



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
HUMAN SERVICES REGISTER



I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

ANNUAL ADJUSTMENTS TO INCOME LIMITS
FLEEING FELON
DEPENDENT CARE DEDUCTIONS

III. PROGRAMS AFFECTED

NEW MEXICO WORKS (NMW)
CASH ASSISTANCE PROGRAM
SUPPORT SERVICES PROGRAM
EDUCATION WORKS PROGRAM
GENERAL ASSISTANCE PROGRAMS
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

IV. ACTION

PROPOSED AMENDMENTS

V. BACKGROUND

Annual adjustments were made to the income limits found in 8.102.500 NMAC and 8.106.500 NMAC. Each year the Department is required to update the income and resource eligibility standards as well as the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Services (FNS). The Department received notification of the adjusted amounts on August 16, 2021 and made the adjustments effective for benefit month October 2021 for Federal Fiscal Year (FFY) 2022 to comply with federal law and regulations.

The Department is also amending 8.100.130 NMAC, 8.102.410 NMAC and 8.106.410 NMAC for SNAP and Cash to align the Federal Regulations surrounding felon status and the eligibility of certain convicted felons.

In addition, the Department is clarifying dependent care expenses in relation to SNAP found in 8.139.520 NMAC and adding lottery and gambling winnings to 8.139.120 NMAC as a reportable change.

Concise Explanatory Statement:

Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299. Administration of the Human Services Department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983). The Department promulgated rules to adjust the annual income limits as an emergency rule effective October 1, 2021, which did not permanently amend or repeal the existing rule as well as to clarify current SNAP and Cash regulations listed above. The emergency rule change remains in effect until a permanent rule takes effect under the normal rule making process.

VI. PUBLIC HEARING

A public hearing to receive public comment on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on **Thursday, February 10, 2022, from 9:00am-10:00am**. The hearing will be held virtually through GoTo Meeting at this link: <https://global.gotomeeting.com/join/875825853> If you prefer to join via phone, you may call +1 (646) 749-3122, Access Code: 875-825-853. You may provide written comment during the scheduled public hearing by dropping it off at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505; this drop off site will be for written comment only. The conference room is located on the first floor in the ASD Rodeo Building.

If you would like to provide verbal public comment during the scheduled public hearing, you may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling **505-670-1791** to be placed on a list. You may also join the public hearing during the scheduled time at the GoTo Meeting or phone options above. 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 505-670-1971.

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, Thursday, February 10, 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:

March 22, 2022

VIII. PUBLICATION

Publication of these proposed amendments approved on 1/3/2022

by:

DocuSigned by:

Angela Medrano

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**Angela Medrano, Deputy Cabinet Secretary
Signing electronically on behalf of D.S.**

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

This is an amendment to 8.102.500 NMAC, Section 8 effective 04/01/2022.

8.102.500.8 GENERAL REQUIREMENTS:

A. Need determination process: Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

- (1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;
- (2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;
- (3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;
- (4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

B. Gross income limits: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

- (1) Income eligibility limits are revised and adjusted each year in October.
- (2) The gross income limit for the size of the benefit group is as follows:
 - (a) one person ~~[\$904]~~ \$913
 - (b) two persons ~~[\$1,221]~~ \$1,234
 - (c) three persons ~~[\$1,539]~~ \$1,556
 - (d) four persons ~~[\$1,856]~~ \$1,878
 - (e) five persons ~~[\$2,173]~~ \$2,199
 - (f) six persons ~~[\$2,491]~~ \$2,520
 - (g) seven persons ~~[\$2,808]~~ \$2,842
 - (h) eight persons ~~[\$3,125]~~ \$3,164
 - (i) add ~~[\$318]~~ \$322 for each additional person.

C. Eligibility for support services only: Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

- (1) one person ~~[\$1,064]~~ \$1,074
- (2) two persons ~~[\$1,437]~~ \$1,452
- (3) three persons ~~[\$1,810]~~ \$1,830
- (4) four persons ~~[\$2,184]~~ \$2,209
- (5) five persons ~~[\$2,557]~~ \$2,587
- (6) six persons ~~[\$2,930]~~ \$2,965
- (7) seven persons ~~[\$3,304]~~ \$3,344
- (8) eight persons ~~[\$3,677]~~ \$3,722
- (9) add ~~[\$374]~~ \$379 for each additional person.

D. Standard of need:

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$91 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

- (a) one person \$266
- (b) two persons \$357
- (c) three persons \$447
- (d) four persons \$539
- (e) five persons \$630
- (f) six persons \$721
- (g) seven persons \$812
- (h) eight persons \$922

(i) add \$91 for each additional person.

E. Special needs:

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

F. Non-inclusion of legal guardian in benefit group: Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020; A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022]

This is an emergency amendment to 8.106.500 NMAC, Section 8 effective 04/01/2022.

8.106.500.8 GA -GENERAL REQUIREMENTS:

A. Limited state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

B. Need determination process: Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;

(2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

C. GA payment determination: The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

D. Gross income test: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

(a) one person [~~\$904~~] \$913

(b) two persons [~~\$1,221~~] \$1234

(c) three persons [~~\$1,539~~] \$1556

(d) four persons [~~\$1,856~~] \$1878

(e) five persons [~~\$2,173~~] \$2199

(f) six persons [~~\$2,491~~] \$2520

(g) seven persons [~~\$2,808~~] \$2842

(h) eight persons [~~\$3,125~~] \$3164

(i) add \$318 for each additional person.

E. Standard of need:

(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance benefit group on a monthly basis and is based on availability of state funds, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

F. Net income test: The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

G. Special clothing allowance for school-age dependent children: A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age as defined by PED.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

H. Supplemental issuance: A one-time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the human services department and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

I. Minimum Benefit Amount: Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application.

[8.106.500.8 NMAC - N, 07/01/2004; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 01/01/2008; A, 06/16/2008; A/E, 10/01/2008; A, 07/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 12/01/2009; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A, 07/01/2013; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/1/2019; A/E, 10/01/2019; A, 03/1/2020 A/E, 10/01/2020; A, 03/1/2021 A/E, 10/01/2021; A, 04/01/2022]

This is an amendment to 8.100.410-130 NMAC, Section 11-22 and 12 to be effective 4/1/2022.

8.100.130.22 NON-FINANCIAL VERIFICATION STANDARDS - OTHER:

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

B. Fleeing felon, probation or parole violator:

(1) **Fleeing Felon:** An individual determined to be a fleeing felon shall be an ineligible household member. To establish an individual as a fleeing felon ISD must verify that an individual is a fleeing felon. A federal, state, or local law enforcement officer acting in his or her official capacity must present an outstanding felony arrest warrant that conforms to one of the following national crime information center uniform offense classification codes, to the department to obtain information on the location of and other information about the individual named in the warrant:

- (a) escape (4901); or
- (b) flight to avoid prosecution, confinement, etc (4902); or
- (c) flight-escape (4999).

(2) **Probation or parole violator:** An individual determined a parole or probation violator shall not be considered to be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by ISD, must determine that the individual violated a condition of his or her probation or parole imposed under federal or state law and that federal, state, or local law enforcement authorities are actively seeking the individual to enforce the conditions of the probation or parole. Actively seeking is defined as:

- (a) a federal, state, or local law enforcement agency informs ISD that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within 20 days of submitting a request for information about the individual to ISD; or
- (b) a federal, state, or local law enforcement agency presents a felony arrest warrant as provided in Paragraph (1) of Subsection B of this section; or
- (c) a federal, state, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within 30 days of the date of a request from ISD about a specific outstanding felony warrant or probation or parole violation.

(3) **Certain convicted felons:** An individual who is ~~or~~ has been determined to be convicted on or before February 7, 2014, as an adult of the following crimes shall not be eligible for inclusion in the cash assistance benefit group:

- (a) ~~Aggravated aggravated~~ sexual abuse under section 2241 of title 18, United States Code;
- (b) ~~m~~Murder under section 1111 of title 18, United States Code;
- (c) ~~a~~An offense under chapter 110 of title 18, United States Code;
- (d) ~~a~~A federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or
- (e) ~~a~~An offense under ~~State state~~ law determined by the attorney general to be substantially similar to an offense described in clause (i), (ii), or (iii); and
- (f) ~~The the~~ individual is not in compliance with the terms of the sentence of the individual or the restrictions under 8.139.400.12 C NMAC.

~~(3)~~ (4) **Response time:** ISD shall give the law enforcement agency 20 days to respond to a request for information about the conditions of a felony warrant or a probation or parole violation, and whether the law enforcement agency intends to actively pursue the individual. If the law enforcement agency does not indicate that it intends to enforce the felony warrant or arrest the individual for the probation or parole violation within 30 days of the date of ISD's request for information about the warrant, ISD shall determine that the individual is not a fleeing felon or a probation or parole violator and document the household's case file accordingly. If the law enforcement agency indicates that it does intend to enforce the felony warrant or arrest the individual for the probation or parole violation within 30 days of the date of ISD's request for information, ISD will postpone taking any action on the case until the 30-day period has expired. Once the 30-day period has expired, ISD shall verify with the law enforcement agency whether it has attempted to execute the felony warrant or arrest the probation or parole violator. If it has, ISD shall take appropriate action to deny an applicant or terminate a participant who has been determined to be a fleeing felon or a probation or parole violator. If the law enforcement

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agency has not taken any action within 30 days, ISD shall not consider the individual a fleeing felon or probation or parole violator, shall document the case file accordingly, and take no further action.

~~(4)~~ (5) **Application processing:** ISD shall continue to process the application while awaiting verification of fleeing felon or probation or parole violator status. If ISD is required to act on the case without being able to determine fleeing felon or probation or parole violator status in order to meet the time standards in 7 CFR 273.2(g) or 273.2(i)(3), ISD shall process the application without consideration of the individual's fleeing felon or probation or parole violator status.
[8.100.130.22 - Rp, 8.100.130.13 NMAC, 8/1/2008; A, 3/1/2017; A, 12/1/2018; A, 4/1/2022]

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

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

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

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

- (1) newspaper publications of the stock exchange;
- (2) statement from the stock broker;
- (3) additional items as listed in ISD 135, "proof checklist"; or
- (4) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

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

- (1) insurance policy;
- (2) statement from the insurance company, insurance agent, lodges or fraternal organizations;
- (3) statement from the union or employer who provide the insurance;
- (4) statement from the veteran's administration;
- (5) additional items as listed in ISD 135, "proof checklist"; or
- (6) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC;

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

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

- (1) statement from a bank or financial institution, commodity broker, real estate agent, or expert in the field of real estate contracts or purchase contracts;
- (2) additional items as listed in ISD 135, "proof checklist"; or
- (3) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

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

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- _____ (1) statement from a company, agency or organization that provided payment;
- _____ (2) copy of a check or check stub;
- _____ (3) award letters;
- _____ (4) statement from an attorney;
- _____ (5) additional items as listed in ISD 135, "proof checklist"; or
- _____ (6) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

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

- _____ (1) recent sales slips;
- _____ (2) insurance or tax appraisals;
- _____ (3) catalogs or newspaper ads;
- _____ (4) statement from a bank, broker, local merchant or expert on tools and equipment;
- _____ (5) additional items as listed in ISD 135, "proof checklist"; or
- _____ (6) if documentary evidence is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

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

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

[8.100.130.23 – Rp, 8.100.130.14 NMAC, 08/01/2008; A, 03/01/2017]

8.100.130.24 FINANCIAL VERIFICATION STANDARDS – UNEARNED INCOME: Verification of income is mandatory for all programs.

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

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

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

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

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

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

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acceptable methods of verification as in 8.100.130.9 NMAC.

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

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

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

E. Workers' compensation benefits: Documents which may be used to verify worker's compensation include:

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

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

F. Unemployment compensation benefits (UCB): Verification of unemployment compensation

benefits should first be explored through the NMDWS web link. If it is not available through the NMDWS web link, the following documents may be used to verify UCB include:

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

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

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

- (1) written statement from the contributor;
- (2) written statement from the court;
- (3) copy of a check or a canceled check;
- (4) divorce or separation decree;
- (5) court order;
- (6) support agreement;
- (7) correspondence from the contributor regarding support payments;
- (8) court records;
- (9) attorney's records;
- (10) income tax return from the prior year;
- (11) employer's record of attached wages;
- (12) additional items as listed in ISD 135, "proof checklist"; or
- (13) if documentary evidence is not readily available or is questionable, a collateral contact

may be selected to verify child/spousal support or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC;

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

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

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

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(5) as educational expenses are deducted from the educational scholarship, grant or loan, it will be necessary to obtain verification of the expenses; verification may be obtained from the institution; or
(6) if documentary evidence is not readily available or is questionable, a collateral contact with the institution may be selected as verification of an education scholarship, grant or loan or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

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

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

(1) written statement from the contributor;
(2) additional items as listed in ISD 135, "proof checklist"; or
(3) if documentary evidence is not readily available or is questionable, a collateral contact with the contributor may be selected as verification of a contribution or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

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

(1) written statement from the person or organization making the loan;
(2) promissory note;
(3) loan agreement;
(4) additional items as listed in ISD 135, "proof checklist"; or
(5) if documentary evidence is not readily available or is questionable, a collateral contact with the person or organization making the loan may be selected as verification of a loan or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

L. Individual development accounts (IDA)

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

(2) ISD shall review deposits and withdrawals to ensure that no funds are being withdrawn except for those allowed under IDA policy and to ensure that the individual was employed during the time that any deposits were made.

[8.100.130.24 NMAC - Rp, 8.100.130.14 NMAC, 08/01/2008; A, 03/01/2017]

8.100.130.25 FINANCIAL VERIFICATION STANDARDS - EARNED INCOME:

A. Wages and salaries: Documents which may be used to verify current wages and salaries include:

(1) wage stubs;
(2) written statement from the employer;
(3) additional items as listed in ISD 135, "proof checklist"; or
(4) if documentary evidence is not readily available or is questionable, a collateral contact with the employer may be selected as verification of wages and salaries or use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

B. Self-employment: Verification of required tax and employer identification numbers, and tax-related and employer-related forms that the applicant/recipient was required to file is mandatory. It may not be possible to verify self-employment income through any single document. Documents which are used to verify self-employment income include:

(1) required state and federal tax and employer identification numbers;
(2) required federal and state tax forms for the current and prior tax year, including state and federal income and employer wage reporting and withholding reporting forms, gross receipts and occupation tax reporting forms;

(3) bills which indicate self-employment costs;
(4) other papers showing income and business expenses;
(5) all required business and occupation licenses;
(6) completed personal wage record;
(7) additional items as listed in ISD 135, "proof checklist"; or
(8) if documentary evidence of non-mandatory documents is not readily available, use other acceptable methods of verification as in 8.100.130.9 NMAC.

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

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8.100.130.26 — DEDUCTIONS/ALLOWANCES VERIFICATION STANDARDS — SHELTER:

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

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

- (a) mortgage payment book;
- (b) written statement from the bank or other financial institution;
- (c) rent receipt;
- (d) written statement from the landlord;
- (e) lease agreement;
- (f) copies of bills for property taxes or house insurance;
- (g) correspondence with the taxing authority or insurance agency; or
- (h) additional items as listed on ISD 135 "proof checklist".

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

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

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

[8.100.130.26 NMAC — Rp. 8.100.130.15 NMAC, 08/01/2008; A, 03/01/2017]

8.100.130.27 — DEDUCTIONS/ALLOWANCES VERIFICATION STANDARDS — MEDICAL EXPENSES:

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

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

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

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

[8.100.130.27 NMAC — Rp. 8.100.130.15 NMAC, 08/01/2008; A, 03/01/2017]

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8.100.130.28 — DEDUCTIONS/ALLOWANCES VERIFICATION STANDARDS — DEPENDENT CARE:

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

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

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

[8.100.130.28 NMAC — Rp., 8.100.130.15 NMAC, 08/01/2008; A., 03/01/2017]

HISTORY OF 8.100.130 NMAC:

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

ISD Rule 160, Eligibility and Verification Standards, 2/9/1988.

ISD Rule 160, Eligibility and Verification Standards, 9/15/1993.

History of Repealed Material:

8 NMAC 3-ISD.130, General Operating Policies, Eligibility/Verification Standards, filed 6/16/1997 — Repealed, 7/1/1997.

8.100.130 NMAC, General Operating Policies — Eligibility and Verification Standards, filed 3/26/2001 — Repealed, 8/1/2008

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This is an amendment to 8.102.410 NMAC, Section 15 effective 04/01/2022.

8.102.410.15 PROGRAM DISQUALIFICATIONS:

A. Dual state benefits: An individual who has been convicted of fraud for receiving TANF, [food stamps] SNAP, Medicaid, or SSI in more than one state at the same time shall not be eligible for inclusion in the cash assistance benefit group for a period of 10 years following such conviction. The conviction must have occurred on or after August 22, 1996.

B. Fugitive and probation and parole violators: An individual who is a fugitive felon or who has been determined to be in violation of conditions of probation or parole shall not be eligible for inclusion in the cash assistance benefit group.

C. Certain convicted felons. An individual who is or has been determined to be convicted on or before February 7, 2014, as an adult of the following crimes shall not be eligible for inclusion in the cash assistance benefit group:

- (1) aggravated sexual abuse under section 2241 of title 18, United States Code;
- (2) murder under section 1111 of title 18, United States Code;
- (3) an offense under chapter 110 of title 18, United States Code;
- (4) a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a); or
- (5) an offense under state law determined by the attorney general to be substantially similar to an offense described in clause (i), (ii), or (iii); and
- (6) the individual is not in compliance with the terms of the sentence of the individual or the restrictions under 8.139.400.12 C NMAC.

[8.102.410.15 NMAC - Rp 8.102.410.15 NMAC, 07/01/2001; A, 05/15/2002; A, 11/15/2007; A, 04/01/2022]

This is an amendment to 8.106.410 NMAC, Section 14 effective 04/01/2022.

8.106.410.14 PROGRAM DISQUALIFICATIONS:

A. Dual state benefits: An individual who has been convicted of fraud for receiving TANF, [~~food stamps~~] SNAP, Medicaid or SSI in more than one state at the same time shall not be eligible for inclusion in the GA cash assistance benefit group for a period of 10 years following such conviction. The conviction must have occurred on or after August 22, 1996.

B. Fugitive and probation and parole violators: An individual who is a fugitive felon or who has been determined to be in violation of conditions of probation or parole shall not be eligible for inclusion in the GA cash assistance benefit group.

C. Certain convicted felons. An individual who is or has been determined to be convicted on or before February 7, 2014, as an adult of the following crimes shall not be eligible for inclusion in the cash assistance benefit group:

- (1) aggravated sexual abuse under section 2241 of title 18, United States Code;
- (2) murder under section 1111 of title 18, United States Code;
- (3) an offense under chapter 110 of title 18, United States Code;
- (4) a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or
- (5) an offense under state law determined by the attorney general to be substantially similar to an offense described in clause (i), (ii), or (iii); and
- (6) the individual is not in compliance with the terms of the sentence of the individual or the restrictions under 8.139.400.12 C NMAC.

[8.106.410.14 NMAC - Rp, 8.106.410.13 NMAC, 12/01/2009; A, 04/01/2022]

This is an amendment to 8.139.520 NMAC, Section 11 effective 04/01/2022.

8.139.520.11 GENERAL DEDUCTIONS

A. Use of deductions: A household must qualify for deductions by first meeting a gross income test. A household is not eligible if gross income is more than the standard listed in Subsection E of 8.139.500.8 NMAC for a household size. If income falls below the gross income limit, a household shall be allowed deductions, where applicable, to make a final eligibility and benefit amount determination. Households that include elderly or disabled members, as defined, automatically qualify for deductions; eligibility is determined based on net rather than gross income.

B. Standard deduction: All households are allowed a standard deduction from income. The standard deduction is listed in Paragraph (3) of Subsection F of 8.139.500.8 NMAC, tables, and is adjusted effective every October 1st.

C. Earned income deduction: Twenty percent (20%) of gross earned income shall be deducted. Excluded income is not used for purposes of computing the earned income deduction.

(1) **Computing an overissuance:** The earned income deduction (EID) shall not be allowed when calculating the income to be used in determining an overissuance which is due to the failure of a household to report earned income in a timely manner.

(2) **Work supplementation programs:** The EID shall not be allowed for any amount of income which is earned under a work supplementation or support program and is attributable to public assistance.

D. Medical deductions: Allowable medical deductions include:

(1) **Elderly/disabled:** Medical expenses in excess of \$35.00 per month, excluding special diets, incurred by any household member who is elderly or disabled.

(2) **Emergency SSI:** Individuals receiving emergency SSI benefits based on presumptive eligibility shall be eligible for the medical deduction.

(3) **Death:** A medical expense incurred by a household member who dies shall be allowed as a deduction if the member was eligible for the deduction at the time of death and if the remaining household members are legally responsible for payment.

(4) **Hospital/outpatient/nursing home:** Medical expenses, such as hospitalization or outpatient treatment, nursing care and nursing home care, including payments by a household for an individual who was an eligible household member immediately before entering a hospital or nursing home facility recognized by the state, are allowable deductions.

(5) **Not eligible:** Spouses, children or other individuals in the household who are not elderly or disabled, shall not be entitled to claim the medical deduction.

(6) **Allowing medical expenses:**

(a) **One-time only expense:**

(i) A household may choose to have a one-time only expense, reported at certification, deducted in a lump sum or averaged over the certification period.

(ii) If a household incurs a one-time medical expense and has made arrangements with the provider to make monthly installments (beyond the current certification period), the expense may be allowed each month as arranged.

(iii) A household reporting a one-time only medical expense during its certification period may choose to have a one-time deduction or to have the expense averaged over the remaining months of the certification period.

(b) **Households certified for 24 months:** A household certified for 24 months cannot have a one-time medical expense averaged over the 24-month certification period.

(i) A one-time medical expense may be deducted in the first month of the 24-month certification period; or the one-time medical expense may be deducted and averaged over the first 12 months of the 24-month certification period.

(ii) One-time medical expenses reported after the first 12 months of the certification period shall be averaged over the remaining months.

(c) **Expense in last month of certification:** If a household is billed for and reports an expense during the last month of its certification period, the deduction shall not be allowed. If the expense will be paid in installments during the following certification period, the deduction shall be allowed during the appropriate number of months in the subsequent certification period.

(d) **Fluctuating expenses:** Fluctuating medical expenses shall be allowed as deductions if regularly recurring, reasonably anticipated, and verified. Once determined, the household is not

required to report changes of \$25 or less or reverify expenses each month.

(e) Anticipated changes in expenses: At certification and recertification the household must report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on:

- (i)** anticipated changes in the household's medical expenses that can reasonably be expected to occur during the certification period based on available information about the recipients medical condition, public or private insurance coverage, and current verified medical expenses; and
- (ii)** expenses that occurred during the certification period that will continue in the new certification period; and
- (iii)** consideration of unpaid and past due medical expenses that will continue in the certification period.

(f) If a household reports an allowable medical expense at the time of certification but cannot provide verification at that time, and if the amount of the expense cannot be reasonably anticipated based upon available information about the recipients' medical condition and public or private medical insurance coverage, the household shall have the nonreimbursable portion of the medical expense considered at the time the amount of the expense or reimbursement is reported and verified.

(g) A household shall not be required to file reports about its medical expenses during the certification period. If a household voluntarily reports a change in its medical expenses, the caseworker shall act on the change in accordance with regulations in (c) of Paragraph (1) of Subsection B of 8.139.120.10 NMAC.

(7) Past due and unpaid medical expenses: The medical expense deduction shall not be determined by averaging past due or unpaid monthly medical expenses. Such expenses shall be used only as an indicator of what can reasonably be anticipated. Medical expenses which the household might reasonably anticipate receiving include but are not limited to costs of medical services and treatment received regularly, but less often than monthly, and prescription drugs.

(8) Medical and dental care: Medical and dental care, psychotherapy, and rehabilitation services, provided by licensed practitioners authorized by state law, or other qualified health professional, shall be allowed as medical expense deductions. State licenses in New Mexico are authorized by occupational licensing boards. A state-licensed practitioner has such a license. Native American practitioners (medicine men) are not licensed, but are recognized as health practitioners for this purpose.

(9) Prescription drugs and medical supplies: Prescription drugs, when prescribed by a licensed practitioner authorized under state law, and over-the-counter medications (including insulin) when approved by a licensed practitioner or other qualified health professional, shall be allowed as deductions. In addition, costs for medical supplies, sick-room equipment (including rental), or other prescribed equipment are deductible.

(10) Health and hospitalization/medicare premiums: Health and hospitalization insurance premiums, and medicare premiums, as well as any cost sharing or spend-down expenses incurred by medicaid recipients, are allowable deductions. If a medical insurance policy includes benefits for household members not eligible for a deduction, only that portion of the premium assigned to the eligible member(s) may be considered a deduction. In the absence of specific information about how much of the premium is for the eligible member(s), a pro rata amount may be used. This system may be used even if the policy holder does not qualify for the deduction but the policy includes a person(s) who does qualify. The cost of life or health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies that continue mortgage or loan payments while the beneficiary is disabled, are not deductible.

(11) Transportation and lodging costs: Reasonable costs of transportation and lodging to obtain medical treatment or services are deductible. The allowance for mileage in privately owned vehicles is the same as the amount allowed state employees. Lodging costs may not exceed the daily expense amount allowed (per diem) for state employees.

(12) Maintaining an attendant: Costs of maintaining an attendant, homemaker or home health aide, child care services, or housekeeper that are necessary because of age, infirmity, or illness are deductible medical expenses. In addition, an amount equal to the food stamp benefit amount for one person is deductible if the household furnishes the majority of the attendant's meals. The food stamp benefit amount for the meal-related deduction is the one in effect at the time of initial certification. The caseworker shall update the food stamp benefit amount for meals at the next scheduled recertification. If a household incurs attendant care expenses that could qualify under both the medical deduction and the dependent care deduction, the caseworker shall treat the expense as a medical expense.

(13) **Other expenses:** Other deductible expenses include but are not limited to:

(a) dentures, hearing aids, prosthetics;

(b) securing and maintaining a seeing-eye or hearing dog, or other service animal, including the cost of dog food and veterinary bills; and

(c) eyeglasses or contact lenses prescribed by an ophthalmologist or an optometrist.

(14) **Prescription drug card expense:**

(a) An individual participating in the food stamp program who has enrolled for the medicare-approved drug discount card shall have \$23.00 credited to the monthly medical expense allowed for that individual.

(b) An individual participating in the food stamp program who receives a \$600.00 transitional assistance credit on the medicare-approved drug discount card for the calendar years 2004 and 2005 shall have \$50.00 credited to the monthly medical expense allowed for that individual for each month after September 2004, through December 2005, and not beyond that month.

E. Dependent care expenses:

(1) **Deductible amounts:** Payments may be deducted for the actual cost of the care of children or other dependents when necessary for a household member to accept or continue employment, comply with E&T work requirements, or an equivalent effort by those not required to comply with E&T work requirements, or attend training or pursue education which is preparatory to employment or leads to a degree. ~~[An amount up to the maximum allowed may be deducted for each child requiring dependent care (See Paragraph (3) of Subsection F of 8.139.500.8 NMAC, deductions and standards)]~~ Allowable costs include:

(a) the costs of care given by an individual care provider or care;

(b) transportation costs to and from the care facility; and

(c) activity or other fees associated with the care provided to the dependent that are necessary for the household to participate in the care.

(2) **Household member provides care:** If a household member provides dependent care, the payment is neither income to the payee nor a deduction for the payor (see Subsection A of 8.139.500.11 NMAC).

(3) **Income excluded/deduction allowed:** Households whose dependent care costs are paid in accordance with 8.139.527 NMAC, income and resources excluded by federal law, shall be entitled to a dependent care deduction only for the amount of the child care expense not reimbursed by a work program or transitional day care (TDC) program. Child care expenses reimbursed or paid by a work program or TDC are not deductible.

F. Household expenses:

(1) **Shelter expenses:**

(a) **Definition:** Continuing charges for the shelter occupied by a household include rent, mortgage payment, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home and interest on such payments. If payments are made on more than one mortgage on the home, each payment is counted for the period the payment is intended to cover. Security deposits on rental property and downpayments for the purchase of a home are not allowed as shelter expense deductions. Closing costs shall not be allowed as a shelter expense, unless the closing costs can be itemized to identify costs that are allowable deductions, such as insurance and property taxes.

(b) **Excess shelter expense deduction:** Monthly shelter expenses in excess of fifty percent (50%) of a household's income, after all other deductions have been allowed may be deducted, subject to the following restrictions:

(i) The shelter deduction may not exceed the maximum amount indicated in Paragraph (3) Subsection F of 8.139.500.8 NMAC, unless the household contains a member who is elderly or disabled, as defined.

(ii) Households may not claim shelter expenses if the expense shall be paid as a vendor payment by an individual or organization outside the household.

(iii) The household must be responsible for payment of the shelter expense; however the household need not have paid the expense to claim the deduction. A current billing statement is used to establish the expense. The expense may not be allowed more than once.

(2) **Taxes and insurance:** Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings, are deductible expenses.

(3) **Natural disasters:** Expenses for the repair of a home that has been substantially damaged or destroyed by a natural disaster such as fire or flood may be deducted. Expenses shall not be allowed if

the household has been or will be reimbursed by public or private relief agencies, insurance companies, or any other source. Expense deductions are limited to the repair of the home and not its furnishings.

(4) Costs of temporarily unoccupied home:

(a) If the home is temporarily unoccupied by a household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss, the shelter costs for the home may be deducted. However, a household may claim only one SUA.

(b) For costs of a home vacated by the household to be included in its shelter costs:

(i) the household must intend to return to the home;

(ii) the current occupants of the home, if any, cannot be claiming shelter

expenses for food stamp purposes;

(iii) the home cannot be leased or rented during the household's absence.

(c) Verification is required of households claiming this deduction if the cost is questionable or would result in a deduction.

(5) Maximum deduction limit adjustment: The maximum deduction limit for excess shelter expenses will be revised as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as follows: effective January 1, 1997 through September 30, 1998, the deduction will be \$250; from October 1, 1998 through September 30, 2000 the deduction will be \$275; and effective from October 1, 2000 the deduction will be \$300; and will remain so indefinitely.

(6) Homeless shelter standard: A household in which all household members are defined as homeless, within the definition at Paragraph (40) of Subsection A of 8.139.100.7 NMAC, shall be allowed the homeless shelter standard if the household incurs any shelter expenses at any time during the month.

(a) The homeless household may claim actual shelter expenses if the expenses exceed the homeless shelter standard and the expenses are verified. Verification standards at Subsection A of 8.100.130.15 NMAC and 8.100.130.9 NMAC shall be used to verify shelter expenses, as well as other reasonable documentation determined to establish the homeless household's actual expenses.

(b) The caseworker shall assist the homeless household in determining whether claiming the homeless shelter standard or actual expenses would be most beneficial to the household.

(c) The homeless shelter standard shall be deducted from the household's countable net income.

(7) Utility expenses:

(a) Allowable expenses for the mandatory utility standards: Allowable expenses that may be used to determine the mandatory utility standards include the cost of home heating or cooling; cooking fuel; electricity; water and sewerage; garbage and trash collection fees; the service fee for one telephone, including but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, taxes; and fees charged by the utility provider for initial installation of the utility.

(i) A one-time deposit is not allowed as a utility expense.

(ii) Expenses billed to a landlord or housing unit, but separately identifiable from the rent as an expense to the household, are allowable expenses.

(iii) A household shall not be allowed actual utility expenses, even if the expenses exceed the amount of the mandatory utility standard for which the household is eligible.

(iv) A household that is determined eligible for a mandatory utility standard deduction shall receive only one standard deduction during the household's food stamp certification period.

(b) Mandatory heating or cooling standard: A food stamp household shall be allowed the heating/cooling standard utility allowance (HCSUA) during the household's certification period. The HCSUA includes all utility expenses for heating or cooling the household's home. The household's heating or cooling expense must be billed separately from other shelter expenses. The HCSUA shall be allowed if the household:

(i) incurs a heating or cooling expense separate from other shelter expenses; or

(ii) receives or received a direct payment or a payment is made on behalf of the household under the Low Income Home Energy Assistance Act of 1981; or

(iii) receives or received a payment or a payment is made on behalf of the household under any other similar energy assistance program as long as the household still incurs out-of-pocket heating or cooling expenses in excess of the energy assistance provided; or

(iv) lives in a public housing unit that has central utility meters, incurs a heating or cooling expense, and the household is charged only for excess heating or cooling usage.

(c) **Mandatory limited utility standard:** A food stamp household shall be allowed a limited utility allowance (LUA) if the household does not incur a heating or cooling expense but does incur two or more of the following expenses:

- (i) electricity or fuel, for purposes other than heating or cooling;
- (ii) water;
- (iii) sewerage;
- (iv) well and septic tank installation or maintenance;
- (v) garbage or trash collection; and
- (vi) one telephone.

(d) **Mandatory telephone standard:** A food stamp household shall be allowed the telephone standard if the household incurs an expense only for the telephone used by the household. The telephone standard shall be allowed for only one telephone charge for the residence.

G. Child support deduction: A deduction shall be allowed for child support payments paid by a household member to or for a non-household member, provided that the household member has a legal obligation to pay child support and such payments are being made.

(1) **Legal obligation and verification:** The household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays shall be verified. Any document that verifies the household's legal obligation to pay child support, such as a court or administrative order, or legally enforceable separation agreement shall be acceptable verification. Documents that are accepted as verification of the household's legal obligation to pay child support shall not be accepted as verification of the household's actual monthly child support payments. Actual payment of child support shall be verified by documentation including, but not limited to, cancelled checks, wage withholding statements, verification of withholding from unemployment compensation, and statements from the custodial parent regarding direct payments or third party payments the non-custodial parent pays or expects to pay on behalf of the custodial parent. The department shall be responsible for obtaining verification of the household's child support payments if the payments are made to the child support enforcement division.

(2) **Determining the deduction amount:**

(a) **Household with at least three months of payment history:** Average the last three month period, taking into account any anticipated changes in the legal obligation. This average is the child support deduction amount. In the event that the client has at least a three month payment history and the payment includes arrearages, the amount paid toward arrearages shall be used in the average.

(b) **Household with less than three months of payment history:** The department shall estimate the anticipated payments according to the obligation and discussion with the client. This anticipation shall not include payments toward arrearages.

H. Nondeductable expenses:

(1) **Excluded reimbursement/vendor payments:**

(a) That portion of any allowable expense that is reimbursed to the household or that is paid through a vendor payment to a third party is not allowable as a deduction.

(b) Actual utility expense deductions or the SUA, as appropriate, shall be allowed for households receiving payments from LIHEAP, or receiving energy assistance payments under a program other than LIHEAP, as long as the household continues to incur out-of-pocket expenses for home heating or cooling.

(c) A reimbursement paid by HUD or FmHA to a household, or indirectly to a utility provider, is not allowed as a deductible expense.

(d) A household receiving HUD or FmHA utility reimbursements shall be entitled to the SUA if it incurs heating or cooling costs exceeding the amount of excluded utility reimbursements.

(2) **Household member provides service:**

(a) When one household member pays another household member to provide a product or service, the money that is exchanged is neither an expense for one nor income for the other household member. Expenses are deductible only when a product or service is provided by someone outside the household and the household makes a money payment for the product or service.

(b) Similarly, income is not counted for one household member who is paid by another household member to obtain wood for home heating. The actual cost of the wood is allowed as a utility expense if an outside money payment is made. Money exchanged between household members is not considered income to the individual receiving the money and is not an expense to the member paying it.

(3) **Past due shelter expenses:** Payment on delinquent rent, mortgage, property taxes or utilities are not allowed as deductible expenses even if not previously billed.

[2/1/1995, 12/17/1996, 7/1/1997; 8.139.520.11 NMAC - Rn, 8 NMAC 3.FSP.525.8, 05/15/2001; A, 02/14/2002, A, 09/01/2003; A/E, 10/01/2004; A, 04/01/2022]

This is an amendment to 8.139.120 NMAC, Section 9 effective 04/01/2022.

8.139.120.9 SIMPLIFIED REPORTING: All households will be assigned to simplified reporting (SR). Households must submit an interim report once every six or twelve months, depending on their certification period. Households assigned to a 12-month certification period have an interim report form due at six months. Households assigned to a 24-month certification period have an interim report form due at 12 months.

A. Household Certification Periods: A household that is approved for SNAP benefits shall be assigned the longest certification period possible in accordance with the household's circumstances. Households wherein all adult members are elderly or disabled, with no earned income, will be assigned a 24-month certification period. All other households will be assigned a 12-month certification period.

B. Household responsibility to turn in interim report form:

(1) A household assigned to a 12-month certification period shall be required to file an interim report form no later than the tenth day of the sixth month of the certification period in order to receive uninterrupted benefits.

(2) A household assigned to a 24-month certification period shall be required to file an interim report form no later than the tenth day of the twelfth month of the certification period in order to receive uninterrupted benefits.

C. Information that ISD is responsible to provide to households regarding simplified reporting:

At the initial certification and at recertification, ISD shall provide the household with the following:

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

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

(a) what needs to be reported and verified;

(b) when the interim report form is due;

(c) how to obtain assistance; and

(d) the consequences of failing to file an interim report form.

(3) special assistance in completing and filing interim reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required report; and

(4) a toll-free number which the household may call to ask questions or to obtain help in completing the interim report.

D. Information requirements for the interim report form: The interim report form will be written in clear, simple language, include information on the availability of a bilingual version of the document described in 7 CFR 272.4(b), and shall specify:

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

(2) the consequences of submitting a late or incomplete form including whether ISD shall delay benefits if the form is not received by the due date;

(3) verification the household must submit with the form;

(4) a statement to be signed by a member of the household indicating his or her understanding that the information provided may result in a reduction or termination of benefits;

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

(6) a statement explaining that ISD will not change certain deductions until the household's next recertification and identify those deductions if ISD has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c) of section 7 CFR 273.12;

(7) a brief explanation of fraud penalties; and

(8) how the agency may use social security numbers.

E. The following information, along with required verification, must be returned to ISD with the interim report form:

(1) a change of more than one hundred dollars (\$100) in the amount of unearned income, except changes relating to public assistance (PA) or general assistance (GA) programs when jointly processed with SNAP cases;

(2) a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

(3) changes in either:

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

or

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

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

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

(6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed the resource limit set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC;

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

(9) for able-bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged monthly, as defined in 7 CFR 273.24(a)(1)(i); and

(10) In accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings;

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported;

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported;

F. ISD's responsibility with interim report forms:

(1) **Interim report form is not received:** If a household fails to file a report by the specific filing date, defined in Subsection B of 8.139.120.9 NMAC, ISD will send a notice to the household advising of the missing report no later than 10 calendar days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation shall be terminated.

(2) **Incomplete interim report form is received:**

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

(i) shall be notified that the form is incomplete;

(ii) what needs to be completed to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the signed interim report

form to be reviewed for completeness.

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

(i) shall be notified that the form is incomplete;

(ii) what information must be provided to complete the interim report form;

and

(iii) shall be given 10 calendar days to provide the verification to process

the interim report form.

(3) **Complete interim report form is received:**

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

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable, in accordance with 8.100.130.12 NMAC. The household:

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

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

the allowable deduction.

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

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

(e) If the household files a timely and complete report resulting in reduction or termination of benefits, ISD shall send a notice of case action. The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient

information or verification regarding a deductible expense, ISD will not terminate the household, but will instead determine the household's benefits excluding the deduction from the benefit calculation.

G. Changes that must be reported at any time during certification period: Households must report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household has at least 10 calendar days within which to report the change. If there are not 10 days remaining in the month, the household must report within 10 days from the date the work hours fall below 20 hours per week, averaged monthly or when income exceeding the gross federal poverty limit as mentioned below is first received. The interim report form is the sole reporting requirement for any information that is required to be reported on the form, except that a household must report at any time during the certification period:

(1) the household must report when its monthly gross income exceeds one hundred thirty percent of poverty level. A categorically eligible household defined in accordance with 8.139.420.8 NMAC, must report when its monthly gross income exceeds one hundred sixty-five percent of poverty level. The household shall use the monthly gross income limit for the household size that existed at the time of certification or recertification regardless of any subsequent changes to its household size; and

(2) able-bodied adults subject to the time limit in accordance with 7 CFR 273.24 shall report whenever their work hours fall below 20 hours per week, averaged monthly.

(3) in accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings within 10 days of the end of the month in which the household received the winnings.

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported.

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported.

H. Action on changes reported outside of the interim report form: In addition to changes that must be reported in accordance with Subsection G of 8.139.120.9 NMAC, ISD must act on changes in between interim report forms, if it would increase the household's benefits. ISD shall not act on changes that would result in a decrease in the household's benefits unless:

(1) The household has voluntarily requested that its case be closed.

(2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined:

(a) information is not questionable; and

(b) the provider of the information is the primary source of information; or

(c) the recipient's attestation exactly matches the information received from a third

party.

(3) A household member has been identified as a fleeing felon or probation violator in accordance with 7 CFR 273.11(n);

(4) There has been a change in the household's cash grant, or where cash and SNAP cases are jointly processed in accordance with 7 CFR 273.2(j)(2).

I. Responsibilities on reported changes outside of the interim report form: When a household reports a change, ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 working days of the date the change is reported.

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

(2) **Decreased or termination of benefits:** For reported and verified changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

(a) Issue a notice of adverse action within 10 calendar days of the date the change was reported and verified unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.

(b) When a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

(c) When a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(3) **Increased benefits:** For reported and verified changes that result in an increase of household benefits, ISD shall act on the change as follows:

(a) For changes which result in an increase in a household's benefits, other than changes described in paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD.

(b) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of fifty dollars (\$50) or more in the household's gross monthly income, ISD shall make the change effective not later than the first allotment issued 10 calendar days after the date the change was reported.

(i) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(ii) If the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the tenth day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) **No change in SNAP benefit amount:** When a reported change has no effect on the SNAP benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(5) **Providing verification:** The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its' SNAP benefit amount shall revert to the original benefit amount.

J. Resolving unclear information:

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.139.120.9 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

(2) **Unclear information resulting from certain data matches:**

(a) if the department receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the consequences of failing to respond to the notice.

(b) if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

K. Failure to report changes: If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

(1) **Decreased benefit amount:** After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Subsection G of 8.139.120.9 NMAC above.

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

[2/1/1995, 10/01/1995, 06/15/1996, 09/14/1996, 11/01/1996, 07/01/1998, 06/01/1999; 8.139.120.9 NMAC - Rn, 8 NMAC 3 FSP.123, 05/15/2001; 8.139.120.9 - N, 02/14/2002; A, 01/01/2004; A, 07/16/2008; A, 08/15/2008; A/E, 10/15/2008; A, 12/31/2008; A, 09/01/2017; A, 09/01/2017; A/E, 10/01/2021; A, 04/01/2022]