



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT



HUMAN SERVICES REGISTER

DEPARTMENT

HUMAN SERVICES DEPARTMENT

SUBJECT

Temporary Assistance for Needy Families (TANF):

SIMPLIFIED REPORTING REQUIREMENTS

TANF ELIGIBILITY STATUS AFTER A THIRD LEVEL SANCTION

REPEALING 8.102.630 NMAC DESCRIPTION OF PROGRAM /BENEFITS-CHANGES IN
ELIGIBILITY

TANF GRANT AMOUNT COUNTED TOWARDS SNAP DURING THE THIRD LEVEL
SANCTION PERIOD

General Assistance (GA):

SIMPLIFIED REPORTING REQUIREMENTS

Supplemental Nutrition Assistance Program (SNAP):

SPECIAL MEMBERS: STUDENT ELGIBILTIY

PROGRAMS AFFECTED

Temporary Assistance for Needy Families (TANF)
General Assistance (GA)
Supplemental Nutrition Assistance Program (SNAP)

ACTION

PROPOSED RULE

BACKGROUND

The Department is promulgating proposed regulations to the Temporary Assistance for Needy Families (TANF) Simplified Reporting Requirements and General Assistance (GA) Simplified Reporting Requirements to align reporting with SNAP regulations. The Department is also promulgating proposed regulations to the Supplemental Nutrition Assistance Program (SNAP) Student Eligibility.

Temporary Assistance for Needy Families (TANF):

The Department is proposing to clarify and update language to align with SNAP Simplified Reporting.

The Department is proposing to clarify and update TANF eligibility status after a third level sanction six month period of ineligibility has ended and a new application for TANF benefits has been received by the Department.

The Department is proposing to repeal 8.102.630 NMAC Description of Program/Benefits Changes in Eligibility as this information will be updated in 8.102.120 NMAC Eligibility Policy and Case Administration.

The Department is proposing to clarify that the TANF grant amount will be counted towards SNAP benefits during participants six month ineligibility period because of a third level sanction.

General Assistance (GA):

The Department is proposing to clarify and update language to align with SNAP Simplified Reporting.

Supplemental Nutrition Assistance Program (SNAP):

The Department is proposing to clarify and update SNAP student eligibility.

VI. PROPOSED REGULATIONS

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, Pollon Plaza, Santa Fe, New Mexico 87504-2348 or by calling 505-827-7250 or 505-827-1326. The New Mexico Human Services Department (HSD) will hold a public hearing to allow public comment on the proposed amendment of Temporary Assistance for Needy Families (TANF), General Assistance (GA) regulations and Supplemental Nutrition Assistance Program (SNAP) regulations. The hearing will be held on Friday, July 14, 2017, from 9:00 a.m. to 11:00 p.m., at the Human Services Department (HSD) Pollon Plaza, 2009

S. Pacheco room 120, Santa Fe, NM. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling (505) 827-7254. 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.

VII. PUBLICATION DATE

June 13, 2017

VIII. ADDRESS

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 4:30 p.m. on the date of the hearing, July 14, 2017. Please send comments to:

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

You may send comments electronically to: HSD-isdrules@state.nm.us

IX. PUBLICATION

Publication of these proposed regulations approved on 5/12/17
by:



BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT

These are the PROPOSED amendments to 8.102.100 NMAC, Sections 5, 7 and 8.

8.102.100.5 EFFECTIVE DATE: July 1, 2001, unless a later date is cited at the end of a section.

[8.102.100.5 NMAC - N, 07/01/2001; A, 06/01/2017]

8.102.100.7 DEFINITIONS:

A. Definitions A-L:

(1) **Applicant:** means person applying for cash assistance on behalf of a benefit group.

(2) **Application:** means a written or electronic request, on the appropriate ISD form, with the signature of the applicant or on the applicant's behalf by an authorized representative, for assistance.

(3) **Attendant:** means an individual needed in the home for medical, housekeeping, or child care reasons.

(4) **Authorized representative:** means an adult, who is designated in writing by the applicant, who is sufficiently knowledgeable about the applicant/ benefit group's circumstances to complete the application form correctly and can represent the benefit group.

(5) **Basic needs:** include food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.

(6) **Beginning month:** means the first month for which a benefit group is certified after a lapse in certification of at least one calendar month; ~~Beginning~~ beginning month and initial month are used interchangeably. A benefit group is budgeted prospectively in a beginning month. ~~[means a group of people, either mandatory or optional, to be included in determining the monthly benefit amount.]~~

(7) **Benefit group:** means a group of people, either mandatory or optional, to be included in determining the monthly benefit amount.

(8) **Benefit month:** means the month for which cash assistance benefits have been issued. This term is synonymous with issuance month defined below.

(9) **Budget month:** means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.

(10) **Capital gains:** means proceeds from the sale of capital goods or equipment.

(11) **Cash assistance:** means cash payments funded by the temporary assistance for needy families (TANF) block grant pursuant to the federal act and by state funds; or state funded cash assistance in the general assistance program.

(12) **Caretaker relative:** means an individual who assumes parental control over a child living in the home.

(13) **Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements.

(a) **Financial CE:** Any SNAP household in which all members receive Title IV-A assistance (TANF), general assistance (GA), or

supplemental security income (SSI) benefits is considered to be categorically eligible for SNAP benefits.

(b) **Broad-based CE:** Any SNAP household, in good standing, in which at least one member is receiving a non-cash TANF/MOE funded benefit or service and household income is below 165% FPG.

(14) **Certification:** means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.

(15) **Certification period:** means the time period assigned to a benefit group that is approved to receive cash assistance benefits. The certification period shall conform to calendar months and include an interim report to be completed mid certification.

(16) **Collateral contact:** means an individual or agency designated by the benefit group to provide information concerning eligibility.

(17) **Conciliation process:** means a 30-day process prior to imposing a sanction during which the department and the individual have the opportunity to address barriers to compliance or to correct whatever failure has generated the noncompliance determination.

(18) **Conversion factor:** means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.

(19) **Date of application:** means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. The date the application and forms received by ISD will be documented on the form. Applications that are dropped off or submitted electronically after regularly scheduled business hours, holidays and weekends will be considered received as of the next business day.

(20) **Date of admission:** means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.

(21) **Date of entry:** means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.

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

(23) **Dependent child:** means a natural child, adopted child, stepchild or ward that is:

(a) 17 years of age or younger; or

(b) 18 years of age and is enrolled in high school; or

(c) between 18 and 22 years of age and is receiving special education services regulated by the public education department.

(24) **Director:** means the director of the income support division.

(25) **Diversion payment:** means a lump sum payment, which will enable the applicant to keep a job or to accept a bona fide offer of employment.

(26) **Documentation:** means a written statement entered in the paper or electronic case record regarding the type of verification used and a summary of the information obtained to determine eligibility.

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

(28) **Education works program (EWP):** provides state-funded cash assistance to a benefit group where at least one individual is enrolled in a post-secondary institution. The applicant or recipient benefit group must be otherwise eligible for NMW cash assistance, but chooses to participate in the education works cash assistance program.

(29) **Emancipated:** means an individual under the age of 18 years who is legally recognized as no longer under parental control due to marriage or by a decision of a court.

(30) **Encumbrance:** means debt owed on property.

(31) **Equity value:** means the fair market value of property, less any encumbrances owed on the property.

(32) **Expedited services:** means the process by which benefit groups reporting little or no income or resources will be provided an opportunity to participate in the SNAP program.

(33) **Expungement:** means the permanent deletion of cash benefits from an EBT account that is stale.

(34) **Fair hearing:** means an administrative proceeding which a claimant or claimant's representative may request if:

(a) an application is not acted on within a reasonable time after the filing of the application;

(b) an application is denied in whole or in part; or

(c) the cash assistance or services are modified, terminated or not provided.

(35) **Fair market value (FMV):** means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or offer as a trade-in. It is not the amount the dealer would sell the vehicle for at retail.

(36) **Federal act:** means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.

(37) **Federal fiscal year:** October 1 through September 30 of the calendar year.

(38) **Federal means-tested public benefit:** means benefits from the SNAP program; the food assistance block grant programs in Puerto Rico, American Samoa and the commonwealth of the Northern Mariana islands, supplemental security income (SSI), and the TANF block grant program under Title IV of the Social Security Act; medicaid and SCHIP.

(39) **Federal poverty guidelines:** means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services.

(40) **Five-year bar:** means the federally imposed prohibition on receiving federal means-tested public benefits for certain qualified aliens who entered the United States (U.S.) on or after August 22, 1996, until they continuously lived in the U.S. for five years. The count for the five year bar begins on the date the non-citizen attains qualified alien status.

(41) **Food Stamp Act:** the Food Stamp Act of 1977 (P.L. 95-113), the Food and Nutrition Act of 2008 (P.L. 110-246), and subsequent amendments.

(42) **General assistance (GA) benefit group:** means a benefit group in which all members receive cash assistance financed by state or local funds.

(43) **Government entity:** includes any federal, state, tribal or local unit of government as well as any non-government entity which receives public funds for the purpose of meeting the housing needs of its clientele.

(44) **Gross income:** means the total amount of income that a benefit group is entitled to receive before any voluntary or involuntary deductions are made, such as, but not limited to, federal and state taxes, FICA, garnishments, insurance premiums (including medicare), and monies due and owing the benefit group, but diverted by the provider. Gross income does not include specific income exclusions, such as but not limited to, the cost of producing self-employment income, and income excluded by federal law.

(45) **Gross income test (eighty-five percent test):** for the benefit group to be eligible, the gross earned income of the benefit group must be less than eighty-five percent of the federal poverty guidelines as determined in 8.102.500.8 NMAC.

(46) **Hardship extension:** means an extension of the TANF/NMW 60-month lifetime limit due to specific conditions enumerated at 8.102.410.17 NMAC.

(47) **Head of household:** means the payee who is the responsible case head for the benefit group. The payee may be the parent, guardian, sole adult member, specified relative, pregnant woman, a GA recipient, or caretaker relative.

(48) **Immigrant:** means a non-citizen or an alien within the meaning found in Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(49) **Immigration and naturalization service (INS):** a division of the U.S. department of justice dealing with U.S. citizenship and immigration services.

(50) **Impairment:** means a condition resulting from anatomical, physiological, or psychological abnormalities evidenced by medically acceptable clinical and laboratory diagnostic techniques. Impairment has to do only with the medical, psychiatric, or both processes. To evaluate both physical and mental impairment, medical evidence consisting of signs, symptoms and objective findings must be obtained.

(51) **Incapacity review unit:** means a special unit in the department that determines the status of participants for the family violence option and limited work participation status. This is also known as the IRU.

(52) **Individual development account program:** means an account created for eligible individuals which is established and maintained by an authorized financial institution to be used for individual development.

(53) **Individual development program:** means a program that establishes and administers individual development accounts and reserve accounts in order to provide financial training required by the division for account owners.

(54) **Ineligible alien:** means an individual who does not meet the eligible alien requirements [~~or who is not admitted for permanent residence~~].

(55) **Initial month:** means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.

(56) **Inquiry:** means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application.

(57) **Institution of higher education:** means certain college-level institutions, such as vocational schools, trade schools, and career colleges, that award academic degrees or professional certifications.

(58) **Institution of post-secondary education:** means an institution of post-secondary education, any public or private educational institution that normally requires a high school diploma or equivalency certificate for enrollment, or that admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located, regardless of the high school prerequisite, provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or a program of training to prepare students for gainful employment.

(59) **Irrevocable trust funds:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

(60) **Issuance month:** means the calendar month for which cash assistance is issued. In prospective budgeting, the budget and issuance months are the same.

(61) **Legal guardian:** means a legally created relationship between a child and appointed adult wherein the appointed adult acquires legal decision making authority for a child.

(62) **Limited work participation hours:** means the reduced work requirement hours approved by the IRU or the NMW service provider, as appropriate, after a participant has been approved for a limited work participation status.

(63) **Limited work participation status:** means a NMW participant has a verified condition or barrier as outlined at Subsection A of 8.102.420.11 NMAC that precludes the ability to meet the standard work requirement hours and has been approved for such status by the IRU or NMW service provider, as appropriate.

B. Definitions M-Z:

(1) **Maintenance of effort (MOE):** means the amount of general funds the state agency must expend annually on the four purposes of temporary assistance for needy families (TANF) to meet a minimum expenditure requirement based on a state's historical assistance to families with dependent children (AFDC) expenditures.

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

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

(4) **Month of approval:** means the month the action to approve a benefit group for cash assistance is taken.

(5) **Net income tests:** means for the benefit group to be eligible, the benefit group's net earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.

(6) **Net monthly income:** means gross non-exempt income minus the allowable deductions. It is the income figure used to determine eligibility and cash assistance benefit amount.

(7) **Non-benefit group members:** means persons residing with a benefit group who are specifically excluded by regulation from being included in the benefit group certification.

(8) **Non-cash TANF/MOE benefit or service:** means non-cash TANF/MOE benefit or services include programs or services that do not provide cash to recipients, but are funded by the TANF program, either by the federal TANF block grant or the state MOE share. These services may include transportation, childcare, counseling programs, parenting programs, pamphlets or referrals to other TANF/MOE-funded services.

(9) **Non-citizen U.S. national:** means a person who is not an U.S. citizen but was born in an outlying possession of the U.S. on or after the date the U.S. acquired the possession, or a person whose parents are non-citizen U.S. nationals. A person who resides on one of the following U.S. island territories is a non-citizen U.S. national: American Samoa, Swains island or the Northern Mariana islands.

(10) **Notice:** means written correspondence that is generated by any method including handwritten, typed or electronic, delivered to the client or their authorized representative by hand, U.S. mail, professional delivery or by any electronic means. The term "written notice" and "notice" are used interchangeably.

(11) **Notice of adverse action (NOAA):** means a written or electronic notice that includes a statement of the action the department has taken or intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any over-issuance received if the hearing decision is adverse to the benefit group. This notice may be received prior to an action to reduce benefits, or at the time reduced benefits will be received, or if benefits are terminated, at the time benefits would have been received if they had not been terminated. Recipients have 13 days from the mailing date or the date of electronic transmittal of the notice to request a fair hearing and to have benefits restored to their previous level.

(12) **NMW compliance requirements:** means the various work program activities a TANF/NMW participant is expected to attend and complete in order to avoid conciliation or sanction.

(13) **Over-issuance:** means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.

(14) **Parent:** means natural parent, adoptive parent, or stepparent.

(15) **Participant:** means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority.

(16) **Payment standard:** means the amount of the cash assistance payment, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and prior to reduction by sanction, recoupment or both.

(17) **Permanent total disability:** means an individual must have a physical or mental impairment, expected to last at least 12 months, that prevents gainful employment in any employment position within the individual's current employment capacity.

(18) **Person:** means an individual.

(19) **Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on a reasonable estimate of income and circumstances that will exist in the current month and future months.

(20) **Qualified alien status:** means a person lawfully admitted into the United States under INA guidelines as defined in PROWRA of 1996.

(21) **Real property:** means land, affixed improvements, and structures which include mobile homes. Grazing permits are also considered real property.

(22) **Recertification:** means a complete review of all conditions of eligibility which are subject to change and a redetermination of the amount of assistance payment for an additional period of time.

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

(24) **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.

(25) **Regular reporting:** means a reporting requirement that requires a participating household to report a change within ten days of the date a change becomes known to the household.

(a) A financial change becomes known to the household when the household receives the first payment attributed to an income or resource change, or when the first payment is made for a change in an allowable expense.

(b) A non-financial change including but not limited to, a change in household composition or a change in address, becomes known to the household on the date the change takes place.

(26) **Resource standard:** means the financial standard with respect to resources and property, \$2,000 for non-liquid resources and \$1,500 for liquid resources.

(27) **Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.

(28) **Resource planning session:** means a planning session to ascertain the applicant's immediate needs and to assess the applicant's financial and non-financial options.

(29) **School age:** means any dependent child who turns six years prior to September first and is under 18 years of age.

(30) **Secretary:** means the secretary of the department.

(31) **Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income and who does not have the usual withholding deducted from this income.

~~[(32) **Semiannual reporting:** means a reporting requirement that allows up to a 12-month certification period and requires a household to submit a report in the sixth month of a 12-month certification period or in the same month a SNAP semiannual report is due.]~~

~~[(33)]~~ (32) **Services:** means child-care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment; education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment.

~~[(34)]~~ (33) **Shelter for battered women and children:** means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

(34) **Simplified reporting:** an alternative change reporting requirement for households that receive TANF and/or SNAP benefits.

(35) **Single-parent benefit group:** means any benefit group which does not include both parents of a child included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

(36) **Sponsor:** means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission to the United States as a permanent resident.

(37) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.

(38) **Stale:** means EBT accounts which have not been accessed, no withdrawal activity, by the household in the last 90 days from the most recent date of withdrawal.

(39) **Standard of need:** means an amount which is based on the number of individuals included in the benefit group and allows for financial standard and basic needs.

(40) **Standard work requirement hours:** means the minimum number of hours in applicable core and non-core total work activities a participant must complete.

(41) **State-funded alien eligible:** means an alien who entered the United States on or after August 22, 1996, as one of the classes of aliens described in Subsection B of 8.102.410.10 NMAC, is eligible with respect to citizenship requirements for state-funded assistance under NMW and GA without regard to how long the alien has been residing in the United States.

(42) **Supplemental nutrition assistance program (SNAP):** The Food and Nutrition Act of 2008 changed the federal name of the food stamp program to the supplemental nutrition assistance program. SNAP is synonymous with the food stamp program.

(43) **Supplemental security income (SSI):** means monthly cash payments made under the authority of:

(a) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled;

(b) Section 1616(a) of the Social Security Act; or

(c) Section 212(a) of P.L. 93-66.

(44) **Temporary total disability:** means a physical or mental impairment, expected to last at least 30 days from date of determination, but less than one year from the date of application, that prevents gainful employment in any employment position within the individual's current employment capacity.

(45) **Two-parent benefit group:** means a benefit group which is considered to exist when both parents of any child included in the benefit group live in the home with the child and are included in the benefit group.

(46) **Term limits:** means NMW assistance (cash benefits and supportive services) is not provided to or for an adult or a minor head of household for more than 60 months during the individual's lifetime.

(47) **Unearned income:** means old age, survivors, and disability insurance payments (social security), railroad retirement benefits, veterans administration compensation or pension payments, military retirement and allotments, pensions, annuities and retirement benefits; lodge or fraternal benefits, any other public or private disability or retirement benefit or pension, shared shelter payments, individual Indian

money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.

(48) **Vehicle:** means a conveyance used for the transportation of individuals to or from employment, for the activities of daily living or for the transportation of goods; vehicle does not include any boat, trailer or mobile home used as the principal place of residence.

(49) **Verification:** means the use of third-party information or documentation to establish the accuracy of statements on the application, interim report and recertification.

(50) **Vocational education:** means an organized education program that is directly related to the preparation of a person for employment in a current or emerging occupation requiring training other than a baccalaureate or advance degree. Vocational education must be provided by an educational or training organization, such as a vocational-technical school, community college, or post-secondary institution or proprietary school.

(51) **Wage subsidy program:** means a subsidized employment training opportunity through which a TANF cash assistance recipient is hired into full-time employment.

[8.102.100.7 NMAC - N, 07/01/2001; A, 02/14/2002, A, 05/15/2003; A, 01/01/2004; A, 02/28/2007; A/E, 07/16/2007; A, 10/31/2007; A, 08/01/2009; A, 04/01/2010; A, 04/01/2012; A, 07/01/2013; A, 06/01/2017]

8.102.100.8 ABBREVIATIONS AND ACRONYMS

A. Abbreviations and acronyms

(1) **AFDC:** aid to families with dependent children (replaced by TANF effective July 1, 1997)

(2) **BG:** benefit group

(3) **BIA:** bureau of Indian affairs

(4) **BIA-GA:** bureau of Indian affairs-general assistance

(5) **CA:** cash assistance

(6) **CE:** categorical eligibility or categorically eligible

(7) **CFR:** code of federal regulations

(8) **CS:** child support

(9) **CSED:** (HSD) child support enforcement division

(10) **CYFD:** (New Mexico) children youth & families department

(11) **DOH:** (New Mexico) department of health

(12) **DOL:** department of labor

(13) **DOT:** dictionary of occupational titles

(14) **E&T:** employment and training (food stamp work program)

(15) **EBT:** electronic benefit transfer

(16) **EI:** earned income

(17) **EW:** eligibility worker (now caseworker)

(18) **EWP:** education works program

(19) **FAP:** financial assistance program

(20) **FAA:** family assistance analyst (formally ISS)

(21) **FFY:** federal fiscal year

- (22) **FMV:** fair market value
- (23) **FNS:** food and nutrition service (previously FCS)
- (24) **FPL:** federal poverty level
- (25) **FSP:** food stamp program
- (26) **GED:** general equivalency degree
- (27) **HHS:** (U.S.) health and human services
- (28) **HSE:** high school equivalency formerly known as GED

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- ~~[(28)]~~ (29) **HSD:** (New Mexico) human services department
 - ~~[(29)]~~ (30) **HUD:** (U.S.) housing and urban development
 - ~~[(30)]~~ (31) **IDA:** individual development account
 - ~~[(31)]~~ (32) **INS:** (U.S.) immigration and naturalization service
 - ~~[(32)]~~ (33) **IPV:** intentional program violation
 - ~~[(33)]~~ (34) **IRP:** individual responsibility plan
 - ~~[(34)]~~ (35) **IRU:** incapacity review unit
 - ~~[(35)]~~(36) **ISD:** (HSD) income support division
 - ~~[(36)]~~ (37) **ISD2:** integrated services delivery for ISD
 - ~~[(37)]~~ (38) **ISS:** income support specialist (now caseworker)
 - ~~[(38)]~~ (39) **JTPA:** Job Training Partnership Act (now WIA)
 - ~~[(39)]~~ (40) **LIHEAP:** low income home energy assistance program
 - ~~[(40)]~~ (41) **LITAP:** low income telephone assistance program
 - ~~[(41)]~~ (42) **MAD:** (HSD) medical assistance division
 - ~~[(42)]~~ (43) **MVD:** (New Mexico) motor vehicle division
 - ~~[(43)]~~ (44) **NADA:** national automobile dealers association
 - ~~[(44)]~~ (45) **NMAC:** New Mexico administrative code
 - ~~[(45)]~~ (46) **NMW:** New Mexico works
 - ~~[(46)]~~ (47) **NOAA:** notice of adverse action
 - ~~[(47)]~~ (48) **POS:** point of sale
 - ~~[(48)]~~ (49) **QC:** quality control
 - ~~[(49)]~~ (50) **RR:** regular reporting or regular reporters
 - ~~[(50)]~~ (51) **RRP:** refugee resettlement program
 - ~~[(51)]~~(52) **SAVE:** systematic alien verification for entitlements
 - ~~[(52)]~~ (53) **SE:** self_employment

~~[(53)]~~ **SR:** semiannual reporting]

~~[(53)]~~ (54) **SNAP:** Supplemental Nutrition Assistance Program

formerly known as food stamps

- ~~[(54)]~~ (55) **SSA:** social security administration
- ~~[(55)]~~ (56) **SSI:** supplemental security income
- ~~[(56)]~~ (57) **SSN:** social security number
- ~~[(57)]~~ (58) **TANF:** temporary assistance to needy families (block grant program under Title IV-A of the Social Security Act)
- ~~[(58)]~~ (59) **UCB:** unemployment compensation benefits
- ~~[(59)]~~ (60) **UEI:** unearned income
- ~~[(60)]~~ (61) **USDA:** United States department of agriculture
- ~~[(61)]~~ (62) **VA:** Veterans administration
- ~~[(62)]~~ (63) **WIA:** Workforce Investment Act
- ~~[(63)]~~ (64) **WID:** work incentive deduction
- ~~[(64)]~~ (65) **WPA:** work participation agreement

B. [Reserved]

[8.102.100.8 NMAC - N, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 02/28/2007; A/E, 07/16/2007; A, 10/31/2007; A, 06/01/2017]

These are the PROPOSED amendments to 8.102.120 NMAC, Sections 3, 5, 9, 10, and 11.

8.102.120.3 STATUTORY AUTHORITY:

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

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

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

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

E. In close coordination with the NMW program, the department administers the ~~[food stamp]~~ Supplemental Nutrition Assistance Program (SNAP) employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.120.3 NMAC - Rp 8.102.120.3 NMAC, 07/01/2001; A, 11/15/2007; A, 06/01/2017]

8.102.120.5 EFFECTIVE DATE: July 1, 2001, unless a later date is cited at the end of a section.

[8.102.120.5 NMAC - Rp 8.102.120.5 NMAC, 07/01/2001; A, 06/01/2017]

8.102.120.9 ELIGIBILITY REVIEWS:

A. Follow-up reviews:

(1) A follow-up review shall be scheduled during a certification period whenever information becomes known to the county office indicating a possible change in a benefit group's circumstances that may affect eligibility or payment amount.

(2) Review of a specific condition may be made by home visit, office visit, third party contacts or correspondence as needed.

(3) Circumstances which may require follow-up review include, but are not limited to:

(a) in NMW, exemption from work requirements;

(b) school attendance of children age ~~[6]~~ six or older;

(c) any other anticipated change in circumstances which will require a change of grant during a certification period.

B. Recertification:

(1) Cash assistance shall be approved for a fixed certification period at the end of which the assistance shall be terminated.

(2) The recertification shall consist of a complete review of all conditions of eligibility; determination of eligibility for an additional period of time and redetermination of the amount of assistance payment. The recertification requires a redetermination of eligibility on those conditions that are subject to change. There shall be a prospective determination beginning the month following the month the certification expires.

(3) The caseworker shall ensure that CSED has been notified of all pertinent information regarding any non-custodial parent who has a child in the benefit group, including but not limited to the current address and work place of the non-custodial parent.

(4) **Conditions not subject to change:** The caseworker reviews documentation of conditions not subject to change. If the record does not contain satisfactory evidence, additional verification shall be obtained.

(5) **Work program:** The caseworker shall give information to the NMW participants about earned income incentives, assistance through the transitional child care program, medicaid transitional benefits, and work program requirements, opportunities and services. Work program participation shall be reviewed.

(6) **Need and payment determination:** The caseworker shall obtain current information about family and benefit group income, resources, and circumstances, to determine financial need and amount of payment.

(7) **Change reporting:** The caseworker shall review with the client the possible changes in circumstances which must be reported if they occur.

C. Certification scheduling:

(1) Each case must have eligibility and payment reviewed at least once during the period specified for that category. Cash assistance cases, which also receive ~~[food stamp]~~ SNAP, shall be recertified at the same time the ~~[food stamp]~~ SNAP certification is completed.

(2) The certification period shall not exceed the following standards:

(a) Regular reporting benefit groups: A benefit group not subject to ~~[semiannual]~~ simplified reporting requirements shall be certified:

(i) every ~~[six]~~ five months or less for: ~~[002—NMW, 002]~~ Education Works Program;

(ii) every 12 months for: ~~[010—]~~ state supplement for SSI recipients in residential care;

(iii) eight months for: ~~[019—RRP]~~ Refugee Resettlement Program

(b) ~~[Semiannual]~~ Simplified reporting benefit groups: Certification provisions that apply to a NMW benefit group subject to ~~[semiannual]~~ simplified reporting are set forth at Subsection A of 8.102.120.11 NMAC.

~~[—————(3)——— Except for cases assigned to semiannual reporting, the caseworker shall have full discretion to make the certification period less than the maximum time interval if changes in circumstances affecting eligibility are probable, family circumstances are questionable, when it is necessary in the interest of good caseload management, or to coincide with a food stamp certification.]~~

D. Interview:

(1) An ~~[face-to-face]~~ interview between ~~[the caseworker]~~ ISD and the specified relative/caretaker shall take place at least once a year in connection with a recertification ~~[, with the exception of medicaid categories].~~

(2) The interview must be with the ~~[client himself]~~ applicant, unless the ~~[client's]~~ applicant's physical or mental condition makes the interview impossible or inadvisable. See 8.100.130 NMAC for instructions on obtaining information.

(3) To help a ~~[client]~~ recipient report changes that may affect the ~~[client's]~~ recipient's eligibility or amount of payment, the caseworker shall make available a change report form upon request, which the client may use to notify the county office of changes in circumstance.

E. Scheduling recertification reviews: The certification period end date shall be scheduled for the appropriate interval indicated in Subsection C of 8.102.120.9 NMAC, starting with the initial month of eligibility, or the month following the month in which previous certification expired.

F. Exchange of information with SSA:

(1) If information received during any eligibility review indicates that a participant in NMW or GA may be eligible for supplemental security income (SSI) benefits, (this includes children and adults who appear disabled, and needy adults over 65), the caseworker shall promptly refer the participant to the social security administration district office for application. An individual found eligible for SSI must participate in that program.

(2) During the review process, ~~[the caseworker]~~ ISD will sometimes learn information relevant to the eligibility of a family member who is a SSI recipient. If there is a clear indication that a SSI recipient's countable income exceeds the maximum allowable under the SSI program, the discrepancy shall be reported to the social security administration (SSA) district office. SSA shall also be notified when it appears that the resources of an SSI recipient exceed SSI program standards.

[8.102.120.9 NMAC - Rp 8.102.120.9 NMAC, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 7/17/2006; A, 11/15/2007; A, 06/01/2017]

8.102.120.10 HANDLING BENEFIT GROUP AND RESIDENCE STATUS CHANGES:

A. Change of name or payee: Whenever there is a change in a participant's name or the payee for cash assistance, the caseworker shall immediately make the appropriate changes.

(1) New caretaker:

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

(b) If the new caretaker is already payee for other dependent children, the cash assistance case of the children being transferred to the new payee shall be closed, an add-on application shall be processed, and the children added to the existing benefit group.

(2) Payee change after benefits are issued:

~~[(a) Warrants: If there is a change of payee after warrants have already been mailed and the original payee is not available to endorse the warrant, the caseworker shall request that the warrant be returned to the county office to effect the change. The caseworker shall write "VOID" on the face of the original warrant and send~~

~~it to the accounting section in central office. A replacement warrant shall be issued in the name of the new payee.~~

~~(b) — EBT: In an EBT case, the] The EBT account shall be made accessible to another family member by authorization of a new PIN under the old account.~~

(3) Changes in name or payee are indicated when:

- (a) a payee legally changes his name and the change has been processed through the social security administration;
- (b) a legal guardian is appointed or dismissed;
- (c) the parent of an incompetent adult client begins to serve as natural guardian; or
- (d) there is a change of payee for an NMW grant.

B. Change in benefit group composition: A request for assistance for a new benefit group member shall be treated as add-on an application. An add-on application shall be processed using the timeliness and verification standards applicable to regular applications.

C. Move to another state: If a participant advises the county office in advance of the participant's departure from the state, the participant shall be contacted to determine whether the participant intends to:

- (1) be out of the state for a temporary period with a plan to return once the purpose of the visit has been accomplished; or
- (2) abandon residence in New Mexico;
- (3) the caseworker shall cover the following points:
 - (a) whether the client wishes to continue receiving assistance out-of-state during a temporary absence;
 - (b) whether the client intends to apply for assistance in another state;
 - (c) how long the participant intends to be out-of-state;
 - (d) the purpose of the visit;
 - (e) whether a place of residence in New Mexico is being maintained in the participant's absence.

(4) If it appears on the basis of this information that New Mexico residence is being abandoned, assistance shall be terminated. If absence is temporary, cash assistance shall be continued and the client must keep the department informed of the client's address and circumstances.

D. Illness: If a participant who is temporarily visiting outside New Mexico is unable to return to New Mexico because of illness, cash assistance may continue until such time as the participant is able to return. In this situation, the participant's inability to return to New Mexico because of illness must be verified by medical report.

E. DVR training: If plans are made in conjunction with DVR for a participant's participation in a training course in another state, cash assistance may be continued for the duration of the training course for the participant and the participant's dependents, if they accompany the participant, provided that the benefit group intends to return to New Mexico when training is completed.

[8.102.120.10 NMAC - Rp 8.102.120.10 NMAC, 07/01/2001; A, 11/15/2007; A, 06/01/2017]

8.102.120.11 ~~[SEMIANNUAL]~~ SIMPLIFIED REPORTING: ~~[Semiannual]~~

Simplified reporting is a periodic reporting requirement for ~~[certain]~~ benefit groups that receive NMW cash assistance. A benefit group ~~[that is]~~ assigned to ~~[semiannual]~~ simplified reporting must file a report of changes in the sixth month of a 12-month certification period.

A. Certification period:

(1) **Initial application:** A benefit group that is applying for both ~~[food-stamp]~~ SNAP and NMW, shall be assigned a NMW certification period that ends in the same month as the ~~[food-stamp]~~ SNAP certification period, with the exception of those SNAP benefit groups assigned to a 24 month certification.

(2) An initial applicant for NMW that is already participating and assigned to ~~[semiannual]~~ simplified reporting in the ~~[food-stamp]~~ SNAP program:

(a) if approved for NMW, shall be assigned a NMW certification period that will end the same month as the ~~[food-stamp]~~ SNAP certification period; and

(b) must file ~~[a semiannual]~~ an interim report form in the same month that one is due in the ~~[food-stamp]~~ SNAP program;

(c) if NMW is approved in the same month ~~[a semiannual]~~ an interim report form is due in ~~[food-stamp]~~ SNAP program, the requirement in Subparagraph (b), above, is waived for NMW.

(3) A benefit group that is approved for NMW, but does not receive ~~[food-stamp]~~ SNAP shall be assigned a twelve-month certification period:

(a) beginning the first month of eligibility; and

(b) shall have ~~[a semiannual]~~ an interim report form due in the sixth month of the NMW certification period.

(4) A benefit group that is receiving NMW and applies for ~~[food stamp]~~ SNAP shall have NMW eligibility re-determined at the same time that the ~~[food stamp]~~ SNAP eligibility is determined.

(a) If NMW benefits increase, the increase shall be effective the month following the first month of approval for ~~[food-stamp]~~ SNAP and NMW shall be assigned a certification period that ends in the month the ~~[semiannual]~~ simplified reporting ~~[food-stamp]~~ SNAP certification ends.

(b) If approved for ~~[food-stamp]~~ SNAP and the NMW benefit decreases, the decrease shall be effective the month following the month the NOAA expires, and the NMW benefit group shall be assigned a certification period that ends in the same month the ~~[food-stamp]~~ SNAP certification ends.

(c) If approved for ~~[food-stamp]~~ SNAP and the NMW benefit is terminated, the termination shall be effective the month following the month the NOAA expires, and the ~~[food-stamp]~~ SNAP case shall be transitioned to TFS.

(5) **Recertification:** A benefit group that is recertifying and is approved and assigned to ~~[semiannual]~~ simplified reporting shall be assigned a certification period that:

(a) is 12 months long;

(b) begins the month after the current certification ends; or

(c) is set to end in the same month as a ~~[food-stamp]~~ SNAP case with a common member.

B. Excluded from [semiannual] simplified reporting: The [semiannual] simplified reporting requirement shall be assigned to all NMW benefit groups except the education works program. [~~with the following exceptions:~~

- ~~(1) a household in which all members are migrant or seasonal farm workers;~~
- ~~(2) a household in which all members are homeless;~~
- ~~(3) a household in which all members are elderly or disabled, that receive social security or SSI and has no earned income;~~
- ~~(4) a household determined by the county director to have insufficient stability and warrants an alternative reporting requirement; an unstable household may include but is not limited to:~~
 - ~~(a) a household that reports an imminent change in residence to another state;~~
 - ~~(b) a household that is assigned to an alternative reporting requirement because of instability, shall be certified for no longer than three months.~~

~~**C. Participating benefit group:** A benefit group not assigned semiannual reporting that subsequently is required to be on semiannual reporting because of a reported change:~~

- ~~(1) shall be transitioned at the end of the certification period in effect when the report occurred; or~~
- ~~(2) shall be transitioned to semiannual reporting if the reported change results in application, approval, and assignment to semiannual reporting in the food stamp program.]~~

[D] C. [Semiannual] Simplified reporting requirements: A benefit group assigned to [semiannual] simplified reporting shall be required to file [a semiannual] an interim report form no later than the tenth day of the sixth month of the 12-month certification period, or in compliance with the [food stamp] SNAP [semiannual] simplified report, whichever is appropriate. The benefit group must include the following information along with necessary verification, as required at 8.100.130 NMAC:

- (1) any change in benefit group composition, whether a member has moved in or out of the home along with the date, the change took place;
- (2) the amount of money received from employment by each benefit group member;
- (3) the amount of unearned income received by each benefit group member;
- (4) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit, such as but not limited to:
 - (a) the account number and balance for a new checking or savings account belonging to any household member; or
 - (b) the amount of any new stocks or bonds or other financial instruments belonging to any household member.
- (5) dependent care expenses;
- (6) verification for residence, only if, there has been a change in residence since the last certification;
- (7) changes in child support receipt; and
- (8) changes in alien status for a benefit group member.

[E] D. Budgeting methodology for [semiannual] simplified reporting at initial application and recertification:

(1) Prospective budgeting shall be used for an applicant benefit group at initial application and at recertification as set forth at 8.102.500.9 NMAC.

(2) At initial application, eligibility and amount of payment for the applicant benefit group shall be determined prospectively for the each of the first six months of the certification.

(3) At recertification, eligibility and amount of payment shall be determined prospectively for six months following last month benefit group's certification period.

[F] E. Budgeting methodology for [semiannual] simplified reporting:

(1) At processing the [semiannual] interim report form, eligibility and amount of payment shall be determined prospectively for the six months following the month the [semiannual] interim report form is due.

(2) In determining a benefit group's eligibility and payment amount, the income already received shall be used to prospectively anticipate income the benefit group expects to receive during the certification period according to the following schedule:

(a) **Weekly:** For income received weekly the participant benefit group must submit and [the department] ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(b) **Bi-weekly:** For income received bi-weekly the participant benefit group must submit and [the department] ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(c) **Semi-monthly:** For income received semi-monthly the participant benefit group must submit and [the department] ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(d) **Monthly:** For income received monthly the participant benefit group must submit and [the department] ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.

(e) **Income received more frequently than weekly:** For benefit groups with income received more frequently than weekly, exact income, rather than averaged and converted income shall be used to determine benefits. For income received more frequently than weekly the participant benefit group must submit and [the department] ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the [semiannual] interim report form and the month the report is due.

(f) If a determination is made that the use of the pay data for the methods described in (a) through (e), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; the caseworker shall use whatever method gives the most accurate estimate of earnings.

(g) **Income received less frequently than monthly:** The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended

to cover. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It also includes contract income and income for a tenured teacher who may not have a contract.

(3) Self-employment:

(a) Requirements for determination of self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment income are set forth at Subsection B of 8.100.130.14 NMAC.

(b) A benefit group assigned ~~[semiannual]~~ simplified reporting that has had self-employment income annualized by ~~[the department]~~ ISD shall be required to report changes in self-employment income only if the benefit group has filed a tax return subsequent to its last approval or recertification for NMW.

(c) A benefit group assigned ~~[semiannual]~~ simplified reporting that does not have the self-employment income annualized must report self-employment income on the ~~[semiannual]~~ interim report form. The income reported on the ~~[semiannual]~~ simplified report form will be calculated in the following manner.

(i) If a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the duration of the certification period.

(ii) **Seasonal income:** Self-employment income that is intended to meet a benefit group's needs for only part of the year shall be averaged over the time the income is intended to cover.

(d) A benefit group required to report ~~[semiannual]~~ simplified self-employment income that fails to provide verification of an allowable deduction at the ~~[semiannual]~~ interim or during the month the ~~[semiannual]~~ interim report form is due shall not be allowed the deduction. ~~[The caseworker]~~ ISD shall process the report if all other mandatory verification has been provided.

(4) Use of conversion factors: Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(a) income received on a weekly basis is averaged and multiplied by 4.0;

(b) income received on a biweekly basis is averaged and multiplied by 2.0;

(c) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

~~[(5) Effective April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Paragraph (4) of Subsection F of 8.102.120.11 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.~~

~~(a) Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.~~

~~(b) Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.]~~

[G] F. Time limits for submission and processing ~~[a semiannual]~~ an interim report form:

(1) ~~[A semiannual]~~ An interim report form shall be mailed to a benefit group in the month prior to the month the report is due.

(2) A benefit group assigned to ~~[semiannual]~~ simplified reporting shall be required to submit ~~[a semiannual]~~ an interim report form by the tenth calendar day of the month the ~~[semiannual]~~ interim report form is due.

(3) The ~~[semiannual]~~ interim report form shall be reviewed for completeness within ten days of receipt.

(a) If the form is complete and all verifications are provided, ~~[a caseworker]~~ ISD shall complete the processing of the form within 10 days of receipt.

(b) If the form is complete and all verifications are provided except for verification of an allowable deduction, the report shall ~~[not]~~ be processed without the deduction. The household shall be:

(i) notified that verification is lacking; and

(ii) shall be given ten days to provide verification of an allowable deduction;

(iii) a deduction that is verified within the month the ~~[semiannual]~~ interim report form is due shall be processed as part of the ~~[semiannual]~~ interim report;

(iv) a deduction that is verified in the month after the ~~[semiannual]~~ interim report form is due shall be processed as a change reported by the household;

(v) a deduction that does not have the required verification shall not be allowed until verification of the expense is provided.

(4) ~~[A semiannual]~~ An interim report form that is incomplete or not signed shall be returned to the benefit group for completion.

(5) The benefit group must return the completed ~~[semiannual]~~ interim report form and all required verification within 10 calendar days or by the end of the month to avoid a break in benefits. A benefit group that fails to submit ~~[a semiannual]~~ an interim report form by the end of the month in which it is due, shall be issued an adequate notice of closure.

[H] G. Information requirements for ~~[semiannual]~~ simplified reporting: The ~~[semiannual]~~ interim report form shall specify:

(1) the date by which a benefit group must submit the form for uninterrupted benefits;

(2) the consequences of submitting a late or incomplete form;

(3) that verification must be submitted with the ~~[semiannual]~~ interim report form;

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

(5) the consequences of providing incorrect information; and

(6) notice of rights.

[I] H. Requirement to report certain changes between reporting periods: ~~[A benefit group assigned to semiannual reporting must report in between reporting periods]~~

the following changes] A benefit group must report changes within 10 days of the date a change becomes known to the benefit group:

~~_____ (1) _____ within 10 days of occurrence, the benefit group must report when a social security number is assigned to a benefit group member; or
_____ (2) _____ within 14 days of occurrence, a parent must report when a dependent child, age six years or older, drops out of school or has three unexcused absences from school.]~~

(1) a benefit group reports income in excess of eighty-five percent of federal poverty guidelines for size of the benefit group;

(2) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit.

(a) in the absence of a written report, a 13-day notice of adverse action is required if the change will result in a reduction or termination of benefits.

(b) the benefit group must report when a social security number is assigned to a benefit group member.

(c) a parent must report when a dependent child, age six years or older, drops out of school or has three unexcused absences from school within 14 days of occurrence.

(d) a mandatory adult who is participating in NMW Program has moved in or out of the home

(e) a mandatory child who has moved in or out of the home

(f) a household member has passed away

(g) a mandatory member has moved from the State of New Mexico

(h) unearned income in excess of the maximum monthly benefit for the size of the benefit group

~~[**J.**—**Non-reporting sanctions:** A benefit group assigned to semiannual reporting shall be subject to a non-reporting sanction in accordance with regulations at 8.102.620.11 NMAC for failure to provide accurate change information on the semiannual report form or for failure to report by the 10th day of the month following the month that household income exceeds eighty-five percent of federal poverty guidelines for the size of the benefit group.]~~

~~[**K]** **I.** Action on changes reported between reporting periods for benefit groups assigned to ~~[semiannual]~~ **simplified** reporting:~~

~~(1) [The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:~~

~~_____ (a) _____ a benefit group reports income in excess of eighty-five percent of federal poverty guidelines for size of the benefit group;~~

~~_____ (b) _____ a benefit group reports, or the department receives documented evidence that the benefit group has moved from the state or intends to move from the state on a specific date;~~

~~_____ (c) _____ a benefit group requests closure; or~~

~~_____ (d) _____ the department receives documented evidence that the head of benefit group has died.] **ISD shall act on all reported changes.**~~

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

- (i) information is not questionable,
- (ii) the provider of the information is the primary source of information:
- (iii) the trusted data sources must be pulling their own data not from third party information, and
- (iv) the recipient's attestation exactly matches the information received from a third party.

~~[(2)]~~ (3) A newborn shall be added to the benefit group effective the month following the month the report is received [if the addition is reported to the agency by the benefit group or by the hospital for medicaid purposes].

~~[(3)]~~ (4) The loss of earned income shall be considered for eligibility in the second month after the loss and ongoing until the next scheduled [semiannual] interim report or end of certification whichever is first, provided that:

(a) the loss of income was reported to the agency, and verified by the benefit group; and

(b) the loss of income was not due to voluntary quit.

~~[(4)]~~ (5) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled [semiannual] interim report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the benefit group.

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

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

(a) if the household's benefit level decreases or the household becomes ineligible as a result of the change, ISD shall issue a notice of adverse action within 10 calendar days of the date the change was reported 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.

(2) Increased benefits: For 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 \$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 calendar day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) **No change in TANF benefit amount:** When a reported change has no effect on the TANF 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 (2)(a) and (2)(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.

K. Resolving unclear information: 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:

(1) ISD must issue a help us make a decision (HUMAD) form which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances, which affords the household at least 10 days to respond and to clarify its circumstances and which states the consequences if the household fails to respond to the HUMAD.

(2) If the household does not respond to the HUMAD, or does respond but refuses to provide sufficient information to clarify its circumstances, ISD must issue a notice of adverse action as described in 7 CFR 273.13 which terminates the case, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program.

(3) When the household responds to the HUMAD and provides sufficient information, ISD must act on the new circumstances in accordance with paragraphs (J)(2), (J)(3) and (J)(4) of this section.

L. 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 TANF 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.

(2) **Increased benefit amount:** When a household fails to timely report a change which will result in an increased TANF 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.

M. **Non-reporting sanctions:** A benefit group assigned to simplified reporting shall be subject to a non-reporting sanction in accordance with regulations at 8.102.620.11 NMAC for failure to provide accurate change information on the interim report form or for failure to report by the tenth calendar day of the month following the month that household income exceeds eighty-five percent of federal poverty guidelines for the size of the benefit group.

[8.102.120.11 NMAC - N, 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 11/14/2008; A, 04/01/2010; A, 06/01/2017]

These are the PROPOSED amendments to 8.102.620 NMAC, Sections 10, 11, 12 and 14.

8.102.620.10 CHILD SUPPORT AND NMW NON-COOPERATION PAYMENT SANCTIONS:

A. General:

(1) The benefit group shall be subject to a non-cooperation payment sanction under either or both of the following circumstances:

- (a) failure by a benefit group member to meet NMW requirements; or
- (b) failure by the adult responsible for children included in a benefit group to meet child support enforcement division (CSED) cooperation requirements or both;
- (c) good cause will be evaluated based on the circumstances of each instance of non-cooperation.

(2) Occurrence of non-cooperation:

(a) Child support:

(i) A benefit group shall be subject to a payment sanction for failure to comply with CSED cooperation requirements, even if the adult required to cooperate with child support requirements is not included in the benefit group.

(ii) Each benefit group member that fails to cooperate with the NMW requirement is subject to a sanction and shall affect the benefit group.

(iii) An occurrence of non-cooperation shall be applied when a sanction progresses to the next sanction level as a result of the noncompliance continuing for three consecutive months without the sanctioned participant reestablishing compliance. Progression to the next sanction level shall be effective in the fourth month.

(iv) A first or second level sanction is considered to be cured upon full cooperation by the sanctioned participant or a sanction shall be reversed based on a hearing decision when the sanction imposed is determined to be invalid.

(b) NMW:

(i) A benefit group is subject to a payment sanction when a participant in the benefit group fails to cooperate with the NMW requirements absent a finding of good cause.

(ii) In a two-parent benefit group, each mandatory benefit group member that fails to cooperate with the NMW requirements is subject to a sanction that affects the benefit group's sanction level and payment.

(iii) A participant shall not be sanctioned for more than one NMW requirement element at one time. A participant may be sanctioned for the same or a different NMW requirement element only after the original sanction element is cured or reversed. A first or second level

sanction may be cured upon full cooperation by the sanction participant and a sanction shall be reversed based on a hearing decision when the sanction imposed is determined to be invalid.

(iv) A participant with limited participation status may be sanctioned for failure to meet the work participation requirement rates as identified on the approved work participation agreement.

(v) An occurrence of non-cooperation shall be applied when a sanction progresses to the next sanction level as a result of the noncompliance continuing for three consecutive months without the sanctioned participant reestablishing compliance. Progression to the next sanction level shall be effective in the fourth month.

(3) Cumulative sanctions:

(a) Non-cooperation sanctions are cumulative within the benefit group and shall occur when:

(i) the participant fails to comply with the NMW and child support enforcement requirements;

(ii) more than one participant in the benefit group have failed to comply with either the NMW ~~and/or~~ and child support enforcement requirement.

(b) Cumulative sanctions, whether or not cured, shall remain the property of that benefit group participant who caused the sanction.

(i) A participant with a sanction who leaves a benefit group relieves the benefit group of that participant's sanction status.

(ii) A participant with a sanction who joins another benefit group subjects the new benefit group to any sanction or sanction level that has not been cured prior to joining the benefit group.

(c) The benefit group's cumulative sanctions and benefit level shall be reevaluated when a sanction is cured or reversed.

(4) Progressive sanctions:

(a) Non-cooperation sanctions are progressive to both the participant and to the benefit group and shall progress to the next level for the benefit group in which the sanctioned participant resides when:

(i) a participant fails to establish compliance in three-month increments; or

(ii) a participant fails to comply with NMW or CSED requirements as a separate occurrence.

(b) A sanction that is not cured for three consecutive months shall progress until compliance is established by the participant.

(c) A participant's compliance cannot reverse the sanction level attributed to the benefit group. Any subsequent sanction is imposed at the next higher level, unless reversed by a hearing decision.

B. The conciliation process:

(1) **When conciliation is available:** Conciliation shall be available to a participant or applicant once during an occurrence of assistance. There must be a period of at least 12 months between occurrences of cash assistance in order for a conciliation to be available again to the benefit group. NMW conciliation and child support conciliation are independent and are counted separately from each other.

(2) Determining that noncompliance has occurred:

(a) The determination of noncompliance with child support shall be made by CSED. The conciliation and sanctioning process for child support noncompliance is initiated upon receipt of notice from CSED that the participant or applicant has failed to cooperate. Under 8.102.420 NMAC, the non-cooperative participant or applicant shall be individually disqualified from participation in the benefit group.

(b) The determination of noncompliance with NMW requirements shall be made by the caseworker. A finding of noncompliance shall be made if:

(i) the participant has not completed an assessment;

(ii) the participant fails or refuses to complete an IRP;

(iii) the participant fails or refuses to submit an approvable WPA;

(iv) the participant fails to submit timely documentation showing completion of required work hours;

(v) the participant's monthly attendance report shows fewer than the minimum required hours of participation and no other allowable hours of activity can be reasonably attributed by the caseworker towards the monthly participation requirement.

(3) **Initiating conciliation:** Within 10 days of determining that noncompliance exists, the caseworker shall take action to initiate a conciliation, if the participant's conciliation has not been used. A conciliation is initiated by the department or its designee issuing a conciliation notice. CSED shall determine noncompliance and notify the caseworker who shall initiate the conciliation process.

(4) **Conciliation period:** Conciliation gives a participant a 30-calendar day period to correct the current non-compliance for either a NMW participation or CSED requirement.

(a) The conciliation process is established by the department, to address the noncompliance, identify good cause for noncompliance or barriers to compliance and shall occur only once prior to the imposition of the sanction.

(i) The participant shall have ten working days from the date a conciliation notice is mailed to contact the department to initiate the conciliation process. A participant who fails to initiate the conciliation process shall have a notice of adverse action mailed to him after the tenth working day following the date on which the conciliation notice is mailed.

(ii) Participants who begin but do not complete the conciliation process shall be mailed a notice of adverse action 30 days from the date the original conciliation was initiated. The benefit group shall be subject to sanction in the month following the month the notice of adverse action expires.

(b) **Non-cooperation with CSED requirements:** When the participant has initiated the conciliation process, it is the participant's responsibility to contact CSED and to comply with requirements or to request a waiver from CSED due to good cause. If the caseworker does not receive confirmation from CSED within 30 days of issuing the conciliation notice that the participant is cooperating or has requested a waiver for good cause in accordance with 8.50.105.14 NMAC; the conciliation process shall be considered to have failed the benefit group shall be subject to payment sanctioning.

(c) The caseworker shall make the determination whether arrangements have been made to meet NMW requirements or whether there is good cause for waiving the cooperation requirements. If arrangements to meet the requirement or to waive it have not been made by the 30th day following issuance of the conciliation notice, the conciliation shall be considered to have failed and the participant is subject to sanctioning.

C. Sanctioning:

(1) Within 10 days of determining that a participant has failed to meet a NMW requirement, department or its designee shall issue notice of adverse action that the payment shall be reduced. The payment reduction shall take place with the first payment following expiration of the notice of adverse action.

(2) Notice of adverse action shall apply to all NMW and child support noncompliance sanctions, including those relating to the conciliation process.

(3) A participant who corrects the failure of compliance with NMW or child support enforcement requirements during the notice of adverse action 13-day time period shall not have the sanction imposed against the benefit group or payment amount. The sanction shall not count as a cumulative or progressive sanction, since the reason for the sanction was corrected during the time period of the notice of adverse action and prior to a benefit reduction being imposed. A participant who has failed to meet work participation hours cannot correct the sanction during the notice of adverse action time period.

(4) Failure to comply during the notice of adverse action 13-day time period shall cause the sanction to become effective for a minimum of one month. If the participant later complies with the NMW compliance requirements, as determined by the department, the sanction may be removed, so long as the participant has received at least one month of reduced benefit due to sanction.

(a) A child support enforcement sanction shall be removed after CSED notifies the caseworker that the participant is in compliance with child support enforcement requirements.

(b) A NMW sanction shall be removed after the caseworker receives verification that the participant has completed an assessment; or has completed an IRP; or has completed a WPA that indicates the appropriate number of monthly hours in work activities; or has met NMW participation hours for at least 30 days; or has good cause to waive work participation requirements.

D. Sanction levels:

(1) **First-level sanction:**

(a) The first level sanction for failure to comply shall result in a sanction of twenty-five percent of the standard of need. The benefit group shall be given notice of the imposition of the sanction.

(b) A first level sanction that is not cured for three consecutive months shall progress to a second level sanction.

(2) **Second-level sanction:**

(a) The second level of sanction for failure to comply shall result in a decrease of fifty percent of the standard of need. The second level shall be initiated by:

(i) failure to comply with NMW participation or child support enforcement requirements for more than three months; or

(ii) a second occurrence of noncompliance with a NMW or CSED requirement by a participant; or

(iii) failure of a participant to comply with both CSED and NMW participation requirements simultaneously. The group shall be given concurrent notice of imposition of the second-level sanction.

(b) A second level sanction that is not cured for three consecutive months shall progress to the third level as described below.

(3) **Third-level sanction:**

(a) The third sanction level is case closure for a period of not less than six months. The group shall be given notice of adverse action prior to imposition of the sanction.

~~(b)~~ (i) Once a participant is sanctioned at the third level, any subsequent occurrence of failure to comply with NMW or CSED requirements shall immediately result in a third level sanction, and case ineligibility for six months.

(ii) The TANF grant will be counted as unearned income for SNAP benefits as unearned income for the six month period of ineligibility in accordance with SNAP 8.139.520 NMAC.

(b) TANF applications received after a six month closure period will be reviewed for compliance.

(i) Based on eligibility the TANF will be approved and all mandatory members will be required to meet the NMW compliance requirements set forth in 8.102.460 NMAC; and NMAC.

(ii) Previous CSED sanctions will be denied until ISD receives confirmation the applicant has complied with CSED.

E. Sanctions by other states or other programs: Participants in sanction status for failure to participate in other programs, such as the food stamp E&T program, or another state's or tribal TANF program, shall not carry that sanction status into NMW.

F. Sanctions with respect to voluntary participants: A voluntary participant is not subject to sanction for failure to participate, but shall be removed from the NMW and lose eligibility for support services

G. Good cause:

(1) Good cause applies to timely completion of assessment, IRP, WPA, work participation rates, and cooperation with the child support enforcement division.

(2) Good cause for failure to meet the NMW requirements.

(a) Good cause may be considered to exist for no more than 30 days in the event of:

(i) family death;

(ii) hospitalization;

(iii) major injury to the participant or a benefit group member for whom the participant has been the primary caretaker;

(iv) reported domestic violence;

(v) catastrophic event; or

(vi) it is shown the department did not provide the participant reasonable assistance to complete the assessment, IRP, or WPA.

(b) The participant must meet with the NMW service provider prior to the end of the 30-day period to establish a WPA for the full participation standard beginning on day 31 or must

request a limited work participation status prior to the end of the 30-day period. The participant may be subject to sanction for failure to complete a WPA if a new WPA has not been established by day 31.

(i) A participant with good cause for failure to meet the NMW requirements, who expects the cause of failure to continue for more than 30 days, must contact the department to review the participant's circumstances.

(ii) Under no conditions shall good cause be granted for more than 30 days during any given reporting period.

(3) Good cause shall be considered when the department has failed to submit a notice in accordance with the requirements of adverse action notices, to the participant or provide available support services that would adversely affect the participant's ability to timely meet work participation requirements.

(4) **Good cause for refusal to cooperate with the child support enforcement requirements:** In some cases it may be determined by the CSED that the TANF/NMW applicant's/recipient's refusal to cooperate is with good cause in accordance with 8.50.105.14 NMAC. Any person requesting a good cause exemption to a TANF/NMW requirement to cooperate must complete a request for a good cause exemption on a form provided by the CSED and provide any documentation requested by CSED. The request for a good cause exemption will be reviewed by the CSED and the requestor will be informed of the decision in writing. The requestor's failure or refusal to complete the form or provide the requested documentation will result in an automatic denial of the request. The department may offer assistance to complete the form or obtain the necessary documentation, as appropriate.

(5) It is the applicant's/recipient's responsibility to inform the department if they are unable to meet the NMW compliance requirements or CSED cooperation requirements. [8.102.620.10 NMAC - Rþ 8.102.620.10 NMAC, 07/01/2001; A, 02/14/2002; A, 11/15/2007; A, 04/01/2012; A, 07/01/2013; A, 06/01/2017]

8.102.620.11 NON-REPORTING SANCTIONS:

A. General: The eligibility determination and payment calculation process relies upon applicants and participants to provide accurate and timely reports of information affecting their eligibility and payment. Payment sanctions for non-reporting shall be established to encourage timely and accurate reporting and to offset benefits resulting from the reporting of inaccurate or misleading information, the untimely reporting of changes, or the failure to report any required information.

B. Non-reporting sanctions:

(1) **Length of sanction:** Each non-reporting sanction shall run for a period of four months beginning with the first month in which failure to report occurred. An additional month shall be added for each additional month of non-reporting until the payment is corrected.

(2) **Definition of an occurrence of non-reporting:** An occurrence of non-reporting exists when an applicant or participant who fails to report information or reports incorrect information which results in an overpayment of cash assistance benefits for which the participant is at fault.

(3) Amount of sanction:

(a) Reporting sanctions shall be calculated at twenty-five percent of standard of need for the size of the benefit group being sanctioned.

(b) Reporting sanctions are not progressive. If there is another occurrence of non-reporting prior to the end of a non-reporting sanction period, the next and any subsequent non-reporting sanctions shall be consecutive and at the twenty-five percent level.

(c) Reporting sanctions, child support sanctions and work program sanctions shall be integrated into a single calculation to determine the final sanction amount.

(d) If a case closes during a reporting sanction period for reasons other than sanctions, the non-reporting sanction shall be suspended and resumed at the same duration the next time the case is opened.

(4) **Procedures:** The following steps shall be taken in implementing a payment sanction.

(a) The caseworker shall document and establish an overpayment claim using the department overpayment claims procedures. The caseworker shall also determine whether the participant was at fault for the overpayment.

(b) The county director or a designated supervisor shall review the overpayment and determine the accuracy of the overpayment determination and appropriateness of the

determination the participant was at fault for the overpayment. Upon determining that a non-reporting sanction is appropriate, the county director, or designated supervisor shall issue a notice of intent to sanction to be issued to the participant. Failure by the participant to contact the person issuing the notice within 10 working days allowed shall constitute waiver of conciliation rights.

(c) If the participant requests conciliation within the 10 working days of issuance of the notice, the county director or designated supervisor shall schedule a conciliation conference.

(d) The conciliation conference is conducted by the county director or designated supervisor.

(i) The caseworker shall describe the reporting error, how the amount of the overpayment is determined and the reasons for finding the participant at fault for the overpayment.

(ii) The participant shall have the opportunity to discuss the overpayment determination, the finding of fault and to show good cause why the sanction should not be imposed.

(iii) Based upon this determination, the county director or designated supervisor shall determine whether a sanction should be imposed.

(iv) The participant may represent himself or be represented by someone else. If the participant wishes to be represented by another individual, the participant must designate that individual in writing.

(e) Following the conference, the county director shall issue written notice stating whether or not the sanction is to be imposed, and the worker shall affect the sanction causing issuance of a notice of adverse action. The payment reduction takes effect in the month following expiration of the notice of adverse action.

(f) Participants who disagree with the sanction determination shall have fair hearing rights and access to legal adjudication through the fair hearing process.

~~[C. Semiannual reporting: A benefit group subject to semiannual reporting shall be subject to non-reporting sanctions as specified in Subsection L of 8.102.120.11 NMAC.]~~

[8.102.620.11 NMAC - Rp 8.102.620.11 NMAC, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 07/01/2013; A, 06/01/2017]

8.102.620.12 RECOUPMENT: Participants and applicants with an outstanding claim for overpayment of cash assistance benefits shall be required to repay the claim. Claim and recoupment situations and procedures are detailed at ~~[8.102.640.12]~~ 8.100.640 NMAC.

[8.102.620.12 NMAC - Rp 8.102.620.12 NMAC, 07/01/2001; A, 11/15/2007; A, 06/01/2017]

8.102.620.14 SUPPORTIVE SERVICES:

A. An explanation of the supportive services available through the NMW work program, provided funding is available, shall be given to NMW participants during orientation. Participants who need supportive services to participate in the program are eligible for such services.

B. NMW work program participants are eligible to receive an initial supportive services payment in accordance with ~~[Subsection B of]~~ 8.102.620.15 NMAC. The support services payment may be used by the participant to cover travel, child care costs incurred or both.

C. Ongoing supportive services:

(1) Necessary ongoing supportive services are identified on the WPA, which identifies the services needed and the start and end dates for the services.

(2) If additional supportive services are needed after the initial assessment, the WPA shall be modified to reflect the changes.

[8.102.620.14 NMAC - Rp 8.102.620.14 NMAC, 07/01/2001; A, 11/15/2007; A, 06/01/2017]

This is the PROPOSED amendment to 8.102.630 NMAC. This entire Part will be Repealed and Reserved.

**TITLE 8 SOCIAL SERVICES
CHAPTER 102 CASH ASSISTANCE PROGRAMS
PART 630 DESCRIPTION OF PROGRAM/BENEFITS - CHANGES IN ELIGIBILITY**

~~8.102.630.1 — ISSUING AGENCY: New Mexico Human Services Department.
[8.102.630.1 NMAC — Rp 8.102.630.1 NMAC, 07/01/2001]~~

~~8.102.630.2 — SCOPE: The rule applies to the general public.
[8.102.630.2 NMAC — Rp 8.102.630.2 NMAC, 07/01/2001]~~

~~8.102.630.3 — STATUTORY AUTHORITY:~~

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

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

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

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

~~E. — In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.~~

~~[8.102.630.3 NMAC — Rp 8.102.630.3 NMAC 3, 07/01/2001; A, 11/15/2007]~~

~~8.102.630.4 — DURATION: Permanent.
[8.102.630.4 NMAC — Rp 8.102.630.4 NMAC , 07/01/2001]~~

~~8.102.630.5 — EFFECTIVE DATE: July 1, 2001.
[8.102.630.5 NMAC — Rp 8.102.630.5 NMAC, 07/01/2001]~~

~~8.102.630.6 — OBJECTIVE:~~

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

~~B. — The objective of education works program (EWP) is to provide cash assistance to a benefit group where at least one individual is enrolled in a post-secondary, graduate or post graduate institution. Education and training are essential to long term career development. The applicant or participant benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.~~

~~[8.102.630.6 NMAC — Rp 8.102.630.6 NMAC, 07/01/2001; A, 11/15/2007]~~

~~8.102.630.7 — DEFINITIONS: [Reserved]
[8.102.630.7 NMAC — Rp 8.102.630.7 NMAC, 07/01/2001]~~

~~8.102.630.8 — PROCESSING STANDARDS: There is a continuing responsibility on the part of both the participant and the caseworker to make sure that benefits paid to the benefit group correctly reflect the benefit group's circumstances for the month for which payment is being made.~~

~~A. — Client reporting timeliness: The benefit group must report any of the changes specified below within 10 calendar days of the date the change becomes known to the benefit group.~~

~~B. — Who is responsible for reporting: The participant designated as the head of household is responsible for reporting changes. If a protective payee has been named because of mismanagement, part of the protective payee's responsibilities include making sure that changes are reported, either by the specified relative or the protective payee.~~

C. Department action on reported changes: Reported changes are evaluated and eligibility/payment changes made within 10 days of receiving notice of a change. The change is made as soon as possible but must be effected no later than the end of the month following the month in which the change is reported.

D. What must be reported: Participants shall be required to report any change in benefit group composition and circumstances. This includes:

(1) **An individual moving into or out of the home:** A benefit group must report when a participant moves into or out of the home so that the impact of the person on the benefit group's eligibility and payment can be evaluated.

(2) **Social security number:** A benefit group must report when one of its members is assigned a social security number.

(3) **Residence:** A benefit group is required to report whenever the benefit group or any member of it is leaving New Mexico.

(4) **School attendance:** A benefit group must report whenever a dependent child age six or older drops out of school or has three unexcused absences. This information must be reported within 14 days.

(5) **Address:** A benefit group must report moving to another place of domicile, regardless of whether mail is being sent to that address, or whether the place of domicile is the place of residence.

(6) **Income:** A benefit group must report any change in benefit group income and any change in the employment status of any benefit group member.

(7) **Resources:** A benefit group must report any change in resources which places the benefit group over the resource limit standards of \$1500 in liquid resources or \$2000 in non liquid resources.

E. Semiannual reporting: A benefit group subject to semiannual reporting shall be subject to reporting requirements as specified at 8.102.120.11 NMAC. [8.102.630.8 NMAC - Rp 8.102.630.8 NMAC, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 11/15/2007]

8.102.630.9 CHANGE PROCESSING: If during a certification period, changes occur that affect eligibility or benefit amount, the caseworker shall take action to adjust the benefit group's eligibility or benefit amount.

A. Benefit group responsibilities:

(1) **At application:** An applicant must report all changes affecting eligibility and benefit amount that may have occurred since the date the application was filed and before the date of the interview. Changes occurring after the interview, but before the date of the approval notice, must be reported by the benefit group within 10 days of the date the change is known to the benefit group.

(2) **Change reporting requirements for active cases:** A benefit group must report changes within 10 days of the date a change becomes known to the benefit group.

(3) **Time limits:**

(a) The 10 day period begins with the date the change becomes known to the benefit group.

(i) A financial change becomes known to the benefit group when the benefit group receives the first payment attributed to an income or resource change, or when the first payment is made for an allowable expense.

(ii) A non-financial change, including but not limited to, a change in benefit group composition or a change in address, becomes known to the benefit group on the date the change takes place.

(b) The change is considered reported on the date the report of change is received by the local county office or, if mailed, the date of the postmark on the benefit group's report plus three days mailing time.

(c) Benefit groups shall be encouraged to use a change report form to document changes, although changes may also be reported by personal visit or telephone.

(d) In the absence of a written report, a 13 day notice of adverse action is required if the change will result in a reduction or termination of benefits.

(4) **Semiannual reporting benefit groups:** A benefit group assigned to semiannual reporting shall only be required to report when benefit group income exceeds eighty-five percent of the federal poverty guidelines for the size of the benefit group.

~~**B. Department responsibilities:** The caseworker shall inform the benefit group of its responsibility to report changes. The caseworker shall be required to take action on any change reported by the benefit group to determine if the change affects eligibility or benefit amount. The caseworker shall document the date a change is reported, and whether the change affects eligibility or benefit amount.~~

~~(1) **Action on changes:** When a benefit group reports a change, the caseworker must take action to determine the benefit group's eligibility and benefit amount within ten days of the date the change is reported. For changes that result in a decrease or termination of benefit group benefits, the caseworker shall act on the change as follows:~~

~~(a) If the caseworker receives a written report from the benefit group, action shall be taken for the following month without an advance notice of adverse action. The benefit group shall be provided with adequate notice. If the certification period will expire before the expiration notice time limit, no action shall be required to reduce or terminate benefits.~~

~~(b) If the change is reported by any other means, within 10 days, the caseworker shall take action to issue a notice of adverse action to reduce or terminate benefits effective the month following the month the adverse action time limit expires. If the certification period will expire before the expiration of the adverse action time limit, no action shall be required to reduce or terminate benefits.~~

~~(2) **Increased benefits:**~~

~~(a) For changes resulting in an increase, the caseworker shall make the change prospectively beginning in the month following the month the change was reported.~~

~~(b) **Providing verification:** The benefit group shall be allowed 10 days from the date a change is reported to provide verification. If verification is not provided at the time a change is reported, the benefit group shall be allowed 10 days, plus three days if a notice is mailed, to provide verification.~~

~~(3) **Decreased benefits:** When a benefit group timely reports a change which will decrease benefits, the caseworker shall issue an adverse action notice to the benefit group. If the adverse action time limit expires in the following month, there is no overpayment in the following month and the benefit group is entitled to the greater benefit amount. The decrease shall be effective in the month following the month the notice expires.~~

~~(4) **Termination of benefits:** When the benefit group reports a change which will result in a termination of benefits, the caseworker shall issue an adverse action notice.~~

~~(a) If the adverse action time limit expires in the following month, there is no overpayment to the benefit group in the following month and the benefit group shall be entitled to the greater benefit amount. No claim shall be filed.~~

~~(b) If the adverse action time limit will expire after the certification period ends, action shall be taken to terminate benefits and the certification period shall be allowed to expire. The caseworker shall document the change in the case record.~~

~~(5) **No change in benefit amount:** When a reported change has no effect on the benefit amount, the caseworker shall document the change in the case file and notify the benefit group of the receipt of the report and that there is no change in benefits.~~

~~**C. Failure to report changes:**~~

~~(1) If the caseworker discovers that the benefit group failed to report a change as required, the caseworker shall evaluate the change to determine whether the benefit group received benefits to which it was not entitled. After verifying the change, the caseworker shall initiate a claim against the benefit group for any month in which the benefit group was over paid benefits. The first month of the over payment shall be the month following the month the adverse action notice time limit would have expired had the benefit group timely reported the change. If the discovery is made within the certification period, the benefit group is entitled to a notice of adverse action if its benefits shall be reduced. No claim shall be established because of a change in circumstances that a benefit group is not required to report.~~

~~(2) **Increased benefit amount:** When a benefit group fails to make a timely report of a change which will result in an increased benefit amount the benefit amount shall increase the month following the month in which the change was reported.~~

~~**D. Other changes:** All unreported changes of which the caseworker becomes aware of shall be acted upon. At a minimum, this means documenting changes in the case record. All discrepancies and questionable information shall be resolved to make sure that the correct benefit amount is issued to the benefit group.~~

~~[8-102.630.9 NMAC—N, 07/01/01; A, 02/14/2002; A, 01/01/2004]~~

8.102.630.10 CHANGE NOTICES:

A. Agency responsibilities:

(1) The caseworker shall take action on any change reported by a benefit group, and on any change which becomes known through other sources.

(2) The benefit group shall be issued a change notice:

(a) If there is a reduction or termination of benefits, the benefit group shall be issued an adverse action notice, unless the change has been reported by the benefit group in writing.

(b) If the benefit group reports the change in writing, advance notice of the change in benefit amount is required before the benefit group's next issuance.

(c) If there is no change in the benefit amount, the benefit group shall be notified that the change resulted in no change in benefit amount.

B. Notice of adverse action:

(1) Prior to any action to reduce or terminate a benefit group's benefits within the certification period, the benefit group shall be provided with a timely and adequate advance notice before the adverse action is taken, unless the change was reported by the benefit group in writing. A written change report submitted by the benefit group is subject to the adequate notice requirements.

(2) At a minimum, the adverse action notice shall include the following information:

(a) proposed action and reason for the action;

(b) month in which the change takes effect;

(c) adjusted benefit amount;

(d) benefit group's right to request a fair hearing, circumstances under which the benefit group can continue benefits at the greater amount, and deadline dates for requesting a hearing;

(e) benefit group's liability for any benefits overpaid if the decision of the fair hearing is that the department took the correct action;

(f) general information on whom to contact for additional information, including the right to representation by legal services.

(3) Individual notices of adverse action shall not be provided when:

(a) there is a mass change;

(b) the caseworker determines on the basis of reliable information that the benefit group has moved from the project area;

(c) the caseworker determines on the basis of reliable information that all members of a benefit group have died;

(d) the benefit group has received an increased benefit amount to restore lost benefits, the restoration is complete, and the benefit group has been notified in writing of the date the increased benefit amount would terminate;

(e) the benefit group voluntarily requests, in writing or in the presence of the caseworker, that its participation be terminated;

(f) the caseworker determines on the basis of reliable information that the benefit group has been approved to a concurrent cash assistance program.

C. Adequate notice: If a change was reported in writing that will result in a reduction or termination in benefits, the benefit group shall be provided with adequate advance written notice confirming the change. Adequate notice does not preclude the benefit group's right to request a fair hearing. The benefit group shall be notified that its benefits are being reduced or terminated no later than the date the benefit group shall receive, or would have received, its benefits. Adequate notice shall be provided when changes reported in writing meet the following conditions:

(1) the benefit group reports the information which results in the reduction or termination;

(2) the reported information is in writing and signed by a member of the benefit group;

(3) the caseworker can determine the benefit group's reduced benefit amount or ineligibility based solely on the information provided by the benefit group in the written report;

(4) the benefit group retains its right to a fair hearing;

(5) the benefit group retains its right to continued benefits if the fair hearing is requested within the advance notice time limit;

~~(6) the caseworker continues the benefit group's previous benefit amount if required, within five working days of the benefit group's request for a fair hearing. [8.102.630.10 NMAC - N, 07/01/2001]~~

~~**8.102.630.11 LATE CHANGES:**~~

~~A. Failure to report any change in a timely manner may result in an underpayment or an overpayment to the benefit group.~~

~~B. Good cause for failure to report a required change:~~

~~(1) If a required change is not reported timely, good cause for not reporting on time is considered to exist if the participant can show, with appropriate documentation, that the participant was prevented from reporting by a health problem, including death, of a specified relative during the time period allowed to report. The health problem must have been of such severity and duration as to effectively prevent reporting by the participant. The participant must provide proof of the existence of the health problem and explain exactly how it prevented the participant from reporting the information to the ISD office.~~

~~(2) The determination of good cause shall be made by the caseworker, subject to the review and approval of the county director or the county director's designee.]~~

~~[8.102.630.11 NMAC - Rp 8.102.630.10 NMAC, 07/01/01; A, 11/15/2007] **REPEALED AND RESERVED**~~

These are the PROPOSED amendments to 8.106.100 NMAC, Sections 7 and 8.

8.106.100.7 DEFINITIONS:

A. Definitions A-L:

(1) **Adult residential shelter care home (ARSCH):** means a shelter care home for adults that is licensed by the department of health.

(2) **Alien:** means an individual who is not a United States citizen.

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

(4) **Attendant:** means an individual needed in the home for medical, housekeeping or child care reasons.

(5) **Authorized beneficiary:** means the surviving spouse of a disabled adult or the caretaker of an unrelated child, who has the ability to use a deceased recipient's issued payment.

(6) **Authorized representative:** means an adult who is designated in writing by the applicant and is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and represent the benefit group.

(7) **Basic needs:** means food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.

(8) **Benefit group:** means an individual or group of individuals authorized to receive cash assistance financed by state or local funds.

(9) **Benefit month:** means the month for which cash assistance benefits are issued.

(10) **Budget month:** means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.

(11) **Capacity to work:** means the effects of impairment(s), work-related factors, functionality on the ability for an individual to engage in gainful employment.

(12) **Capital gains:** means the proceeds from the sale of capital goods or equipment.

(13) **Cash assistance:** means state-funded cash assistance in the general assistance program, the adult residential shelter care home program (ARSCH), or the burial assistance program for the indigent.

(14) **Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements.

(a) **Financial CE:** Any SNAP household in which all members receive Title IV-A assistance (TANF), general assistance (GA), or supplemental security income (SSI) benefits is considered to be categorically eligible for SNAP benefits.

(b) **Broad-based CE:** Any SNAP household, in good standing, in which at least one member is receiving a non-cash TANF/MOE funded benefit or service and household income is below one hundred sixty-five percent FPG.

(15) **Certification:** means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.

(16) **Certification period:** means the time period in calendar months that is assigned to a benefit group that is approved to receive cash assistance benefits.

(17) **Collateral contact:** means an individual or agency designated to provide information concerning eligibility.

(18) **Contingency:** means requirement(s) an individual must accept as a condition of eligibility such as, treatment available outside the GA program, unless a determination is made that good cause exists for the individual's inability to comply.

(19) **Conversion factor:** means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.

(20) **Date of admission:** means the date established by the immigration and naturalization service as the date an alien (or sponsored alien) was admitted for permanent residence.

(21) **Date of application:** means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. Applications that are dropped off or submitted electronically after regularly scheduled business hours, holidays and weekends will be considered received as of the next business day.

(22) **Date of authorization:** means the date when action is taken to approve a cash payment for a benefit group.

(23) **Date of entry:** means the date established by the immigration and naturalization service as the date an alien (or sponsored alien) was admitted for permanent residence.

(24) **Day(s):** means working days, unless otherwise defined in this chapter.

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

(26) **Dependent child:** means an individual who is seventeen years of age or younger; eighteen years of age and enrolled in high school; or between eighteen and twenty-two years of age and is receiving special education services regulated by the state public education department.

(27) **Director:** means the director of the income support division.

(28) **Disability:** means the definitions of disability related to the general assistance program and the disability determination process found at 8.106.420.7 NMAC.

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

(30) **Emancipated:** means an individual under the age of 18 who is legally recognized as no longer under parental control due to the individual's marriage, active duty in the armed forces or by the order of a court.

(31) **Encumbrance:** means debt owed on property.

(32) **Equity value:** means the fair market value of property, less any encumbrances owed on the property.

(33) **Essential person:** means an individual responsible for the care of a disabled general assistance recipient to the extent that placement into institutional care would be required were it not for care provided by this individual.

(34) **Expungement:** means the permanent deletion of cash benefits from an EBT account that is stale.

(35) **Fair hearing:** means an administrative proceeding that a claimant or the claimant's representative may request if:

(a) an application is not acted on within the application time limits at 8.106.110.12 NMAC; or

(b) an application is denied in whole or in part; or

(c) cash assistance or services are modified, terminated or not provided.

(36) **Fair market value (FMV):** means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or as a trade-in, not the amount the dealer would sell the vehicle for at retail.

(37) **Federal act:** means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.

(38) **Federal fiscal year:** means the time period beginning on October 1 and ending on September 30 of the calendar year.

(39) **Federal poverty guidelines:** means the level of income defining poverty by family size, published annually in the federal register by the United States department of health and human services.

(40) **Gainful employment:** means any job or class of jobs in the state that would provide an income equaling or exceeding eighty-five percent of the federal poverty guidelines to the benefit group.

(41) **Government entity:** means any federal, state, tribal or local unit of government as well as any non-government entity that receives public funds for the purpose of meeting the needs of its clientele.

(42) **Gross income:** means the total amount of earned or unearned income before any voluntary or involuntary deductions are made, such as, but not limited to, federal and state taxes, FICA, garnishments, insurance premiums (including medicare), and monies due and owing the benefit group but diverted by the provider. Gross income does not include specific income exclusions, such as but not limited to, the cost of producing self-employment income and income excluded by federal law.

(43) **Gross income test:** means the income test applied to the maximum income eligibility limit for participation in a particular cash assistance program based on the size of the household or benefit group.

(44) **Head of household:** means an individual who is the responsible case head for the benefit group. The head of household may be the parent, guardian, sole adult member, specified relative, pregnant woman, a recipient of general assistance, or caretaker.

(45) **Immigrant:** means an individual who is an alien as defined in title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PROWRA) and within the technical meaning at 8 U.S.C. 1101(a)(15).

(46) **Ineligible alien:** means an individual who does not meet the eligible alien requirements or has not been admitted for permanent residence.

(47) **Initial month:** means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.

(48) **Inquiry:** means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application for that program.

(49) **Interim assistance reimbursement:** means the program within the social security administration that will reimburse the state through the department for payments made to an individual receiving GA disability during the period the individual's application for SSI was pending.

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

(51) **Institutionalized:** Living in a facility licensed as an adult residential shelter care home (ARSCH) by the New Mexico department of health.

(52) **Irrevocable trust funds:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

(53) **Issuance month:** means the calendar month in which cash assistance is issued.

(54) **Limited state funds:** means that the standard of need for a one person benefit group is calculated at \$150.00 per month or less.

B. Definitions M-Z:

(1) **Maintenance of effort:** means the amount of general funds the state agency must expend annually on the four purposes of temporary assistance to needy families (TANF) to meet the minimum expenditure requirement based on a state's historical assistance for families with dependent children (AFDC) expenditures

(2) **Mandatory benefit group member:** The income and resources of mandatory members will always be considered to determine need, but not payment. In order to be included in the assistance group, members must individually meet eligibility requirements. Members mandatory for inclusion are: spouses residing in the home with the applicant, a caretaker of the applicant, and the father of an unborn child residing in the home with the applicant.

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

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

(5) **Month of approval:** means the first month in which a benefit group is eligible for cash assistance.

(6) **Net income test:** means the income test applied to eligibility for a particular program, after all allowable deductions are taken from the gross income for the household or benefit group. To be eligible, the benefit group's net earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.

(7) **Net monthly income:** means gross non-exempt income minus the allowable deductions. Net monthly income is the figure used to determine eligibility and cash assistance benefit amount.

(8) **New Mexico works:** means the federally funded temporary cash assistance program for needy families that carries a sixty-month term limit for adults in the state.

(9) **Non-benefit group members:** means persons residing with a benefit group but who are specifically excluded by regulation from being included in the benefit group certification.

(10) **Non-cash TANF/MOE benefit or service:** means a non-cash TANF/MOE benefit or services including programs or services that do not provide cash to recipients, but are funded by the TANF program, either by the federal TANF block grant or the state MOE share. These services may include transportation, childcare, counseling programs, parenting programs, pamphlets or referrals to other TANF/MOE-funded services.

(11) **Notice:** means written correspondence that is generated by any method including handwritten, typed or electronic, delivered to the client or their authorized representative by hand, U.S. mail, professional delivery or by any electronic means. The term "written notice" and "notice" are used interchangeably.

(12) **Notice of adverse action (NOAA):** means a written or electronic notice sent 13 days in advance of an action to reduce, suspend or terminate benefits that includes a statement of the action the department intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any overpayment received if the hearing decision is adverse to the benefit group.

(13) **Overpayment/over-issuance:** means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.

(14) **Parent:** means a natural parent, adoptive parent, or stepparent.

(15) **Payment:** means the amount of the cash assistance benefit, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and before any reduction by sanction or recoupment.

(16) **Permanently residing under color of law (PRUCOL):** means aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law as follows.

(a) The individual may be eligible for medicaid if the individual is an alien residing in the United States with the knowledge and permission of the immigration and naturalization services (INS) and the INS does not contemplate

enforcing the alien's departure. The INS does not contemplate enforcing an alien's departure if it is the policy or practice of INS not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in a particular case it appears that INS is otherwise permitting the alien to reside in the United States indefinitely, as determined by verifying the aliens status with INS.

(b) Aliens who are permanently residing in the United States under color of law are listed below. None of the categories include applicants for an immigration and naturalization service status other than those applicants listed in Item (vi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC or those covered under Item (xvi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC. None of the categories allow medicaid eligibility for non-immigrants; for example, students or visitors. Also listed are the most commonly used documents that the INS provides to aliens in these categories:

(i) aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7)(Section 203(a)(7) of the Immigration and Nationality Act); ask for a copy of INS Form I-94 endorsed "refugee-conditional entry";

(ii) aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5)(Section 212(d)(5)) of the Immigration and Nationality Act; for Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981; (although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act);

(iii) aliens residing in the United States pursuant to an indefinite stay of deportation; ask for an immigration and naturalization service's letter with this information or INS Form I-94 clearly stated that voluntary departure has been granted for an indefinite period of time;

(iv) aliens residing in the United States pursuant to an indefinite voluntary departure; ask for an immigration and naturalization service's letter or INS Form I-94 showing that voluntary departure has been granted for an indefinite time period;

(v) aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I-94 or Form I-210 or a letter clearly stating that status;

(vi) aliens who have filed applications for adjustment of status pursuant to Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the immigration and naturalization services has accepted as properly filed (within the meaning of 8 CFR 245.2(a)(1) or (2) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I-94 or I-181 or a passport appropriately stamped;

(vii) aliens granted stays of deportation by court order, statute, or regulation, or by individual determination of the immigration and naturalization service pursuant to Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105 a) or relevant immigration and naturalization service's instructions, whose departure that agency does not contemplate enforcing; ask for a copy of INS Form I-94 or a letter from the immigration and naturalization service, or a copy of a court order establishing the alien's status;

(viii) aliens granted asylum pursuant to Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158); ask for a copy of INS Form I-94 and a letter establishing this status;

(ix) aliens admitted as refugees pursuant to Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or Section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)); ask for a copy of INS Form I-94 properly endorsed;

(x) aliens granted voluntary departure pursuant to Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing; ask for a Form I-94 or Form I-210 bearing a departure date;

(xi) aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later; ask for a copy for INS Form I-210 or a letter showing that departure has been deferred;

(xii) aliens residing in the United States under orders of supervision pursuant to Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)); ask for a copy of Form I-220 B;

(xiii) aliens who have entered and continuously resided in the United States since before January 1, 1972, (or any date established by Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259); ask for any proof establishing this entry and continuous residence;

(xiv) aliens granted suspension for deportation pursuant to Section 244 of the Immigration and Naturalization Act (8 U.S.C. 1254) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for an order from an immigration judge showing that deportation has been withheld;

(xv) aliens whose deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); ask for an order from an immigration judge showing that deportation has been withheld;

(xvi) any other aliens living in the United States with the knowledge and permission of the immigration and naturalization service and whose departure the agency does not contemplate enforcing (including permanent non-immigrants as established by Public Law 99-239, and persons granted extended voluntary departure due to conditions in the alien's home country based on a determination by the secretary of state).

(17) **Person:** means an individual.

(18) **Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on an estimate of income and circumstances that will exist in the current month and future months.

(19) **Qualified alien:** includes any of the classes of immigrant status granted by USCIS below:

(a) an alien who is lawfully-admitted for permanent residence (LPR) under the Immigration and Nationality Act (INA);

(b) an alien granted asylum under section 208 of the INA;

(c) an alien admitted into the United States as a refugee under section 207 of the INA;

(d) an alien paroled into the United States for a period of at least one year under section 212(d)(5) of the INA;

(e) an alien whose deportation has been withheld under section 243(h) of the INA as in effect prior to April 1, 1997, who whose removal has been withheld under section 241(b)(3) of the INA;

(f) an alien who has been granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;

(g) an alien who was a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

(h) an alien, an alien parent or alien child, who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same home as the alien at the time of the abuse and there is a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA, as long as the alien has begun the process of becoming a lawful permanent resident under the Violence Against Women Act;

(i) an alien who is a victim of a severe form of trafficking, regardless of immigration status, under the Trafficking Victims Protection Act of 2000.

(20) **Real property:** means land and affixed improvements and structures, which include mobile homes. Grazing permits are also considered real property.

(21) **Recertification:** means a complete review of all conditions of eligibility and a redetermination of the amount of the cash assistance benefits for an additional period of time.

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

(23) **Reconsideration:** means a re-evaluation of disability based on additional medical evidence provided by the client.

(24) **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.

(25) **Resource standard:** means the financial standard with respect to an applicant's/recipient's resources and property, which is set at \$2,000 for non-liquid resources and \$1,500 for liquid resources.

(26) **Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.

(27) **Secretary:** means the secretary of the human services department.

(28) **Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income.

~~[(29) **Semiannual reporting:** means a requirement for a benefit group to file a report of information in the sixth month of a 12-month certification period to determine if eligibility for benefits can continue.]~~

~~[(30) (29) **Set term GA:** The certification period shall be for a set length of time dependent upon conditions, beginning from the month of approval and is not subject to review.~~

~~[(31) (30) **Shelter for battered women and children:** means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.~~

(31) **Simplified reporting:** an alternative change reporting requirement for households that receive GA benefits.

(32) **Single-parent benefit group:** means a benefit group that does not include both parents of a child who is included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

(33) **Sponsor:** means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.

(34) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.

(35) **Spouse:** means an individual legally bound by marriage.

(36) **Stale:** means EBT accounts which have not been accessed (no withdrawal activity) by the household in the last 90 days from the most recent date of withdrawal.

(37) **Standard of need:** means the amount provided to each GA cash assistance benefit group on a monthly basis and is based on legislative funding, 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 case number and expenditures, and number of pending applications.

(38) **Supplemental nutrition assistance program (SNAP):** The Food and Nutrition Act of 2008 changed the federal name of the food stamp program to the supplemental nutrition assistance program. SNAP is synonymous with the food stamp program.

(39) **Supplemental security income (SSI):** means monthly cash payments made under the authority of:

(a) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled;

(b) Section 1616(a) of the Social Security Act; or

(c) Section 1382 of the Social Security Act.

(40) **Unavailable state funds:** means the funds are not sufficient to provide all GA benefit groups with a one dollar monthly cash payment.

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

(42) **Unrelated caretaker:** means an individual who is not a specified relative within the fifth degree of relationship of a dependent child and has assumed responsibility for care, support and supervision of an unrelated child and for meeting the child's physical and emotional needs.

(43) **Unrelated child:** means a minor, under 18 years of age, residing with a caretaker who is not a specified relative within the fifth degree of relationship.

(44) **Variable term GA:** The certification period shall be set for a length of time, not to exceed 12 months, beginning from the month of approval and is subject to review.

(45) **Verification:** means the use of third-party information or documentation to establish the accuracy of statements on the application or recertification.

(46) **Work related factors:** means factors taken into account in the disability determination process such as age, education, training, work experience, language ability, appearance, marital status, living situation, as well as relevant social history and minimal employment and activities that would be required in a work setting such as sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating and understanding and following directions.

[8.106.100.7 NMAC - Rp, 8.106.100.7 NMAC, 12/01/2009; A, 04/01/2010; A, 07/01/2013; A, 06/01/2017]

8.106.100.8 ABBREVIATIONS AND ACRONYMS:

A. Abbreviations and acronyms:

- (1) **ARSCH:** adult residential shelter care home
- (2) **BG:** benefit group
- (3) **BIA:** bureau of Indian affairs
- (4) **BIA-GA:** bureau of Indian affairs-general assistance
- (5) **CA:** cash assistance
- (6) **CE:** categorical eligibility or categorically eligible
- (7) **CFR:** code of federal regulations
- (8) **CS:** child support
- (9) **CSED:** (HSD) child support enforcement division
- (10) **CYFD:** (New Mexico) children, youth & families department
- (11) **DOH:** (New Mexico) department of health
- (12) **DVR:** division of vocational rehabilitation
- (13) **DOT:** dictionary of occupational titles
- (14) **E&T:** employment and training (food stamp work program)
- (15) **EBT:** electronic benefit transfer
- (16) **EI:** earned income
- (17) **EWP:** education works program
- (18) **FAP:** financial assistance program
- (19) **FFY:** federal fiscal year
- (20) **FMV:** fair market value
- (21) **FPL:** federal poverty level
- (22) **GA:** general assistance
- (23) **GED:** general equivalency degree
- (24) **HHS:** (U.S.) health and human services
- (25) **HSD:** (New Mexico) human services department
- (26) **HUD:** (U.S.) housing and urban development
- (27) **IDA:** individual development account
- (28) **IPV:** intentional program violation
- (29) **IRP:** individual responsibility plan
- (30) **IRU:** incapacity review unit
- (31) **ISD:** (HSD) income support division
- (32) **ISD2:** integrated services delivery for income support division

(ISD)

- (33) **MAD:** (HSD) medical assistance division

- (34) **MVD:** (New Mexico) motor vehicle division
 - (35) **NADA:** national automobile dealers association
 - (36) **NMAC:** New Mexico administrative code
 - (37) **NMDWS:** New Mexico department of workforce solutions
 - (38) **NMW:** New Mexico works
 - (39) **NOAA:** notice of adverse action
 - (40) **POS:** point of sale
 - (41) **PED:** (New Mexico) public education department
 - (42) **QC:** quality control
 - (43) **RR:** regular reporting
 - (44) **RRP:** refugee resettlement program
 - (45) **SAVE:** systematic alien verification for entitlements
 - (46) **SE:** self-employment
 - (47) **SR:** [~~semiannual~~] simplified reporting
 - (48) **SSA:** social security administration
 - (49) **SSI:** supplemental security income
 - (50) **SSN:** social security number
 - (51) **TANF:** temporary assistance to needy families (block grant program under title IV-A of the Social Security Act)
 - (52) **UCB:** unemployment compensation benefits
 - (53) **UEI:** unearned income
 - (54) **USCIS:** United States immigration and naturalization services
 - (55) **USDA:** United States department of agriculture
 - (56) **VA:** veterans administration
 - (57) **WIA:** Workforce Investment Act
 - (58) **WID:** work incentive deduction
 - (59) **WPA:** work participation agreement
- B. Medical abbreviations and acronyms:**
- (1) **CNP:** certified nurse practitioner
 - (2) **MD:** medical doctor
 - (3) **NP:** nurse practitioner
 - (4) **PA:** physician assistant
 - (5) **PN:** practical nurse

[8.106.100.8 NMAC - Rp, 8.106.100.8 NMAC, 12/01/2009; A, 06/01/2017]

This is the PROPOSED amendment to 8.106.431 NMAC, Section 13.

8.106.431.13 CERTIFICATION PERIODS: The certification period will be one year with [~~semiannual~~] simplified reporting requirements.

[8.106.431.13 NMAC - N, 12/01/2013; A, 06/01/2017]

These are the PROPOSED amendments to 8.139.400 NMAC, Sections 5 and 11.

8.139.400.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.400.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 06/01/2017]

8.139.400.11 SPECIAL MEMBERS:

A. Students:

(1) **Eligibility:** An individual who is enrolled at least half-time in an institution of higher education will be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in Paragraph (3) of this section. Half-time enrollment status is determined by the definition of the institution in which the individual is enrolled or attending.

(2) **Enrollment:**

(a) ~~[An individual is considered to be enrolled in an institution of higher education, if the individual is enrolled in a business, technical, trade or vocational school, that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.]~~ Students enrolled in an institution of higher education less than half time are not considered students for purposes of SNAP eligibility, and do not have to meet an exemption at 8.139.400.11(A)(3) NMAC to be eligible for SNAP.

(b) ~~[The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days.]~~ Students who are enrolled in an institution of higher education in a program that is not in the regular curriculum are not considered students for purposes of SNAP eligibility, and do not have to meet an exemption at 8.139.400.11(A)(3) NMAC to be eligible for SNAP. The following programs are not in the "regular curriculum."

(i) Career or technical certificate programs. Career and technical certificate programs are programs which offer a sequence of courses that provide individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions; provide technical skill proficiency, an industry- recognized credential, a certificate, or an associate degree; and may include prerequisite courses that meet the requirements of this subparagraph; and include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation- specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

(ii) English as a second language;

(iii) adult basic education;

(iv) literacy; or

(v) community education courses

(c) Students who are enrolled at least half-time in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required are students for SNAP purposes and are ineligible to receive SNAP unless they meet an exemption found at Subsection A (3) of 8.139.400.11 NMAC. Regular curriculum programs are: a program that requires a high school diploma or equivalent to enroll; an associate's degree program that is not career or technical as defined above; a bachelor's degree program; or an advanced degree program.

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

(e) Students who reside on campus as defined at 7 CFR 668.46(a) and who have opted to or are required to purchase a meal plan which provides fifty percent or more of their meals are ineligible for SNAP in accordance with 7 CFR 273.1(b)(7)(vi).

(3) Student exemptions: To be eligible, a student must meet at least one of the following exemptions:

(a) Age: Be age 17 or younger or age 50 or older.

(b) Physical or mental unfitness: ~~[Be physically or mentally unfit.]~~ For exemption purposes, physical or mental unfitness per Subsection A (3) of 8.139.400.11 NMAC and 7 CFR 273.5(b)(2) is defined as follows: An individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be obvious to the department and documented in the case file; or not obvious to the department, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

(i) If an individual claims to be physically or mentally unfit for purposes of the student exemption, and the unfitness is not evident to ~~[the caseworker]~~ ISD, verification may be required.

(ii) Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed or certified psychologist.

(c) Education/training program: Assigned to or placed in an institution of higher education through or in compliance with the requirements of:

(i) a program under the Job Training Partnership Act of 1974 (JTPA);

(ii) an Employment and Training program under the Food Stamp Act;

(iii) a program under Section 236 of the Trade Act of 1974 [19 U.S.C. 2296]; or

(iv) an employment and training program for low-income households that is operated by a state or local government where one or more of the components of such program is at least the equivalent to an acceptable SNAP employment and training program component.

(d) Employment: Employed a minimum of 20 hours per week and paid for such employment, or, if self-employed, working a minimum of 20 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(e) Work study: Be participating in a state or federally financed work study program during the regular school year.

(i) The student must be approved for work study at the

time of application for SNAP benefits, the work study must be approved for the school term, and the student must anticipate actually working during that time.

(ii) The exemption will begin with the month in which the school term begins or the month work study is approved, whichever is later.

(iii) Once begun, the exemption will continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.

(iv) The exemption will not continue between terms when there is a break of a full month or longer, unless the student is participating in work study during the break.

(f) **Children:** Responsible for a dependent household member who:

(i) is under age 6; or

(ii) has reached the age of 6 but is under age 12 when the ISS has determined that adequate child care is not available to enable the student to attend class and comply with the 20-hour work requirement in (4) or the work study requirement in (5) above.

(g) **Single parents:** Full-time students of higher education who are single parents with the responsibility for the care of a dependent child under age 12.

(i) This provision applies when only one natural, adoptive or stepparent (single, widow/er, separated, divorced) is in the same SNAP household as the child.

(ii) If there is no natural, adoptive or stepparent in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he/she has parental control over the child and is not living with his/her spouse.

(h) **Two parents:** In a two parent household, if both parents are responsible for the care of the dependent child then they both can be eligible for SNAP benefits. If only one is responsible for the care of the dependent child then only one can be eligible for SNAP benefits.

(i) This provision applies when only natural, adoptive or stepparent (single, widow/er, separated, divorced) is in the same SNAP household as the child.

(ii) If there is no natural, adoptive or stepparent in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he/she has parental control over the child and is not living with his/her spouse.

(i) **Title IV-A:** Receiving Title IV-A cash assistance.

(j) **Work incentive program:** Participation in the job opportunities and basic skills program under Title IV of the Social Security Act or its successor programs.

(k) **On-the-job training:** Be participating in an on-the-job training program. An individual is considered to be participating in an on-the-job training program only during the period of time the individual is being trained by the employer.

B. Strikers: Households with members on strike are ineligible to participate in the SNAP, unless the household was eligible for benefits the day before the strike

began and is otherwise eligible at the time of application. A striker is anyone involved in a strike or concerted stoppage of work by employees, including a stoppage because of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees. Employees participating in a sympathy strike will be considered strikers. The household will not receive an increased SNAP benefit amount as a result of the decrease in income of the striking member(s) of the household.

(1) **Nonstrikers:** The following individuals are not considered strikers and are eligible for program participation:

- (a) any employee affected by a lockout;
- (b) an individual who goes on strike who is exempt from work registration (Subsection B of 8.139.410.12 NMAC) the day before the strike, except those who were exempt because of employment;
- (c) employees whose workplace is closed by an employer in order to resist demands of employees (i.e., a lockout);
- (d) employees unable to work as a result of other striking employees (e.g., truck drivers who are not working because striking newspaper pressmen prevent newspapers from being printed);
- (e) employees who are not part of the bargaining unit on strike but who do not want to cross a picket line for fear of personal injury or death;
- (f) employees who are fined or laid off, or who are permanently replaced or officially resign; and
- (g) employees who will not be permitted to return to their old jobs but are offered different ones.

(2) **Striker eligibility:**

- (a) Striker eligibility is determined by considering the day before the strike as the day of application and assuming the strike did not occur.
- (b) Eligibility at the time of application is determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of the nonstriking household members during the month of application.
- (c) To determine benefits (and eligibility for households subject to the net income eligibility standard), deductions will be calculated for the month of application as for any other household. Whether the striker's prestrike earnings are used or the current income is used, the earnings deduction is allowed if appropriate.
- (d) Strikers whose households are eligible to participate in the SNAP will be required to register for work unless otherwise exempt.

C. Boarders: Boarders are defined as individuals or groups of individuals residing with others and paying reasonable compensation to those others for lodging and meals. An individual furnished both lodging and meals by a household, but paying less than reasonable compensation to the household for such services, will be considered a household member. Foster care children placed in the home of relatives or other individuals or families will be considered boarders. Foster care payments made to the household will not be counted as income, unless the household chooses to include the foster child. Payment to a household for lodging and meals will be treated as self-employment income to the household.

(1) **Reasonable compensation:** To determine if an individual is paying reasonable compensation for meals and lodging in making a determination of

boarder status, only the amount paid for meals will be used, provided that the amount paid for meals can be distinguished from the amount paid for lodging. A reasonable monthly payment will be either of the following:

(a) A boarder whose board arrangement is for more than two meals a day must pay an amount which equals or exceeds the maximum SNAP benefit amount for the appropriate size of the boarder household.

(b) A boarder whose board arrangement is for two meals or less per day must pay an amount which equals or exceeds two-thirds of the maximum SNAP benefit amount for the appropriate size of the boarder household.

(2) **Included boarders:** A household which provides boarding services may request that the boarder be included as a member of the household. Boarders are not eligible to participate in the SNAP separately from the household providing the board. All the income and resources of included boarders will be counted in determining the eligibility and SNAP benefit amount of the household.

(3) **Excluded boarders:** The income and resources of boarders who are not included as household members will not be considered available to the household. [02/01/95, 10/01/95, 02/15/96, 05/15/97, 07/01/97/ 06/01/99; 8.139.400.11 NMAC - Rn, 8 NMAC 3.FSP.403, 05/15/2001; A, 07/15/2013; A, 06/01/2017]
