until changed.

(b) EBT issuances are transmitted to the fiscal agent so that the funds are available on the first working day of the month. Payments authorized after the monthly transmission to the fiscal agent are issued as part of the next nightly benefit batch.

F. Change in amount of payment:

(1) Following approval, there is a continuing responsibility on the part of both the participant and the caseworker to make sure that eligibility and benefit amount are correctly determined. Failure on either side to recognize and carry out this responsibility can result in overpayment to the participant. Overpayments are charged to the participant regardless of fault.

(2) A participant's assistance grant shall be increased or decreased after receipt of information indicating that changes in a participant's circumstances may affect the amount of assistance to which the participant is entitled.

(3) Changes in the payment amount shall be made in accordance with changes in program policy.

G. Regular changes: A change in the benefit group circumstance may change the amount for which the group is eligible.

H. Other changes: If a change occurs which cannot be processed before the benefits issuance run, an overpayment or underpayment may occur. If an underpayment occurs, it shall be corrected by issuing a supplemental payment. In case of an overpayment, an overpayment claim shall be filed and appropriate efforts shall be made to recover the overpayment.

I. Whereabouts unknown: Benefits shall be terminated if the whereabouts of the benefit group are unknown to the department. A benefit group's whereabouts shall be considered to be unknown if:

(1) mail sent to the last known address is returned to the department indicating that the benefit group no longer lives at that address and at least 30 days have passed since the caseworker sent the mail; or

(2) the participant does not make any withdrawals from the participant's EBT account for 60 days or more.

J. Death of client:

(1) **Payment:** Payment may be made on behalf of a client who has been approved for cash benefits but has died before an EBT withdrawal was made. If the client was alive on the first day of the month for which cash assistance benefits were issued and all eligibility conditions were met at the time of death, then another person may be authorized to use the deceased recipient's benefits. A person authorized to use the deceased recipient's benefits must be the surviving spouse, next of kin, or a person with responsibility for the deceased recipient's affairs.

(2) **Withdrawing EBT benefits:** When payment is made in accordance with these circumstances, the county office shall not restrict or dictate the use of the money paid.

(3) ISD may authorize the issuance of a replacement EBT card to the person authorized to use the deceased recipient's benefits.

(4) EBT transactions shall not be in any liquor store; any casino, gambling establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclad

state for entertainment.

[8.102.610.8 NMAC - Rp 8.102.610.8 NMAC, 07/01/2001; A, 02/28/2007; A, 11/15/2007; A, 04/01/2014]

8.102.610.9 Stale benefits accounts: Stale benefit accounts are those cash assistance benefits accounts that have not been accessed for 90 days from the date of most recent withdrawal.

A. Offline accounts: EBT accounts which have not been accessed by the recipient in the last 90 days are considered a stale account. HSD may store stale benefits offline after notification to the household of this action.

(1) **Notification:** The department shall notify the household of this action before storing benefits in an offline account and provide necessary steps to reactivate the account.

(2) **Reinstatement:** The participant may contact the HSDEBT help desk, the contractor customer service help desk, or the caseworker and request reinstatement of their EBT account anytime within 180 days from the initial date of benefit activity. Initial date of benefit activity is the first deposit made to the account upon initial approval of the household's benefits. Requests from the participant to reinstate any benefit must be received prior to the date of expungement

B. Expungements: Cash assistance benefits which have had no activity for an excess of 180 days will be expunged. All benefits older than 180 days in the account will no longer be accessible to the household. The household loses all rights to all expunged benefits.

(1) The department shall attempt to notify the household no less than 45 days prior to the expungement of the cash assistance benefits.

(2) **Payments of claims against the household.** The contractor shall notify the department no less than five days prior to expungement of the cash assistance benefits and any cash assistance claims against the household shall be removed from the account and applied to the claims upon expungement.

[8.102.610.9 NMAC - Rp 8.102.610.9 NMAC, 07/01/2001; 8.102.610.9 NMAC - N, 02/28/2007]

8.102.610.10 SUPPORTIVE SERVICES:

A. The NMW work program provides supportive services on an ongoing basis, provided that the participant is eligible to receive the services during the month provided.

B. Participants must meet minimum participation requirements in order to receive supportive services reimbursements. Reimbursement for supportive services is issued by EBT payment to the benefit group in accordance with 8.102.620.14 NMAC thru 8.102.620.17 NMAC.

[8.102.610.10 NMAC - Rp 8.102.610.10 NMAC, 07/01/2001; 8.102.610.10 NMAC - Rn, 8.102.610.9 NMAC, 02/28/2007; A, 11/15/2007]

8.102.610.11 [RESERVED]

[8.102.610.11 NMAC - Rp 8.102.610.11 NMAC, 07/01/2001; A, 07/01/2004; 8.102.610.11 NMAC - Rn, 8.102.610.10 NMAC, 02/28/2007; Repealed, 11/15/2007]

8.102.610.12 DIVERSION PAYMENTS TO A NMW BENEFIT GROUP: The diversion payment is a non-recurring lump sum payment, issued to the recipient's EBT account in accordance to eligibility and amount specified at 8.102.500.10 NMAC.

[8.102.610.12 NMAC - Rp 8.102.610.12 NMAC, 07/01/2001; A, 12/15/2005; 8.102.610.12 NMAC - Rn, 8.102.610.11 NMAC, 02/28/2007; A, 11/15/2007]

8.102.610.13 [RESERVED]

[Education Works Program now filed at 8.102.611 NMAC]

HISTORY OF 8.102.610 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD 271.0000, Procedures Applicable to Payment and Related Changes, 5/16/80.

ISD FA 450, Payment, 2/10/88.

History of Repealed Material: 8 NMAC 3.FAP, Financial Assistance Program - Repealed, 07/01/97.

8.102.610 NMAC Description of Program/Benefits - Benefit Delivery - Repealed, 07/01/01.

TITLE 8 SOCIAL SERVICES
CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS
PART 610 DESCRIPTION OF PROGRAM/BENEFITS - BENEFIT DELIVERY

8.106.610.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.106.610.1 NMAC - N, 07/01/2004]

8.106.610.2 SCOPE: The rule applies to the general public.
[8.106.610.2 NMAC - N, 07/01/2004]

8.106.610.3 STATUTORY AUTHORITY: New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.
[8.106.610.3 NMAC - N, 07/01/2004]

8.106.610.4 DURATION: Permanent.
[8.106.610.4 NMAC - N, 07/01/2004]

8.106.610.5 EFFECTIVE DATE: July 1, 2004, unless a later date is cited at the end of a section.
[8.106.610.5 NMAC - N, 07/01/2004]

8.106.610.6 OBJECTIVE:

A. The objective of general assistance is to provide financial assistance to dependent needy children and disabled adults who are not eligible for assistance under a federally matched financial assistance program such as New Mexico works (NMW) or the federal program of supplemental security income (SSI).

B. The objective of the supplement for residential care program is to provide a cash assistance supplement to SSI recipients who reside in licensed adult residential care homes.

C. The objective of the burial assistance program is to assist in payment of burial expenses for an individual who was a low income individual at the time of death.
[8.106.610.6 NMAC - N, 07/01/2004]

8.106.610.7 DEFINITIONS: [Reserved]
[8.106.610.7 NMAC - N, 07/01/2004]

8.106.610.8 METHOD OF PAYMENT

A. EBT: Cash assistance benefits are issued by deposit of funds into an electronic benefit transfer (EBT) account.

(1) **EBT card issuance:** EBT account cards shall be issued at time of application to the authorized payee or authorized representative.

(2) **Replacement card:** The caseworker, the HSD help desk or the contractor customer service help desk shall have a card deactivated upon request of an adult participant in the benefit group or authorized payee. The card will be deactivated immediately and a replacement card provided to the participant. Once a card is deactivated it cannot be reactivated for any reason.

B. Authorizing and issuing payments:

(1) **Payment authorization:** Cash payments are authorized when action is taken to approve a cash payment for a benefit group.

(2) **Payment issuance:** Payments are prorated from the date of authorization or from the 30th day after the day of application, whichever is earlier.

(a) If the case was eligible in a month prior to the month of approval, but is not eligible for payment in the month following approval, the benefit group is not eligible for payment in any of these months.

(b) **Ongoing monthly issuance:** Ongoing cash assistance payments are authorized in the regular monthly issuance process.

(3) **Whereabouts unknown:** Eligibility shall be terminated if the whereabouts of the benefit group

are unknown to the department. A benefit group's whereabouts shall be considered to be unknown if:

- (a) mail sent to the last known address is returned to the department indicating that the benefit group no longer lives at that address and at least 30 days have passed since the caseworker sent the mail; or
- (c) the benefit group does not make any withdrawals from the benefit group's EBT account for 60 days or more.

C. EBT transactions: EBT transactions shall not be in any liquor store; any casino, gambling establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

[8.106.610.8 NMAC - N, 07/01/2004; A, 02/28/2007, A/E, 01/30/2009; A, 03/31/2009; A, 07/01/2009; A, 12/01/2009; A, 04/01/2014]

8.106.610.9 CHANGE OF PAYEE: Change of name or payee: Whenever there is a change in a recipient's name or in the payee's name the caseworker shall immediately make the appropriate changes.

A. New caretaker of an unrelated dependent child:

(1) If a new caretaker assumes responsibility for an unrelated dependent child in a case, the case shall be closed and a new application processed.

(2) If the new caretaker is already has an active cash assistance case for other dependent children, the cash assistance case for the children being transferred shall be closed, and the children added to the existing benefit group.

B. Payee change after benefits are issued: Cash assistance benefits have been posted to an EBT account, the EBT account can be accessed by another family member through authorization of a new PIN under the old account.

C. Changes in name or payee are made when:

(1) a payee legally changes his or her name and the change has been processed through the social security administration;

(2) a legal guardian is appointed or dismissed;

(3) the parent of an incompetent adult recipient begins to serve as natural guardian; or

(4) there is a change of caretaker for an unrelated dependent child.

[8.106.610.9 NMAC - N, 02/27/2007; 8.106.610.9 NMAC - N, 12/01/2009]

8.106.610.10 STALE BENEFIT ACCOUNTS: Stale benefit accounts are those cash assistance benefit accounts that have not been accessed for 90 days from the most recent date of withdrawal.

A. Offline accounts: EBT accounts which have not been accessed by the recipient in the last 90 days are considered a stale account. HSD may store stale benefits offline after notification to the household of this action.

(1) **Notification:** The department shall notify the household of this action before storing the benefits in an offline account and provide the necessary steps to reactivate the account.

(2) **Reinstatement:** The participant may contact the department or the HSD EBT help desk, the contractor customer service help desk, or the caseworker and request reinstatement of their EBT account anytime within 180 days from the initial date of benefit activity. Requests from the participant to reinstate any benefit must be received prior to the date of expungement.

B. Expungement: Cash assistance benefits which have had no activity for an excess of 180 days will be expunged. All benefits older than 180 days in the account will no longer be accessible to the household. The household loses all rights to all expunged benefits.

(1) **Notification:** The department shall notify the household no less than 45 days prior to the expungement of the cash assistance benefits.

(2) **Payment of claims against household.** The contractor shall notify the department no less than five days prior to expungement of the cash assistance benefits and any cash assistance claims against the household shall be removed from the account and applied to the claims upon expungement.

[8.106.610.10 NMAC - Rp, 8.106.610.9 NMAC, 12/01/2009]

History of 8.106.610 NMAC: [RESERVED]