



HUMAN SERVICES
DEPARTMENT

STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

8.119.100 NMAC-REFUGEE RESETTLEMENT PROGRAM-DEFINITIONS AND ACRONYMS
8.119.410-REFUGEE RESETTLEMENT PROGRAM-GENERAL RECIPIENT REQUIREMENTS

III. PROGRAMS AFFECTED

REFUGEE RESETTLEMENT PROGRAM

IV. ACTION

PROPOSED AMENDMENTS

V. BACKGROUND

The Human Services Department (the Department) is proposing to amend the New Mexico Administrative Code (NMAC) rule *8.119.100 NMAC-REFUGEE RESETTLEMENT PROGRAM-DEFINITIONS AND ACRONYMS, and 8.119.410-REFUGEE RESETTLEMENT PROGRAM-GENERAL RECIPIENT REQUIRMENTS.*

Concise Explanatory Statement:

The Department is amending the rule to comply with the Code of Federal Regulations (CFR). Regulations issued pursuant to the act are contained in 45 CFR parts 400-499. Office of Refugee Resettlement (ORR) issued guidance that expands the Refugee Cash Assistance (RCA) eligibility period from eight months to twelve months for ORR-eligible populations whose date of eligibility for ORR benefits is on or after October 1, 2021. Historically, due to insufficient appropriations, the RCA eligibility period has been limited to eight months. The Department is also amending the definition format in 8.119.100 NMAC to comply with Section 14-4-3 NMSA 1978. The rule will be amended under the statutory authority.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

VI. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on Thursday, September 22, 2022, at 8:30 am-9:30 am. 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://meet.goto.com/785880941>

You can also dial in using your phone.

United States: [+1 \(669\) 224-3412](tel:+16692243412)

Access Code: 785-880-941.

All written comments may be dropped off during the scheduled hearing time at the HSD Sandoval County Field Office, 4363 Jager Dr., Rio Rancho, NM 87144.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-396-0313. 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 505-396-0313.

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 505-709-5468 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, September 22, 2022. 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

VII. PUBLICATION DATE:

August 23, 2022

VIII. PUBLICATION

Publication of these proposed amendments approved on _____

by:

DocuSigned by:

David R. Scrase, M.D.

7/20/2022

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DAVID R. SCRASE, M.D., SECRETARY
HUMAN SERVICES DEPARTMENT

This is an amendment to 8.119.100.1 NMAC, Section 7 effective 11/1/2022

8.119.100.7 DEFINITIONS:

~~_____~~ **A. Definitions A-L:**

- ~~_____~~ (1) **Alien:** means an individual residing in the U.S. who does not hold U.S. citizenship.
- ~~_____~~ (2) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.
- ~~_____~~ (3) **Asylee:** means an individual who while in the U.S. is granted permanent residence under section 208 of the Immigration and Nationality Act (INA) and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.
- ~~_____~~ (4) **Asylee applicant:** means an individual who has applied for, but not yet received, asylum in the U.S. and who is therefore ineligible for the RRP.
- ~~_____~~ (5) **Authorized representative:** means a person aged 18 years or older who is designated, in writing, by the applicant and is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and represent the benefit group.
- ~~_____~~ (6) **Benefit group:** means an individual or group of individuals authorized to receive cash assistance financed by federal or state funds.
- ~~_____~~ (7) **Case management services:** means the determination of appropriate service(s) to refer a refugee, referral to such services(s), and tracking of the refugee's participation in such services(s).
- ~~_____~~ (8) **Conditional entrant:** means an individual who was admitted to the U.S. under section 203(a)(7) of the INA.
- ~~_____~~ (9) **Cuban/Haitian entrant:** means a citizen of Cuba or Haiti who is admitted to the U.S. under section 212(d)(5) of the INA.
- ~~_____~~ (10) **Date of entry:** means the date established by the department of homeland security as the date a refugee or Cuban/Haitian entrant was lawfully admitted to the U.S. for permanent residence. For asylees it means the date on which asylum was granted.
- ~~_____~~ (11) **Department:** means the human services department.
- ~~_____~~ (12) **Documentation of immigration status:** means documents issued to the individual by DHS or USCIS that identifies the individual's lawful immigration status. The documentation provided by an individual is copied for the case file.
- ~~_____~~ (13) **Earned income:** means cash or payments in kind that are received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from direct provision of services, goods or property, production of goods, management of property or supervision of services.
- ~~_____~~ (14) **Economic self-sufficiency:** means the ability of a refugee to meet his or her basic needs without the need for cash assistance.
- ~~_____~~ (15) **Employability plan:** means an individualized written plan for a refugee, registered for employment services, that sets forth a program of services intended to achieve the earliest possible employment of the refugee.
- ~~_____~~ (16) **Employability services:** means services designed to enable an individual to attain employment and to improve the work skills of the individual.
- ~~_____~~ (17) **Form I-94:** means the white arrival/departure card issued by the department of homeland security to each alien entering the U.S. which identifies the date of entry and the immigration status granted to that person.
- ~~_____~~ (18) **Individualized employability plan (IEP):** means a written plan, developed by the refugee and the case manager, or the actions to be taken by an employable refugee to achieve employment and economic self-sufficiency.
- ~~_____~~ (19) **Institution of higher education:** means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment, including but not limited to colleges, universities, and vocational or technical schools at the post-high school level.
- ~~_____~~ (20) **Local affiliate:** means a not for profit agency that is affiliated with a national voluntary agency (VOLAG) and has been approved by the U.S. department of state to conduct a refugee resettlement program.
- ~~_____~~ (21) **Local resettlement agency:** means a local affiliate of a VOLAG that has entered into a grant, contract, or cooperative agreement with the U.S. department of state to provide initial reception and placement services to refugees.

~~(22) **Local sponsor:** means an individual, church, or civic organization that has agreed to assist a refugee to resettle in a specific community.~~

~~**B. Definitions M-Z:**~~

~~(1) **Match grant:** means a program sponsored by the office of refugee resettlement (ORR) that provided matching funds to voluntary agencies and local affiliates to provide cash assistance and services to refugees for no more than 6 months after their lawful arrival in the U.S.~~

~~(2) **Medicaid:** means medical assistance under Title XIX of the Social Security Act, as amended.~~

~~(3) **National voluntary agency (VOLAG):** means one of the national resettlement agencies that has entered into a contract, or cooperative agreement with the U.S. department of state or other federal agency to provide for the resettlement of refugees and to oversee the work of a national network or local affiliates.~~

~~(4) **Minor unmarried parent:** means an unmarried parent, who is under the age of 18 years, or is age 18 and enrolled in high school.~~

~~(5) **New Mexico works:** means the federally funded temporary assistance for needy families (TANF) program that carries a 60 month term limit for adults in the state of New Mexico and requires participation in a variety of job search and skill development activities to maintain eligibility.~~

~~(6) **Payment:** means the amount of the cash assistance benefit.~~

~~(7) **Reception and placement grant:** means a grant provided by the U.S. department of state or U.S. department of justice that is intended to assist refugees to meet their basic needs during the first 30 to 90 days after admission to the U.S.~~

~~(8) **Recipient:** means a person receiving cash assistance benefits.~~

~~(9) **Refugee:** means any person who is admitted into the U.S. under section 207 of the INA and is unable or unwilling to return to his or her country of origin because of persecution or a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.~~

~~(10) **Resources:** tangible assets and property owned by the applicant with the exception of assets and property in the refugee's country of origin and assets and property given to the refugee as part of the reception and placement program.~~

~~(11) **Refugee cash assistance (RCA):** means a 100 percent federally funded cash assistance program for non TANF, non SSI, eligible needy refugees during their first 8 months in the U.S.~~

~~(12) **Refugee medical assistance (RMA):** means a 100 percent federally funded medical assistance program for non-Medicaid eligible needy refugees during their first 8 months in the U.S.~~

~~(13) **Secondary migrant:** means a refugee who was initially resettled in another state but who has relocated his or her residence to New Mexico.~~

~~(14) **Spend down:** means to deduct incurred medical expenses from countable income, thereby lowering the amount of countable income to a level that may meet the financial eligibility standard.~~

~~(15) **Standard of need:** means a maximum cash benefit amount that is based on federal regulation for TANF standard of need.~~

~~(16) **Supplemental security income (SSI):** means monthly cash payments to income eligible persons over the age of 65 or who are determined to be disabled under the authority of Title XVI of the Social Security Act.~~

~~(17) **Unearned income:** means income from one of these sources: old age, survivors and disability insurance payments (social security); railroad retirement benefits; veteran's administration compensation or pension payments; military retirement and allotments; pensions, annuities and retirement benefits; lodge or fraternal benefits; other public or private disability or retirement benefits or pensions; shared shelter payments; individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.~~

~~(18) **Victim of human trafficking:** means an individual who has received certification from ORR as a victim of human trafficking.]~~

~~**A. Definitions beginning with "A":**~~

~~(1) **Alien:** means an individual residing in the U.S. who does not hold U.S. citizenship.~~

~~(2) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.~~

~~(3) **Asylee:** means an individual who while in the U.S. is granted permanent residence under section 208 of the Immigration and Nationality Act (INA) and is unable or unwilling to return to his or her country~~

of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

(4) **Asylee applicant:** means an individual who has applied for, but not yet received, asylum in the U.S. and who is therefore ineligible for the RRP.

(5) **Authorized representative:** means a person aged 18 years or older who is designated, in writing, by the applicant and is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and represent the benefit group.

B. Definitions beginning with "B": **Benefit group:** means an individual or group of individuals authorized to receive cash assistance financed by federal or state funds.

C. Definitions beginning with "C":

(1) **Case management services:** means the determination of appropriate service(s) to refer a refugee, referral to such services(s), and tracking of the refugee's participation in such services(s).

(2) **Conditional entrant:** means an individual who was admitted to the U.S. under section 203(a)(7) of the INA.

(3) **Cuban/Haitian entrant:** means a citizen of Cuba or Haiti who is admitted to the U.S. under section 212(d)(5) of the INA.

D. Definitions beginning with "D":

(1) **Date of entry:** means the date established by the department of homeland security as the date a refugee or Cuban/Haitian entrant was lawfully admitted to the U.S. for permanent residence. For asylees it means the date on which asylum was granted.

(2) **Department:** means the human services department.

(3) **Documentation of immigration status:** means documents issued to the individual by DHS or USCIS that identifies the individual's lawful immigration status. The documentation provided by an individual is copied for the case file.

E. Definitions beginning with "E":

(1) **Earned income:** means cash or payments in-kind that are received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from direct provision of services, goods or property, production of goods, management of property or supervision of services.

(2) **Economic self-sufficiency:** means the ability of a refugee to meet his or her basic needs without the need for cash assistance.

(3) **Employability plan:** means an individualized written plan for a refugee, registered for employment services, that sets forth a program of services intended to achieve the earliest possible employment of the refugee.

(4) **Employability services:** means services designed to enable an individual to attain employment and to improve the work skills of the individual.

F. Definitions beginning with "F": **Form I-94:** means the white arrival/departure card issued by the department of homeland security to each alien entering the U.S. which identifies the date of entry and the immigration status granted to that person.

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": [RESERVED]

I. Definitions beginning with "I":

(1) **Individualized employability plan (IEP):** means a written plan, developed by the refugee and the case manager, or the actions to be taken by an employable refugee to achieve employment and economic self-sufficiency.

(2) **Institution of higher education:** means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment, including but not limited to colleges, universities, and vocational or technical schools at the post-high school level.

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) **Local affiliate:** means a not-for-profit agency that is affiliated with a national voluntary agency (VOLAG) and has been approved by the U.S. department of state to conduct a refugee resettlement program.

(2) **Local resettlement agency:** means a local affiliate of a VOLAG that has entered into a grant, contract, or cooperative agreement with the U.S. department of state to provide initial reception and placement services to refugees.

(3) **Local sponsor:** means an individual, church, or civic organization that has agreed to assist a refugee to resettle in a specific community.

M. Definitions beginning with “M”:

(1) **Match grant:** means a program sponsored by the office of refugee resettlement (ORR) that provided matching funds to voluntary agencies and local affiliates to provide cash assistance and services to refugees for no more than six months after their lawful arrival in the U.S.

(2) **Medicaid:** means medical assistance under Title XIX of the Social Security Act, as amended.

(3) **Minor unmarried parent:** means an unmarried parent, who is under the age of 18 years, or is age 18 and enrolled in high school.

N. Definitions beginning with “N”:

(1) **National voluntary agency (VOLAG):** means one of the national resettlement agencies that has entered into a contract, or cooperative agreement with the U.S. department of state or other federal agency to provide for the resettlement of refugees and to oversee the work of a national network or local affiliates.

(2) **New Mexico works:** means the federally funded temporary assistance for needy families (TANF) program that carries a 60 month term limit for adults in the state of New Mexico and requires participation in a variety of job search and skill development activities to maintain eligibility.

O. Definitions beginning with “O”: [RESERVED]

P. Definitions beginning with “P”: **Payment: means the amount of the cash assistance benefit.**

Q. Definitions beginning with “Q”: [RESERVED]

R. Definitions beginning with “R”:

(1) **Reception and placement grant:** means a grant provided by the U.S. department of state or U.S. department of justice that is intended to assist refugees to meet their basic needs during the first 30 to 90 days after admission to the U.S.

(2) **Recipient:** means a person receiving cash assistance benefits.

(3) **Refugee:** means any person who is admitted into the U.S. under Section 207 of the INA and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

(4) **Resources:** tangible assets and property owned by the applicant with the exception of assets and property in the refugee’s country of origin and assets and property given to the refugee as part of the reception and placement program.

(5) **Refugee cash assistance (RCA):** means a one hundred percent federally funded cash assistance program for non-TANF, non-SSI, eligible needy refugees during their first 12 months in the U.S.

(6) **Refugee medical assistance (RMA):** means a one hundred percent federally funded medical assistance program for non-Medicaid eligible needy refugees during their first 12 in the U.S.

S. Definitions beginning with “S”:

(1) **Secondary migrant:** means a refugee who was initially resettled in another state but who has relocated their residence to New Mexico.

(2) **Spend down:** means to deduct incurred medical expenses from countable income, thereby lowering the amount of countable income to a level that may meet the financial eligibility standard.

(3) **Standard of need:** means a maximum cash benefit amount that is based on federal regulation for TANF standard of need.

(4) **Supplemental security income (SSI):** means monthly cash payments to income eligible persons over the age of 65 or who are determined to be disabled under the authority of Title XVI of the Social Security Act.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: **Unearned income: means income from one of these sources: old age, survivors and disability insurance payments (social security); railroad retirement benefits; veteran’s administration compensation or pension payments; military retirement and allotments; pensions, annuities and retirement benefits; lodge or fraternal benefits; other public or private disability or retirement benefits or pensions; shared shelter payments; individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker’s compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.**

V. Definitions beginning with “V”: **Victim of human trafficking: means an individual who has received certification from ORR as a victim of human trafficking.**

W. Definitions beginning with “W”: [RESERVED]
X. Definitions beginning with “X”: [RESERVED]
Y. Definitions beginning with “Y”: [RESERVED]
Z. Definitions beginning with “Z”: [RESERVED]
[8.119.100.7 NMAC - N, 11/01/2013; A, 11/1/2022]

This is an amendment to 8.119.410.8 NMAC, Section 8 effective 11/1/2022.

8.119.410.8 GENERAL RECIPIENT REQUIREMENTS:

A. Citizenship

(1) To be eligible for inclusion in the RCA benefit group, the applicant must be classified as a “refugee.”

(2) To be eligible for inclusion in the RRP benefit group the individual must provide proof, in the form of documentation issued by USCIS, of one of the following statuses under the INA as a condition of eligibility:

(a) paroled as a refugee or asylee under section 212(d)(5) of INA; or

(b) admitted as a refugee under section 207 of the INA; or

(c) granted asylum under section 208 of the INA; or

(d) Cuban and Haitian entrants including:

(i) any individual granted parole status as a Cuban/Haitian entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(ii) any other national of Cuba or Haiti who was paroled into the U.S. and has not acquired any other status under the INA; is the subject of exclusion or deportation proceedings under the INA; or has an application for asylum pending with the INS; and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or

(e) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts 1989 (Public Law 100-461 as amended)); or

(f) admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(3) An applicant for asylum is not eligible for assistance under title IV of the INA unless otherwise provided by federal law.

B. Time limits

(1) Eligibility for RCA is limited to ~~eight (8)~~ 12 months from the date of entry, date of asylum, or date deportation was withheld.

(2) For refugee assistance cases involving U.S. born children, the eligibility for RCA for the child expires when the refugee parent who last arrived in the U.S. has been in the country for eight (8) months.

C. General eligibility requirements

(1) RCA eligibility is limited to those who are ineligible for TANF. The benefit groups' eligibility for TANF must be determined before determining eligibility for RCA.

(2) An individual who is enrolled full-time in an institution of higher education will be ineligible to participate in the RCA program except where such enrollment has been approved as part of the individual's individual employability plan (IEP) and in which the enrollment will last for a period of less than one year.

(a) An individual is considered to be enrolled in an institution of higher education, if the individual is enrolled in a business, technical, trade or vocational school, that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

(b) The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of thirty (30) calendar days.

(3) A refugee must provide the name of the resettlement agency which was responsible for his or her resettlement.

(4) Possession of a social security number is not a requirement of eligibility for RCA. [7/1/1997; 8.119.410.8 NMAC - Rn, 8 NMAC 3.RRP.412, 3/14/2001; A, 11/1/2013; **A, 11/1/2022**]