



STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT

# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

## II. SUBJECT

Temporary Assistance for Needy Families (TANF) State Plan

## III. PROGRAMS AFFECTED

New Mexico Works (NMW) Cash Assistance Program

## IV. ACTION

Proposed State Plan

## V. BACKGROUND

The Human Services Department is required by Federal Law to file a State Plan that describes how the Department will administer the State's TANF-funded cash assistance program. The State Plan must be submitted every two years to the United States Department of Health and Human Services (DHHS), Administration for Children and Families (ACF). The Department is required to offer a 45-day comment period for the TANF State Plan prior to submittal. The TANF State plan will be in the combined Workforce Innovation and Opportunity Act (WIOA). The TANF State Plan was placed for public comment on March 12, 2020. In order to be compliant HSD needs to allow a 45-day comment period.

## VI. PROPOSED STATE PLAN

The register and proposed regulations are also available on the Human Services Department website at:

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

If you do not have Internet access, a copy of the proposed regulations may be requested by contacting Income Support Division Policy and Program Development Bureau at 505-827-7289.

You may also send a request to:

Human Services Department Income Support Division  
Attn: Policy and Program Development Bureau  
PO Box 2348

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

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

## **VII. PUBLIC HEARING**

A public hearing to receive testimony on this State Plan will be on Friday September 25, 2020 from 2:00 pm-3:00 pm. The hearing will be held virtually through GoTo Meeting, and a phone number will be provided for individuals that would like to participate by phone.

<https://global.gotomeeting.com/join/923136685>

You can also dial in using your phone.

United States: +1 (224) 501-3412

Access Code: 923-136-685

All written comment can be dropped off at the scheduled hearing time at the HSD Administrative Services Division (AS) conference room, 1474 Rodeo Road, Santa Fe, NM 87505. The conference room is located at the ASD Rodeo Building.

Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-827-7254. This register and proposed regulations are also available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. If you do not have Internet access, a copy of the proposed regulations may be requested by contacting the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling 505-827-7250. 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 505-827-6201 or through the New Mexico Relay system, toll free at #711. 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 5:00 p.m. on the date of the hearing, Wednesday, September 25, 2020. Please send comments to:

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

You may send comments electronically to: [HSD-isdrules@state.nm.us](mailto:HSD-isdrules@state.nm.us)

## **VII. EFFECTIVE DATE**

July 1, 2020

## VIII. PUBLICATION

Publication of these emergency regulations approved on 7/22/2020

by:

DocuSigned by:

*Angela Medrano*

DAVID R. SCRASE, M.D., SECRETARY

Angela Medrano, Deputy Cabinet Secretary

Signing electronically on behalf of D.S.

HUMAN SERVICES DEPARTMENT

# **NEW MEXICO WORKS**

**NEW MEXICO'S**

**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**

**STATE PLAN**

July 1, 2020 to June 30, 2023



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

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

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

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

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

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

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

### **A. BACKGROUND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TANF recipients can use the EBT card at a retail and grocery store where you are allowed to get cash back or at an ATM (automated teller machine). There is never a fee charged for using cash benefits to buy food or get cash at a POC device at a retail or grocery store, but there is a transaction fee charge of \$0.50 (plus other possible fees) for a cash withdrawal at an ATM machine. This information is given to clients upon receipt of their EBT card. This information can also be found on the HSD website. EBT cards are accepted at all FNS approved locations, this allows recipients that are in rural areas adequate access to cash benefits. If there are issues with clients accessing

benefits, HSD, along with our EBT vendor, will work with recipients and assist them in accessing their benefits free or at a low cost.

The Affordable Care Act was implemented in New Mexico and replaced the Jul Medicaid that was offered to eligible TANF participants, to a Modified Adjusted Gross Income (MAGI) Medicaid.

2015. August 2015, the Department increased the clothing allowance to a biannual payment. The clothing allowance was issued in August 2015 and January 2016 in the amount of \$50 per eligible school age child. The budgetary adjustment reduced from 15% to 7.5%.

2016. August 2016, the Department increased the August clothing allowance to \$100 clothing allowance and a \$50 clothing allowance to be issued January 2017 per eligible child.

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

<b>Contractor</b>	<b>Program</b>
Navajo Nation	TANF Support Services
Pueblo of Zuni	TANF Support Services

2017. The Department of Workforce Solutions (DWS) Vocational Training and University of New Mexico High School Equivalency Program was implemented.

2018. July 1, 2018, the Department removed the 7.5% budgetary adjustment from the TANF monthly calculation. The removal of the budgetary adjustment resulted in the payment increase of the TANF monthly allotment.

2019. During the 2019 Legislation Session, Senate Bill 22 created a new Department, Early Childhood Education and Care Department (ECECD). ECECD was created to focus on early childhood by coordinating and aligning an early childhood education and care system. This includes childcare, pre-kindergarten, early pre-kindergarten, home visitation, early head start, head start, early childhood special education and early intervention and family support. This will be able to provide New Mexico families with consistent access to appropriate care and education services.

2020.- Declaration of Public Health Emergency Response to COVID-19.

A State of Public Health Emergency was declared March 16, 2020 by Governor Michelle Lujan Grisham for the State of New Mexico as a result of the Coronavirus Disease-2019 (COVID-19). In response to the state of public health emergency, the State of New Mexico HSD issued the following flexibilities for the TANF program to assist those customers impacted by the COVID-19:

- Removed the Asset Test from eligibility determination.
- Allowed all case management to be completed via telephone.
- Suspended all notifications and implementation of noncompliance from the works programs and allowed good cause.

- Guidance and Procedures for the Wage Subsidy Clerical Staff who was affected by the Stay at Home Order and not able to telework
- Expanded the definition of who can apply for a hardship during COVID-19 to capture additional customers.
- Exempted the Coronavirus Aid, Relief, and Economic Security (CARES) Act Direct Payments for eligibility determination.
- Excluded the Pandemic Unemployment Benefits (PUB) as income for eligibility determinations.
- Extended the certification period for Interim Reports and Recertifications that were due for the months of March, April, May and June.
- Implemented online purchasing and delivery (where available) of products through Walmart utilizing the cash benefits was approved.

## **B. PURPOSE**

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

## **C. GOALS**

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

1. Develop a program focus and environment that supports self-reliance and personal responsibility;
2. Provide assistance to needy families so that children may be cared for in their own homes;
3. End family dependence on public benefits by promoting work;
4. Prevent and reduce the incidence of out-of-wedlock pregnancies;
5. Encourage the formation and maintenance of two-parent families;
6. Increase the number of TANF recipients engaged in work activities by increasing engagement in suitable job-readiness programs for participants that are state-defined exempt through limited work participation activities;
7. Require the NM Works services contractor to secure contracted services that promote work

activities;

8. Ensure participants engaged in work activity have access to work support services through collaborations with private and public sector entities;
9. Foster an environment of self-sufficiency and work participation for clients that are about to be sanctioned; and
10. Review hardship extensions of participants that are motivated to be self-sufficient and encourage them to fully participate in work activities.

#### **D. OBJECTIVES AND METHODS**

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

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

2. Implement the Family Violence Option under TANF.
3. Implement Separate State Programs using Maintenance of Effort (MOE) funds.
4. Implement the state's statutory Rape Prevention Education plan for law enforcement officers.
5. Implement an Out-of-Wedlock Birth Reduction plan for the state.

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

I, Michelle Lujan-Grisham, Governor of the State of New Mexico, hereby certify that:

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

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

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

Consultation/Public Comment Period. In accordance with 402(a)(4) of PRWORA, the Department will allow a 45-day public comment period for this State Plan. The public comment period will begin on August 11, 2020 and will end at 5:00 pm on September 25, 2020. Notice of the proposed TANF State Plan comment period will be published in the NM Register, the Albuquerque Journal and Sunshine Portal. The proposed TANF State Plan will be available in written and electronic format throughout the comment period.

Equitable Access. In accordance with 402(a) (5) of PRWORA, during each of the fiscal years covered by this plan, the State of New Mexico will provide equitable access to assistance under the State program to each member of an Indian tribe who is domiciled in the State and who does not participate concurrently in both the State and Tribal TANF program.

Fraud and Abuse. In accordance with 402(a)(6) of PRWORA, the State of New Mexico has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the state's program, kickbacks and the use of political patronage.

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

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

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Michelle Lujan-Grisham, GOVERNOR  
STATE OF NEW MEXICO

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Date

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

### **A. PROGRAM SCOPE**

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

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

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

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

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

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

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

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

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

This State Plan covers the period July 1, 2020 through June 30, 2023.

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

HSD cooperates with the Early Childhood Education and Care Department (ECECD) for providing childcare and addressing the education needs of children; and with the New Mexico Department of Transportation concerning transportation needs. The Department also cooperates with regional community colleges, universities, alternative high schools, teen pregnancy and domestic violence organizations, other community-based programs, and local public and private sector employers.

The 48<sup>th</sup> Legislature, First Regular Session of 2007, enacted House Bill (HB) 1280 to improve the effectiveness of the workforce service and delivery system. HB 1280 combined all functions and staff of the Governor's Office of Workforce Training and Development with the functions and staff of the New Mexico Department of Labor to create DWS. In conjunction with DWS, HSD is working toward the objectives of the Workforce Innovation and Opportunity Act (WIOA). In cooperation with DWS, HSD refers TANF recipients to DWS in order to both satisfy the individuals mandatory work requirements as well as taking advantage of all opportunities such as:

- Employment Services
- Adult Education
- Adult, Dislocated Worker and Youth
- Vocational Rehabilitation
- Senior Community Service Employment Program

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

In 2020, the WIOA Combined State Plan was submitted and included the TANF State Plan. For more information on WIOA Combined State Plan please see the link below:

<https://wioaplans.ed.gov/>

## 5. Displacement Procedures

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

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



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

## **B. ELIGIBILITY FOR NMW**

The eligibility to be included in the NMW benefit group, will be outlined in this section. The benefit group consists of those individuals whose needs are to be determined to meet eligibility criteria and to whom benefits, and services are provided.

### Non-Financial Eligibility:

#### 1. Defining the NMW Benefit Group

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

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

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

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

#### 2. Living in the Home

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

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

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

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

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

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

3. Enumeration

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

4. Citizenship/Non-Citizen Status: To be included in the NMW benefit group the benefit group member must have a status to make them eligible for the NMW benefit.

a. U.S Citizens. Individuals born in the United States, or born to at least one U.S. citizen parent are eligible on the basis of citizenship.

b. Non-citizen nationals. Individuals born in an outlying possession of the U.S. (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession or a person whose parents are non-citizen nationals (subject to certain residency requirements) are eligible to be included in the benefit group.

c. Immigrant. Individuals who are not citizens of the United States are eligible for inclusion in the NMW benefit group, with respect to qualified immigrant status, in accordance with the provisions of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

- (1) A qualified immigrant means an immigrant:
- who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
  - who is granted asylum under section 208 of the INA;
  - who is admitted to the United States as a refugee under section 207 of the INA;
  - who is paroled into the United States under section 212(d)(5) of the INA for a period of at least one year;
  - whose deportation is withheld under section 241(b)(3) of 243(h) of the INA;
  - who is granted conditional entry into the United States pursuant to section

203(a)(7) of the INA as in effect prior to April 1, 1980;  
--is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

- (2) Battered or Subjected to Extreme Cruelty: A qualified immigrant also includes an immigrant who has been battered or subjected to extreme cruelty by a spouse or parent, an immigrant who is a parent of a battered child or an immigrant who is the child of a battered parent. The requisite abuse can also be caused by a member of the family residing in the household if the spouse or parent consented to or acquiesced to the battery or cruelty. Such individuals must meet all conditions for treatment of immigrant who have been battered or subjected to extreme cruelty as qualified immigrant set forth at Title 8 U.S.C. 1641(c).
- (3) Victims of Trafficking: A victim of a severe form of trafficking shall be eligible for NMW cash assistance, without regard to the actual immigration status of the individual and to the same extent as an immigrant who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act. In order to allow eligibility for a victim of trafficking, HSD will require a certification from the Office of Refugee Resettlement (ORR) that an adult is a victim of severe trafficking or that a child has been determined eligible as a minor victim of severe trafficking.

d. State funded immigrants: An immigrant who arrived in the United States on or after August 22, 1996, and who meets the definition of qualified immigrant is not eligible for federally-funded TANF assistance under the terms of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (five years from date of entry into the U.S. with a qualified immigrant status or five years from the date the non-citizen residing in the U.S. received qualified immigrant status). The qualified immigrant may be included in the NMW benefit group, if otherwise eligible, and may receive cash assistance, with the costs of the immigrant's benefits paid entirely by state funds. Benefits paid to these individuals are claimed as part of the state's MOE requirement.

e. Ineligible immigrants. Undocumented immigrants who are not qualified immigrants, immigrants who are in the United States temporarily, or immigrants who are not authorized to work in the United States, are not eligible for inclusion in the NMW benefit group.

## 5. Residence

To be eligible for NMW, the head of household must reside in New Mexico with intent to remain. Persons traveling through, employed for a short term, present for medical care, or in similar situations do not meet residency requirements. The residence of the dependent

child is based on the residence of the child's parent, relative or caretaker.

6. Other Assistance

An individual who receives cash assistance from Supplemental Security Income (SSI), Bureau of Indian Affairs-General Assistance (GI-BIA), another state or tribal TANF program, is ineligible for NMW on the basis of concurrent receipt of assistance.

7. Participation Activity

- a. Participation Activity. All adults and minor head of household participants are required to complete an Assessment, Individual Responsibility Plan, Work Participation Agreement and applicable participation requirement hours. Allowable work and work program activities include any activity listed under Part III-D-2. Each participant activity is documented in a Work Participation Agreement and the hours of participation are monitored through periodic monitoring as described in the approved NMW Work Verification Plan (WVP). The current WVP is available to the public on the HSD website.
- b. Work Program Participation Standards. All NMW participants are required to engage in work program activities at federal statutory requirements (Section 407 of the Social Security Act) or by FLSA Standards, unless they have requested limited work participation. Provisions in the NMWA allow for a work participation standard that does not exceed four hours of the federal statutory levels. Sanctions for failure to participate are described in Part III-C-3 of this plan.
- c. Limited Work Participation Status A participant may request a limited work participation status exempting them from meeting the federal statutory levels, requiring the participant to engage in an activity for no less than one hour per week, as determined by the Department at 8.102.420 NMAC. Individuals who demonstrate extraordinary circumstances may be granted a zero hour limited work participation status. Participants granted a limited work participation status are required to meet the NMW compliance requirements as indicated at 8.102.460.9 NMAC. Failure to complete the assessment, IRP and WPA will be considered non-compliance with program requirements. The Incapacity Review Unit (IRU) or the NMW Service Provider will establish participation requirements specific to the participant's condition or circumstances, such as substance abuse services, mental health services, domestic violence services, pursuit of disability benefits, job readiness, or education directly related to employment. The activities chosen are to address the participants barriers and to improve the participant's capacity to improve income and strengthen family support. The qualifying conditions are listed below:

- (1) An individual age 60 or older;

- (2) A single parent, not living with the other parent of a child in the home, or caretaker relative with no spouse, with a child under the age of 12 months. A participant may be eligible for a limited work participation status using this qualification for no more than 12 months during the participant's lifetime.
- (3) A single custodial parent caring for a child less than six years of age or who is a medically fragile child if the parent is unable to obtain child care for one or more of the following reasons and the Childhood Education and Care Department (ECECD) certifies as to the unavailability or unsuitability of child care:
  - (a) the unavailability of appropriate child care within a reasonable distance from the parent's home or work site; or
  - (b) the unavailability or unsuitability of appropriate and affordable formal child care by a relative or under other arrangements; or
  - (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements;
- (4) A participant who is a woman in her third trimester of pregnancy, or six weeks post-partum.
- (5) A participant whose personal circumstances preclude participation for a period not to exceed 30 consecutive days in a calendar year.
- (6) A participant who demonstrates by reliable medical, psychological or mental reports, court orders, police reports, or personal affidavits (if no other evidence is available), that family violence or threat of family violence effectively bars the parent from employment.
- (7) A participant who is completely impaired, either temporarily or permanently, as determined by IRU.
- (8) A participant may be entitled to the family violence option (FVO). This option allows for a parent in a domestic violence environment to be in a limited work participation status for the length of time certified by a trained domestic violence counselor. The certification shall indicate that the parent is in a domestic violence environment which makes them eligible for a limited work participation status.
  - (a) A participant's FVO limited work participation status shall be reviewed every six months and shall be determined by IRU based on the domestic violence counselor's certification.
  - (b) A participant who can continue to comply with work requirements as certified by a trained domestic violence counselor may be eligible for a limited work participation status for 24 weeks as described in 8.102.461.15

NMAC.

- (9) A participant who is the sole provider of the care for an ill or incapacitated person. In order to meet this exception, the participant must show that the parent is the sole caretaker for a disabled person and must demonstrate that the participant cannot be out of the home for the number of hours necessary to meet standard work participation hours. The following apply to caretaker conditions in determining if the standard work participation rate applies or if a limited work participation rate will be granted:
  - (a) Only those care activities around which work program activities cannot be scheduled are taken into consideration.
  - (b) Food purchase and preparation activities, home maintenance chores, etc. are activities which may be scheduled and performed at time other than work program participation hours and are not taken into consideration when determining the standard work participation rate.
  - (c) A requirement to be on call for the medical emergencies of a medically fragile person is taken into consideration in determining the standard work participation rate for the participant.
- (10) A participant may demonstrate good cause for the need for the limited work participation status. A good cause limited work participation status may exist and shall be determined by the Department based on the participant's existing condition(s) to include any barriers identified during the NMW assessment process that impair an individual's ability to comply with the standard work participation rate or capacity to work.
- (11) A parent and caretaker receiving assistance will engage in work activity in accordance with section 407, is met through periodic monitoring as described in an approved Work Verification Plan.

## 8. Lifetime Limits

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

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

- b. Waiver of the Lifetime Limit. Once the 60-month lifetime limit is reached, eligibility for the adult may continue if:
- (1) it is determined eligible for a limited work participation status due to one of the following qualifying conditions:
    - (a) an impairment, either temporarily or permanently, as determined by IRU in accordance with Paragraph (1) of Subsection C of 8.102.420 NMAC;
    - (b) is the sole provider of the care for an ill or incapacitated person;
    - (c) does not have the ability to be gainfully employed because the individual is affected by domestic violence;
    - (d) has been battered or subjected to extreme cruelty;
  - (2) applicant has an application for supplemental security income (SSI) pending in the application or appeals process and:
    - (a) is currently granted a limited participation status because of a temporary or complete disability; or
    - (b) was granted a limited participation status because of a temporary or complete disability in the previous twenty-four months;
  - (3) applicant has reached the age of 60 by the end of the last month of his or her term limit; or
  - (4) is otherwise qualified as defined by the Department.
- c. Excluded from the Lifetime Limit. An individual who resides in Indian country where at least 50% of the adult population is not working shall not have months of participation in the NMW TANF program counted toward the 60-month lifetime limit.

## 9. Age

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

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

participant.

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

10. School Attendance

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

11. Institutionalization

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

12. Fraud and Criminal Activity

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

13. Child Support

- a. Assignment. Pursuant to state statute at NMSA 1978, Section 27-2-28F, an application for public assistance by any person constitutes an assignment by operation of law of any support rights the person is entitled to from any other person. An adult assigns rights to child support to the Department upon receipt of



NMW cash assistance.

- b. Cooperation. The adult responsible for a child included in the benefit group must cooperate in the pursuit of child support as a condition of individual eligibility for benefits. Failure to cooperate with child support enforcement efforts results in a payment sanction.
- c. Determination of Noncompliance. If the Child Support Enforcement Division determines that an individual has failed to cooperate and the individual does not have good cause, the benefit paid to the benefit group is then subject to the payment sanction described in Part III-C-3 of this plan.

**C. NEED AND PAYMENT**

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

1. Need

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

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

<u>Persons</u>	<u>Standard of Need</u>	<u>Maximum Monthly Grant</u>
1	\$ 266	\$ 244
2	\$ 357	\$ 327
3	\$ 447	\$ 409
4	\$ 539	\$ 493
5	\$ 630	\$ 576
6	\$ 721	\$ 659
7	\$ 812	\$ 743
8	\$ 922	\$ 843
9	\$1013	\$ 926
10	\$1104	\$1009

- b. Only benefit group members are counted in determining the applicable standard of need. Total countable earned and unearned income, after allowable deductions, is

subtracted from the benefit group's standard of need to determine the cash assistance benefit.

- c. Each August, the payment standard for eligible benefit groups is increased by the clothing allowance for each school-age child included in the benefit group. The amount of the clothing allowance is dependent on the availability and appropriation of state or federal funds.
- d. A one-time layette allowance of \$25 is allowed upon the birth of a child who is or will be included in the benefit group. The allowance is authorized to occur no later than the end of the month following the month in which the child is born.

## 2. Income Eligibility

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

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

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

Excluded income sources include, but may not be limited to, benefits from Medicaid, SNAP, LIHEAP, government subsidized foster care, if the child for whom the foster care payment is received is also excluded from the benefit group, SSI, government subsidized housing and housing payments, certain education payments, Census Income, and up to \$100 received by a benefit group from the State's Child Support Enforcement Program. Federally excluded income types are based on a listing in the State's SNAP regulations.

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

- d. Deductions from Income.

- (1) Business and Self-Employment Costs. Business expenses and self-employment costs are deducted from the gross earning of a self-employed benefit group member. The remainder becomes the gross countable income of the individual.
- (2) Earned Income Deductions. Earned income deductions are applied to the earned income of benefit group members. Deductions are allowed in both applicant and recipient status and without regard to how long benefits have been received.
  - a. Work Incentive Deduction. A deduction of \$125 for each adult or minor parent in a single-parent benefit group, and \$225 for each parent in a two-parent benefit group is subtracted from the recipient's gross earnings. From the balance, one-half of the remainder is subtracted.
  - b. Contributions to Individual Development Accounts. The actual amount contributed to an approved IDA from an employed member's earnings is deducted from the individual's earned income.
- (3) Child Care Costs. Out-of-pocket expenses for child care, for a dependent child included in the benefit group, that are necessary due to the employment of a benefit group member are allowed. The deductible amount may not exceed \$200 per month for a child under age two and \$175 per month for a child age two or older.

### 3. Non-Compliance Payment Sanctions

- a. Work Program and Child Support Enforcement. If an individual fails to comply with work program requirements or child support enforcement efforts, the cash assistance amount for the benefit group is reduced on a percentage basis.
- b. Conciliation Process Prior to Sanction. A 30-day conciliation opportunity is available to an individual once during a given occurrence of assistance. The conciliation process occurs once prior to the imposition of a sanction. There must be a period of at least 12 months between occurrences of assistance for a 30-day conciliation to be available to the benefit group.

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

barriers to compliance.

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

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

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

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

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

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

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

Following the third occurrence of non-cooperation, the case is closed for six months. The TANF grant will count as unearned income toward the SNAP calculation.

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

The cash assistance benefit is reduced by 25% of the benefit group's standard of

need for the length of the sanction period.

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

#### 4. Determining the Cash Assistance Benefit

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

#### 5. Payment Issuance

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

#### 6. Resources

To be eligible on the condition of need with respect to resources, the benefit group's countable liquid resources must be no more than \$1,500. The value of non-liquid countable resources must be no more than \$2,000. Only resources belonging to benefit group

members and immigrant sponsors, if sponsored individuals are included in the benefit group, are considered.

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

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

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

- (3) Amounts that are excluded from consideration by federal law at 7 CFR 273.
- (4) Value of the home owned and occupied by the family.
- (5) Value of burial plots and funeral contracts for family members.

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

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

#### **D. WORK PROGRAM ACTIVITIES**

NMW is designed to help families become self-supporting through work. Work is the primary

focus and goal of participation in all activities at all times. Once the TANF recipient reaches their 24 months of cash assistance, whether consecutive or not, they should have gained skills to be able to engage in work. The only exception to a participant being able to engage in employment by the 24<sup>th</sup> month of assistance is if the Department has identified barriers that are preventing them from doing so.

To encourage rapid movement towards the goal of employment, NMW recipients are required to meet work program participation standards unless participation is waived or barriers that prevent a recipient from completing the full participation standard. Work program participation waiver provisions are listed under Part III-B-7 of this plan.

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

## 1. Participation Standards

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

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

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

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

## 2. Qualified Work Activities

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

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

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

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

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

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

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

- a. Core Work Activities. A participant may engage in one or more of the following activities in a month:
- (1) Unsubsidized employment, including self-employment;
  - (2) Subsidized private sector employment, including self-employment;
  - (3) Subsidized public sector employment;
  - (4) Work experience – monthly hours limited to Fair Labor Standards Act (FLSA);
  - (5) On-the-job-training;
  - (6) Job search and work readiness assistance: Job search hours are limited to no more than 20 hours a week and 120 hours within the preceding 12 month period for a work eligible single custodial parent with a child under the age of six and 30 hours a week and 180 hours (the equivalent of six weeks) within the preceding 12 month period for all other work eligible individuals. A participant can be placed in this activity for no more than four consecutive weeks. A week constitutes seven days and the first day of the first week begins on the first day in which job search and/or work readiness is used;
  - (7) Community service: monthly hours limited to Fair Labor Standards Act (FLSA);
  - (8) Vocational Education training: for a period not to exceed the 12-month lifetime limit; and



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

factors in the individual's capacity to work.

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

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

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

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

### 3. Supportive Services

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

- a. Transportation Reimbursement. Except for those in paid employment, participants may be reimbursed for transportation costs incurred in meeting participation requirements.
- b. Educational Reimbursement. If no other funding is available, participants may be reimbursed for certain educational costs. Reimbursable costs include fees, books, and supplies. Tuition does not qualify for reimbursement.
- c. Employment-Related Reimbursement. Participants who have a verified job offer

may be reimbursed or receive an advance payment for certain costs necessary to accept or retain employment. Allowable costs include but are not limited to, special clothing, licensing fees, vehicle repairs, and tools. Payments are limited to a one-time payment totaling no more than \$300.

- d. Child Care. In most circumstances, childcare is provided by the ECECD with federal Child Care Development Block Grant funds. The New Mexico Legislature appropriates the funds from the TANF Block Grant to ECECD to provide childcare.
- e. Other Support Services. The work participant, along with the work program contractor, may determine other types of support services needed to address barriers to work participation, or otherwise comply with work participation requirements of the NMW Cash Assistance Program.

## **E. PROCESS**

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

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

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

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

program services and child care benefits, as well as Transitional Child Care and Transitional Medicaid benefits. Applicants are referred to CSED by no later than the end of the application interview.

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

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

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

## 2. Eligibility Determination (Approval or Denial)

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

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

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

## 3. Change Reporting

- a. Dependent on the reporting type, the benefit group may be required to report changes and the agency will determine if the changes affect eligibility or benefit amount.
- b. Benefit groups are required to report changes at the sixth month simplified report. Changes that should be reported at the sixth month simplified report include: income and resources, benefit group composition and school attendance for

dependent children. A benefit group subject to simplified reporting is not required to report any changes in between certification periods and the month the benefit group is required to file its simplified report unless the benefit group's income exceeds 85 percent of Federal Poverty Guidelines (FPG).

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

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

4. Determination of Participation

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

5. Work Program Enrollment

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

6. Work Program Participation

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

7. Referrals to Other Agencies and Institutions

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

8. Expected Timeliness Standards

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

## **F. MEDICAID ELIGIBILITY**

Effective January 1, 2014, JUL Medicaid was replaced with the following category called MAGI-Parent/Caretaker. The MAGI-Parent/Caretaker, MAGI children and Transitional Medicaid recipients are required to participate in Centennial Care, New Mexico's Medicaid Managed Care program, subject to applicable exemptions allowed under state Medicaid rules, utilizing the income eligibility guidelines under the new Modified Adjusted Gross Income (MAGI) guidelines per the Affordable Care Act of March 23, 2010.

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

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

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

Applicants for and recipients of NMW are provided written notice of Department decisions affecting benefit group or individual eligibility, amount of benefit, and about delays in

action affecting timely processing of applications. In cases where the Department is taking an action that adversely affects the eligibility or benefit amount of a recipient, the recipient is issued a notice of adverse action 13 days prior to actual implementation of the action. Where advance notice is not given, the household is provided a notice of the change at the same time the change is made (concurrent notice).

## 2. Fair Hearing Rights

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

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

- a. Time Limit for Requesting a Hearing. An applicant or recipient has 90 days from the date on the notice of adverse action to request a fair hearing. To be considered timely, the request must be received by the HSD Fair Hearings Bureau or the local county office no later than the close of business on the 90th day.
- b. Continuing Benefits During the Hearing Process. If the recipient files a fair hearing request prior to expiration of the 13-day adverse action time period, the change is not made pending completion the fair hearing process. If an individual files a fair hearing request within 13 days of issuance of a concurrent notice, benefits are restored pending completion of the fair hearing process. Excess benefits issued during the fair hearing process must be repaid if the hearing is decided in favor of the Department.
- c. Applicant or Recipient Rights During the Hearing Process. An applicant or recipient has the following rights with respect to the conduct of a fair hearing. The claimant has the right to:
  - (1) Review the household's case file prior to, during and after the hearing;
  - (2) Request and receive copies of documents in the case file for use during the hearing process;
  - (3) Request an agency review conference to be scheduled prior to the hearing to discuss the issues involved in the hearing. The agency conference is optional and does not delay or replace the hearing process;
  - (4) Present his/her case or have it presented by an attorney or other representative;
  - (5) Bring witnesses to present information that is relevant to the case;
  - (6) Submit evidence to establish facts and circumstances in the case;

- (7) Advance arguments without undue interference; and
  - (8) Question or contradict any testimony or evidence, including the opportunity to confront and cross-examine the Department's witnesses.
- d. Who Conducts the Hearing. The hearing is conducted by an independent hearing officer who makes a recommendation to the Director of the Income Support Division or designee. The ISD Director makes the fair hearing decision for the Department. Fair hearings are most frequently conducted telephonically but, a face-to-face hearing may be held at the applicant's request.
- e. Appealing a Decision of the Director. If the applicant or recipient does not agree with the fair hearing decision, the decision may be appealed to the New Mexico Court of Appeals. NMSA 1978, Section 27-2B-13(F).
- f. Costs for Copying Documents. The costs of the fair hearing and costs for copying relevant Department records to be used by the applicant or recipient in the fair hearing are met by HSD. HSD is not responsible for meeting any other costs incurred by the applicant or recipient in either the fair hearing or judicial appeals process.

## **H. CONFIDENTIALITY OF INFORMATION**

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

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

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

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

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



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

Criminal prosecution is coordinated with local District Attorneys and/or the state Attorney General. In the case of federal programs, fraud prosecutions may be pursued through the federal court system.

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

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

ASPEN is the Department's automated eligibility determination, benefit delivery and case management system that supports the administration of the state's NMW, SNAP, Medicaid, and NMW work program activities. Data needed for program management purposes, program performance evaluation and Federal reporting is generated through ASPEN. Most program reports are generated based on the entire database; however, the Department retains the option to use a sampling methodology to determine compliance with Federal performance requirements.

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

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

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

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

## **L. INTERSTATE MIGRANTS**

Families residing in New Mexico 12 months or less are not treated differently from those who have resided in the state for more than 12 months with respect to NMW benefits. To be eligible

for NMW, they must have an intent to reside in New Mexico as described in Part III-B-5 of this plan.

#### **M. BLOCK GRANT TRANSFERS**

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

#### **N. WORK SUPPORT SERVICE ELIGIBILITY**

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

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

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

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

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

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

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

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

As a part of its state general fund appropriations, the New Mexico Legislature has funded programs in agencies other than the New Mexico Human Services Department that are intended to provide support services to eligible low-income families. The New Mexico Human Services Department has also identified other programs funded locally that provide support services to low income families or that provide pro-family activities that meet TANF purposes three or four. To participate in these programs, individuals and families must meet the low-income guidelines as specified in “Section B: Eligibility for NMW and Section C: Need and Payment.” Families who are not considered “eligible families” may only participate in programs designed to meet TANF purposes three or four. Related general funds expended in most of these programs may be claimed as apart of the state’s TANF MOE requirement in accordance with federal guidelines. Other low-income programs that are not specific to the definition of support service may also be claimed as MOE.

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

The following funds listed below are state expenditures that are counted towards the state’s MOE requirement for eligible families only.

### **1. Human Services Department**

- a. **State Funded Immigrants:** An immigrant who arrived in the United States on or after August 22, 1996, and who meets the definition of qualified immigrant is not eligible for federally-funded TANF assistance under the terms of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (five years from date of entry into the U.S. with a qualified immigrant status or five years from the date the non-citizen residing in the U.S. received qualified immigrant status). The qualified immigrant may be included in the NMW benefit group, if otherwise eligible, and may receive cash assistance, with the costs of the immigrant’s benefits paid entirely by State funds.
- b. **Transition Bonus Program:** This program was implemented July 1, 2008 as required by the 2007 Legislature Regular session. This program was implemented to encourage recipients of NMW Cash Assistance to leave NMW for employment. Eligible benefit groups must have: 1) a monthly gross income less than 150 percent FPL; 2) received fewer than 60 months of TANF; 3) received at least three months of TANF; and 4) received at least one month of TANF in the last three months. Eligible benefit groups receive a monthly fixed \$200 bonus during an 18-month lifetime limit certification. Benefit groups are required to submit two six-month reports during the 18-month certification.

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

d. Child Support Disregard: The first \$100 in child support collected by the Child Support Enforcement Division is passed on to the TANF benefit group. This money is disregarded, or not counted as income in determining eligibility. This has the effect of increasing the monthly benefit amount. The total expenditure for that child support disregard is paid with State MOE dollars.

2. Early Childhood Education and Care Department

The Department and Early Childhood Education and Care Department (ECECD) will develop training programs for NMW recipients to become licensed daycare providers. New Mexico utilizes both state and federal funds in program administration of these services. ECECD also provides several other programs that are essential to eligible TANF recipients who have at least one child in the home such as:

- a. Childcare TANF: Available to all families receiving TANF and TANF eligible families. Childcare is provided through the Child Care Development Fund (CCDF). The purpose of this program is to assist and support low-income families in caring for their children while the adult family members work or are engaged in training or other work-related activities. The relevant TANF purpose is to provide assistance to families in need so children may remain in their homes or the homes of relatives.
- b. Childcare for low-income non-TANF households: Available to low income families receiving non-TANF funded childcare assistance through the CCDF and the New Mexico State general fund.

3. Department of Health, Public Health Division

- a. Family Planning Program: This program promotes and provides comprehensive family planning services, including clinic-based services and community education and outreach, to promote health and reproductive responsibility. Family Planning is an integral component of the Department of Health's efforts to reduce teen pregnancy, prevent unintended pregnancies and STDs, reduce infant mortality and morbidity, and improve the health of women and men of all ages.

4. Taxation and Revenue Department

- a. Child and Dependent Care Tax Credit: The Child and Dependent Care Tax Credit is 40% of the expenses incurred during the tax year. This credit helps families with a modified gross income of \$30,160 or less to pay for the childcare they need in order to work or look for work.
- b. Low Income Comprehensive Tax Rebate: The Low-Income Comprehensive Tax Rebate allows a rebate to households with a modified gross income of \$22,000 or less.

Many low-income New Mexicans qualify for this rebate as it is not an income-based credit. It rebates a portion of the gross receipts tax on necessities. The rebate amount ranges depending on a taxpayer's modified gross income and number of exceptions claimed on the state income tax return.

- c. The Working Families Tax Credit: A New Mexico resident who qualifies for the Federal Earned Income Tax Credit may claim a credit against their New Mexico tax liability. This is called the Working Families Tax Credit. Any amount more than the tax liability is refunded to the taxpayer.
- d. Property Tax to Low Income: The Property Tax Rebate for low-income residents who file a return and incur a property tax liability on their principle place of residence during the tax year and who are not dependents of other person. The rebate is based on modified gross income on a sliding scale from \$0 to \$24,000 and results in a rebate of a percentage of the taxpayer's property tax liability.
- e. Special Needs Child Credit: Special Needs Child Credit allows rebate to taxpayers who adopted a special needs child.

5. Public Education Department

- a. Graduation Reality and Dual Roles Skills (GRADS): The mission of the multi component New Mexico GRADS system is to facilitate parenting teen's graduation and economic independence; promote healthy multi-generational families; and reduce risk-taking behaviors.

6. Children, Youth, and Families Department

- a. Community Based Services: The purpose of these programs is to improve and enhance the emotional, mental and behavioral health of children, youth and eligible families served. The outcomes of this program include improved child behavioral and emotional functioning, reduced substance abuse, and improved school performance, improvement in family functioning, increased home stability/safety, and decrease in involvement in the legal system. For TANF, these services provide assistance to families in need so children may remain in their own homes or the homes of relatives. Children eligible for Medicaid up to 235 percent of poverty are eligible to participate.
- b. Family preservation: This program will focus on providing intensive short-term services aimed at keeping families intact. Services include intensive home-based interventions, family counseling and referrals to other services necessary to keep families intact. The intent of the program is to provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives. Those families with an income up to 235 percent of FPG will be eligible for this program.
- c. Child Protective Services Prior to Adjudication: This program will encompass the

investigation of abuse and neglect in the Child Welfare System. The services include the referral, investigation and assessment of at risk families and interventions necessary to keep families intact. Services will continue until a determination is made at an adjudication hearing that the family cannot remain intact and a court of competent jurisdiction places the children in the custody of the Children, Youth and Families Department. The time frame for providing these services is from 60 to 90 days. The program intends to provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives. Those families with an income up to 235 percent of FPG will be eligible for this program.

## 6. Community Programs

- a. S.A.F.E. House: The shelter provides a safe haven from domestic violence where residents receive nutritious meals, clothing and personal needs; health care; individual and group counseling; employment and housing referrals; transportation; legal advocacy and information; counseling for children and parental support. S.A.F.E. House services are available to all victims of domestic violence, regardless of gender. Services are available 24 hours a day, 365 days a year.
- b. Bienvenidos Outreach: Bienvenidos manages three programs that assists individuals and families with basic needs. The food box program assists participants with groceries. The lunch bag program assists with lunch bags for the homeless and the clothing program provides, clothing, housewares, books, etc. free of charge to its participants.
- c. Lutheran Family Services “Sisters” Program: The Sisters Program through Lutheran Family Services provides job training, preparation and placement for refugee women in the work force.
- d. Casa Familia Urgent Transition Center and Sonrisa Family Supportive Living Programs: The Casa Familia Urgent Transition Center program provides emergency shelter for women, children and families. The Sonrisa Family Supportive Living program provides transitional housing for formerly homeless women, children and families. Both programs are managed through the Saint Elizabeth Shelter Corporation.
- e. Storehouse West Pantry: The Storehouse West Pantry is a food pantry that provides food to hungry individuals and families.

## Q. SUBSIDIZED EMPLOYMENT PROGRAMS

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

- b. The Career Link Program: The Human Services Department administers the Career Link Program. The Career Link Program is a subsidized employment opportunity for a TANF cash assistance recipient to be hired into full-time employment. The employer is reimbursed through the TANF Block Grant for up to six months.

## **R. ANNUAL CLOTHING ALLOWANCE**

New Mexico uses both State and Federal block grant funds to issue monthly cash benefits to TANF-eligible families. Each year, for the benefit month of August and January, an additional cash assistance amount of \$100 and \$50, respectively, per school age child is issued to the benefit group as a school clothing allowance. Benefits are issued via the NM Electronic Benefit Transfer system.

## **S. DIVERSION PAYMENT FOR APPLICANTS**

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

The diversion payment is a lump sum payment, which is intended to assist the benefit group to alleviate a specific short-term need, to accept a bona fide offer of employment, retain employment, and remedy an emergency situation or an unexpected short-term need. The applicant must demonstrate that monthly cash assistance to meet basic needs is not required because there is a means of financial support for the benefit group. If the amount needed to meet the specific need is more than the diversion payment, it shall be determined whether the maximum payment will alleviate the specific need; if not, the diversion payment cannot be authorized.

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

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

residents the same.

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

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

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

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

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

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

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

## **T. TRANSITION BONUS PROGRAM**

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

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



certification. Benefit groups are required to submit a six-month report during the 18 month certification

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

## **U. FAMILY VIOLENCE OPTION**

### **1. Background**

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

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

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

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

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

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

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

Domestic violence also means:

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

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

### 3. Training

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

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

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

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

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

## 5. Referrals and Confidentiality

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

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

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

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

## 6. Work Program Requirements

An individual in a domestic violence environment will be placed in Limited Work Participation and is not required to complete the full work program requirements. Participants are assessed by their capacity for work. Participants, who have been identified as domestic violence victims, may participate in domestic violence work activities to receive services focused on assisting the participant to overcome the effects of domestic violence and abuse.

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

## 7. Waiver of Cooperation with Child Support Enforcement

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

## 8. Developing Community Linkages

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

## 9. Screening and Identifying TANF Eligible Families

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

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

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

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

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

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

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

### **PART V. FOSTER CARE**

The Children, Youth, and Families Department (CYFD) is the state agency responsible for children's protective services and foster care in the state of New Mexico. CYFD also administers

juvenile justice programs, thereby providing a full range of services for troubled and in-trouble youth.

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

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

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

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

### **1. Administering Agency**

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

CSED program operations are carried out by central office staff, as well as field staff located 14 offices statewide. Central office is located in Santa Fe.

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

#### **a. The functions and purposes of child support enforcement are to:**

- (1) Locate absent parents;
- (2) Establish paternity, if necessary;
- (3) Enforce and modify existing court orders for support;
- (4) Effect actions necessary to obtain a court order for support if none exists;
- (5) Enforce the collection of child and spousal support payments; and
- (6) Establish and enforce medical support orders.

#### **b. The Department has a contract with the Navajo Nation to provide child support services on the reservation. The Navajo Nation has offices located in Crownpoint and Shiprock.**

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

HSD seeks to reduce the ratio of illegitimate births in New Mexico. Of particular importance is

the significant rate of pregnancy among the state's teenage population resulting in an excessive number of teens bearing children they are not prepared to care for.

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

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

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

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

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

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

Victims of Statutory Rape can access county mental health programs, community mental health center or Core Service Agencies for services in 32 counties across New Mexico. A Core Service Agency (CSA) coordinates care and provides the essential services such as counseling services to children, youth and adults who have a serious mental illness, severe emotional disturbance, or dependence on alcohol or drugs.

Each New Mexico Judicial District also has victim advocates that refer and coordinate services with the Rape Crisis Center where individual and group counseling is provided for the victim, the family members, friends, or anyone affected by the assault.

The New Mexico Coalition of Sexual Assault Program provides education, training and technical assistance to service providers, law enforcement officers, prosecutors, medical practitioners and mental health professionals to reduce sexual abuse and sexual violence for any individual including men.

## **PART IX. PUBLIC PARTICIPATION**

Notice of public comment period for the proposed TANF State Plan that was included in the WIOA Combined State Plan for the period beginning July 1, 2020 to June 30, 2023 was published on March 12, 2020 in the Albuquerque Journal and Las Cruces Sun. The public comment period was

published for 30 days.

In order for the TANF State Plan to be compliant in accordance with 402(a)(4) of PRWORA, the Department must allow a 45-day public comment period for this State Plan.

Notice of a public comment period for the proposed TANF State Plan for the period beginning July 1, 2020 and ending June 30, 2023 will be published in the New Mexico Human Services Register, Albuquerque Journal, and Sunshine Portal for public comment. A public hearing will be held virtual through GoTo Meeting, and a call-in number will be available on September 25, 2020. See the information below:

<https://global.gotomeeting.com/join/923136685>

You can also dial in using your phone.

United States: +1 (224) 501-3412

Access Code: 923-136-685

All written comment can be dropped off at the scheduled hearing time at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505. The conference room is located on the first floor in the ASD Rodeo Building.