



301 Edith Blvd NE
Albuquerque, NM 87102
(505) 255-2840
nmpovertylaw.org

May 5, 2022

Office of the Secretary
ATTN: Child Support Enforcement Division Public Comments
P.O. Box 2348
Santa Fe, NM 87504-2348

Via email: john.lujan2@state.nm.us
RE: 8.50.125 NMAC Public Comment

To Whom It May Concern:

Please accept the following comments on the proposed revisions under 8.50.125 NMAC regarding the New Mexico Child Support Enforcement Division.

The undersigned organizations have extensive experience working with families impacted by the Child Support Enforcement Division policies. While we applaud the Department's changes to distribution of collections other than tax refunds, that will go into effect on October 1, 2022, we urge the Department to: 1) change the prioritization of disbursement from retained tax refunds to turn over funds to custodial families before reimbursing the state for assistance paid; and 2) immediately change regulations so that New Mexico disregards 100% of the child support funds collected on behalf of families that participate in the New Mexico's Temporary Assistance for Needy Family program, known as NM Works / TANF. This is critical to ensuring that the Department's important plan to allow for 100% pass through of child support paid to custodial families actually benefits those who participate in NM Works.

The Department is not timely providing notice of rulemaking electronically, via email. New Mexico State Rules Act § 14-4-2(E). Please send notice of regulatory changes concerning Temporary Assistance for Needy Families and/or Child Support Enforcement to teague@nmpovertylaw.org.

I. NM Must Change 8.102.520.9 NMAC To Disregard All Child Support Income.

Section 8.50.125.11 NMAC refers to New Mexico Works Regulations at 8.102.520.9 NMAC for the maximum amount of child support income disregarded from a NM Works benefit determination. That section states that, "up to [emphasis added] \$50.00 child support disregard

and up to \$100.00 child support pass-through distributed to the benefit group” by the CSED will be considered in determining families’ cash grants.

As you know, NM HSD has the authority under state law to disregard *all of the child support collected on behalf of a family that participates in NM Works*. The New Mexico Works Act states that “the following income sources are exempt from the gross income test, the net income test and the cash payment calculation... (10) child support passed through to the participant by the child support enforcement division of the department in the following amounts... (b) no later than January 1, 2009, *a minimum* [emphasis added] of one hundred dollars (\$100) for one child and two hundred dollars (\$200) for two or more children...” New Mexico Works Act NM Stat § 27-2B-7(B)(b). This means that the maximum, i.e., all of the child support funds can be disregarded.

If New Mexico does not make this change to disregard all child support paid to custodial families who receive TANF, the planned increase in pass through will disqualify families from the program, *negating the entire reform*. We urge you to immediately propose regulations to disregard all child support received from the TANF benefit calculation, as permitted by state law.

II. **NM Must Prioritize Children in Families That Participate in TANF For Income Tax Refund Offset Distributions Before Reimbursing The State For The TANF Assistance Paid To These Families.**

Income tax refunds intercepted by the state should follow the same prioritization policy as other collections (found at 8.50.125.11 NMAC) and should go to current support obligations owed to custodial families first, not the state. The proposed changes for tax refund intercepts appear to reorder the priority for former assistance cases only, but this is contradicted by the introductory paragraph at 8.50.125.12 NMAC, which states that the offset will be “retained by the state to the extent support arrearages have been assigned to the state up to the amount necessary to *reimburse the state for cumulative amounts paid to the family as assistance by the state* [emphasis added].” 8.50.125.12 NMAC. This does not make sense. The Department should remove contradictory language and apply a consistent prioritization to pay current support obligations and arrearages owed to custodial families before paying the state.

There is a negligible budget impact for a consistent approach and policy. It is an easier administrative burden to treat all families the same and distribute the tax refund intercept to current TANF families as well as families who formerly received the benefit. The TANF cash benefit is so low (\$447/month for a family of three) that this extra income can mean the difference between preventing eviction or not, helping families buy over the counter medicine for their kids, and pay for other essentials. As you know tax credits are one of the most effective ways to alleviate poverty and bring opportunity to young children. Research shows that even a modest increase in household

income has dramatic increases in opportunity for young children over their lifetime.¹ The impacts are the greatest when children are younger than 5 years old. Most children who receive TANF are 5 years old and under.²

Thank you for your commitment to modernizing child support so that it works better for all families. We strongly urge the Department to make the requested changes.

Sincerely,

/s/ Teague González

Teague González
Public Benefits Director
NM Center on Law and Poverty

Arika E. Sánchez
Director of Policy and Advocacy
NMCAN

Amber Wallin, MPA
Executive Director
New Mexico Voices for Children

The Rev. Holly Beaumont, D.Min.
Organizing Director
Interfaith Worker Justice -New Mexico

Adrien Lawyer
Executive Director of Advocacy & Development and Co-Founder
Transgender Resource Center of New Mexico

Janet Page-Reeves, PhD
Cultural Anthropologist

¹ See, Duncan, Greg J., Magnuson, Katherine. "[The Long Reach of Early Childhood Poverty](#)." Stanford University, Pathways. Winter 2011.

² See, [Characteristics and Financial Circumstances of TANF Recipients](#), Fiscal Year 2020. Administration of Children and Families.