



State of New Mexico  
Human Services Department



# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

## II. SUBJECT

### CHILD SUPPORT ENFORCEMENT PROGRAM

PROGRAM SERVICES

INCOME WITHHOLDING

PARENTAL RESPONSIBILITY ACT LICENSE SUSPENSION

ADMINISTRATIVE OFFSET BY THE SECRETARY OF THE TREASURY

COLLECTION OF FEES/RECOUPMENTS

DISTRIBUTION OF COLLETIONS

ADMINISTRATIVE HEARINGS

NOTICE OF ADMINISTRATIVE ENFORCEMENT ACTION

## III. PROGRAMS AFFECTED

(TITLE IV-D) CHILD SUPPORT ENFORCEMENT

## IV. ACTION

FINAL RULE

## V. BACKGROUND SUMMARY

The Department is finalizing regulations that were proposed in the Human Services Register (HSR) Vol. 41 No. 39 to the General Provisions.

A public hearing was held on February 21, 2019 and there were no attendees and no written or oral comments were received by the department.

Concise Explanatory Statement:

- Changes in the rules are to revise child support program services offered, to state that income withholding will comply with federal regulation and to remove language stating the income withholding is upon request, to revise language to reflect the current procedure for license suspension, to allow for the seizure of administrative offset for child support delinquency, to revise program fees, to clarify the definition of payees, to include income withholding and administrative offset as claims for requesting an administrative hearing, and to include the requirement of due process notice for an administrative offset. The purpose of the proposed rules are to comply with federal child support regulations and to update internal procedures.

## VI. RULES

These rules will be contained in 8.50.100.9 NMAC, 8.50.110.8 NMAC, 8.50.112.8 NMAC, 8.50.112.16 NMAC, 8.50.125.10 NMAC, 8.50.125.11 NMAC, 8.50.130.8 NMAC, 8.50.130.10 NMAC. The final register and rule languages are available on the HSD website at: <http://www.hsd.state.nm.us/LookingForInformation/child-support-enforcement-division-registers.aspx> and on the Sunshine Portal at [http://statenm.force.com/public/SSP\\_RuleHearingSearchPublic](http://statenm.force.com/public/SSP_RuleHearingSearchPublic). If you do not have internet access, a copy of the final register and rules may be requested by contacting Jennifer Salazar-Valdez at (505) 476-7186.

## VII. EFFECTIVE DATE

July 1, 2019

## VIII. PUBLICATION


Publication of these final regulations approved on April 4, 2019 by:



DR. DAVID SCRASE, SECRETARY  
HUMAN SERVICES DEPARTMENT

# NMAC

# Transmittal Form

NEW MEXICO   
 Commission of Public Records  
 at the State Records Center and Archives  
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Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only) Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action: New  Amendment  Repeal  Emergency  Renumber  (ALD Use Only) Most recent filing date:

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):  Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes  No  Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes  No  Public domain

## Concise Explanatory Statement For Rulemaking Adoption:

### Specific statutory or other authority authorizing rulemaking:

Notice date(s):  Hearing date(s):  Rule adoption date:  Rule effective date:

### Findings required for rulemaking adoption:

#### Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Continued on next page

**Findings required for rulemaking adoption:**  
continued

[Empty box for findings]

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Dr. David Scrase

Check if authority has been delegated

Title:

Secretary

Signature: (BLACK ink only)

*Dr. David Scrase*

Date signed:

4/4/19

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## Concise Explanatory Statement For Rulemaking Adoption:

### Specific statutory or other authority authorizing rulemaking:

Public Assistance Act, Section 27-2-27 NMSA 1978.

Notice date(s):  Hearing date(s):  Rule adoption date:  Rule effective date:

### Findings required for rulemaking adoption:

#### Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
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Changes in the rules are to revise child support program services offered, to state that income withholding will comply with federal regulation and to remove language stating the income withholding is upon request.

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**Name:**

Dr. David Scrase

**Check if authority has been delegated**

**Title:**

Secretary

**Signature: (BLACK ink only)**

*Dr Scrase*

**Date signed:**

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Changes in the rules are to revise language to reflect the current procedure for license suspension.

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Changes in the rules are to allow for the seizure of administrative offset for child support delinquency, to revise program fees, to clarify the definition of payees, to include income withholding and administrative offset as claims for requesting an administrative hearing, and to include the requirement of due process notice for an administrative offset.

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Name:

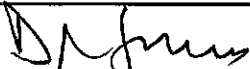
Dr. David Scrase

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Changes in the rules are to revise language of parent locate fee of \$60 has been removed. Adding language of administrative offset applicable federal fee.

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**Signature: (BLACK ink only)**



**Date signed:**

2-4-19

# NMAC

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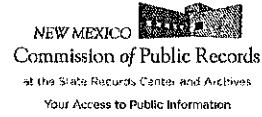
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*Dr. Scrase*

**Date signed:**

2-2-19



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*Dr. David Scrase*

**Date signed:**

4-4-19

This is an amendment to 8.50.100.9 NMAC, Sections 9, subsection B, C, D effective 07/01/2019.;

**8.50.100.9 PROGRAM SERVICES:**

~~**B.** A non-IV-A applicant may, upon payment of a fee, request the non-custodial parent be located so he/she can pursue support individually. Requests for parent locate only are processed by the state parent locate unit and the applicant is informed of the results.~~

~~**C.B.** Spousal support: The IV-D agency does not take any action to establish an order for spousal support. It remains the obligee's responsibility to establish such an order. The responsibility of the IV-D agency is limited to enforcing existing spousal support orders. The IV-D agency may enforce spousal support when:~~

- ~~(1) the payee has a previously established order for spousal support or the payee subsequently obtains an order for spousal support, and~~
- ~~(2) the minor child and the payee are living in the same household, and~~
- ~~(3) the child support obligation established will be enforced by the IV-D agency; existing spousal support orders must be enforced even if the spousal support and child support are in separate orders.~~

~~**C.C.** Parental kidnapping and child custody cases: Federal and state parent locate services may be used to locate parents involved in parental kidnapping and custody cases pursuant to 42 USC 663 and 45 CFR 303.15. Any information obtained through the state or federal parent locate service shall be treated as confidential and shall be used solely for the purpose for which it was obtained and shall be safeguarded. A fee may be charged to cover the costs of processing requests for information. A separate fee may be charged to cover costs of searching for a social security number before processing a request for location information.~~

~~**C.D.** Mandatory and optional services: As a condition of eligibility, IV-A and IV-E applicants are mandated to receive full services, including medical support, and do not have the option to refuse any IV-D services. Medicaid only referrals that include an assignment of rights, including SSI referrals, are mandated to receive medical support services, but have the option of receiving full service. The custodial party must cooperate in establishing paternity and medical support. Non-IV-A, non-medicaid applicants may receive child support services, subject to service and the actual cost of fees.~~

[8.50.100.9 NMAC – Rp, 12/30/2010; A, 07/01/2019]

[8.50.100.9 NMAC - Rp, 8.50.100.9 NMAC, 12/30/10]

**8.50.100.9 PROGRAM SERVICES:**

**B.** Spousal support: The IV-D agency does not take any action to establish an order for spousal support. It remains the obligee's responsibility to establish such an order. The responsibility of the IV-D agency is limited to enforcing existing spousal support orders. The IV-D agency may enforce spousal support when:

- (1) the payee has a previously established order for spousal support or the payee subsequently obtains an order for spousal support, and
- (2) the minor child and the payee are living in the same household, and
- (3) the child support obligation established will be enforced by the IV-D agency; existing spousal support orders must be enforced even if the spousal support and child support are in separate orders.

**C.** Parental kidnapping and child custody cases: Federal and state parent locate services may be used to locate parents involved in parental kidnapping and custody cases pursuant to 42 USC 663 and 45 CFR 303.15. Any information obtained through the state or federal parent locate service shall be treated as confidential and shall be used solely for the purpose for which it was obtained and shall be safeguarded. A fee may be charged to cover the costs of processing requests for information. A separate fee may be charged to cover costs of searching for a social security number before processing a request for location information.

**D.** Mandatory and optional services: As a condition of eligibility, IV-A and IV-E applicants are mandated to receive full services, including medical support, and do not have the option to refuse any IV-D services. Medicaid only referrals that include an assignment of rights, including SSI referrals, are mandated to receive medical support services, but have the option of receiving full service. The custodial party must cooperate in establishing paternity and medical support. Non-IV-A, non-medicaid applicants may receive child support services, subject to service and the actual cost of fees.

[8.50.100.9 NMAC - Rp, 12/30/2010; A, 07/01/2019]

**This is an amendment to 8.50.100.8 NMAC, Sections 8, paragraph A, C, effective 07/01/2019.;**

**8.50.110.8 INCOME WITHHOLDING:** State and federal laws require the IV-D agency to seek to obtain an immediate income withholding in all Title IV-D cases.

**A.** The IV-D agency complies with ~~the Support Enforcement Act, Section 40-4A-1 et seq. NMSA 1978-45~~ CFR § 303.100 when it requests or initiates wage withholding.

**B.** Although the Support Enforcement Act provides for a good cause exemption to immediate wage withholding and a procedure to avoid immediate income withholding, the IV-D agency will not stipulate or agree to such provisions. The party requesting to avoid wage withholding bears the burden or proof on this issue with the court.

**(1)** The IV-D agency will comply with any valid court or administrative order that prohibits wage withholding.

**(2)** If an obligor receives an exemption to wage withholding and later accrues a delinquency, the IV-D agency, in its discretion, may pursue wage withholding from the appropriate judicial or administrative authority.

~~**C.** The department will take all actions necessary to institute income withholding upon the request of an obligor.~~

**[8.50.110.8 NMAC – Rp, 12/30/2010; A, 07/01/2019];**

**[8.50.110.8 NMAC - Rp, 8.50.110.8 NMAC, 12/30/10]**

**8.50.110.8 INCOME WITHHOLDING:** State and federal laws require the IV-D agency to seek to obtain an immediate income withholding in all Title IV-D cases.

**A.** The IV-D agency complies with CFR § 303.100 when it requests or initiates wage withholding.

**B.** Although the Support Enforcement Act provides for a good cause exemption to immediate wage withholding and a procedure to avoid immediate income withholding, the IV-D agency will not stipulate or agree to such provisions. The party requesting to avoid wage withholding bears the burden or proof on this issue with the court.

**(1)** The IV-D agency will comply with any valid court or administrative order that prohibits wage withholding.

**(2)** If an obligor receives an exemption to wage withholding and later accrues a delinquency, the IV-D agency, in its discretion, may pursue wage withholding from the appropriate judicial or administrative authority.

[8.50.110.8 NMAC - Rp, 12/30/10, A, 07/01/2019]

**This is an amendment to 8.50.112.8 NMAC, Sections 8, paragraph F, subparagraph 1, 2, effective 07/01/2019.;**  
**8.50.112.8 PARENTAL RESPONSIBILITY ACT (LICENSE SUSPENSION):**

F. Responsibilities of the obligor: The obligor has the following responsibilities:

~~(1) The obligor must supply a valid mailing address for the processing of the certificate of compliance to be mailed when complete. The obligor may elect to have the certificate of compliance sent to his/her attorney of record, but must also provide the IV-D agency with a current, valid mailing address and physical address for the obligor.~~

~~(2) The obligor is entirely responsible for submitting the certificate(s) of compliance to all licensing agencies for the reinstatement of any and all licenses within thirty (30) days of date of the certificate of compliance is issued. Failure to comply with the licensing agency's requirements for license application approval or license reinstatement may result in the obligor's license(s) continued denial or suspension. The IV-D agency will not re-issue a certificate of compliance if the obligor fails to maintain compliance with all court orders for support.~~

**[8.50.112.8 NMAC - Rp, 12/30/10; A, 07/01/2019]**

[8.50.112.8 NMAC - Rp, 8.50.112.8 NMAC, 12/30/10]

**This is a new rule to 8.50.112 NMAC, Sections 16, paragraph A, B, C, effective 07/01/2019.;**

**8.50.112.16 ADMINISTRATIVE OFFSET BY THE SECRETARY OF THE TREASURY**

A. Referral for administrative offset: federal administrative offset is utilized to pay support arrearages, including child support, medical support, and spousal support. Cases meeting specific criteria are referred to the U.S. department of treasury's financial management service. When referring a case for administrative offset by the secretary of the treasury, the IV-D agency shall comply with the provision of 31 CFR § 285.1.

B. Notification of administrative offset:

(1) Written advance notice is sent to inform an obligor that the amount of his or her past due support will be referred to the secretary of the U.S. treasury for collection by administrative offset. The notice shall be sent to the obligor's last address of record with the IV-D agency. The IV-D agency shall inform the obligor:

(a) of the right to contest the department's determination that past due support is owed;

(b) of the right to contest the amount of the past due support;

(c) of the right to an administrative review; and

(d) of the procedures and time frame for requesting an administrative review.

C. Contesting referral for administrative offset: The obligor has thirty (30) days from the date of notification of a referral for administrative offset to notify the IV-D agency that he or she contests the referral. The notification issued by the IV-D agency provides the address and telephone number to be contacted in order for the obligor to request a hearing to contest the referral.

(1) Upon receipt of an appeal request from the obligor, a notice is generated by the administrative law judge and sent to the obligor and the IV-D agency.

(2) The notice shall set forth the time and place of the administrative hearing. The hearing is conducted in accordance with 8.50.130 NMAC.

**[8.50.112.16 NMAC - N, 07/01/2019]**

**8.50.112.8 PARENTAL RESPONSIBILITY ACT (LICENSE SUSPENSION):**

F. Responsibilities of the obligor: The obligor must supply a valid mailing address for the processing of the certificate of compliance. The obligor may elect to have the certificate of compliance sent to his/her attorney of record, but must also provide the IV-D agency with a current, valid mailing address and physical address for the obligor.

[8.50.112.8 NMAC - Rp, 12/30/10, A, 07/01/2019]

**8.50.112.16 ADMINISTRATIVE OFFSET BY THE SECRETARY OF THE TREASURY**

A. Referral for administrative offset: federal administrative offset is utilized to pay support arrearages, including child support, medical support, and spousal support. Cases meeting specific criteria are referred to the U.S. department of treasury's financial management service. When referring a case for administrative offset by the secretary of the treasury, the IV-D agency shall comply with the provision of 31 CFR § 285.1.

B. Notification of administrative offset:

(1) Written advance notice is sent to inform an obligor that the amount of his or her past due support will be referred to the secretary of the U.S. treasury for collection by administrative offset. The notice shall be sent to the obligor's last address of record with the IV-D agency. The IV-D agency shall inform the obligor:

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(1) Upon receipt of an appeal request from the obligor, a notice is generated by the administrative law judge and sent to the obligor and the IV-D agency.

(2) The notice shall set forth the time and place of the administrative hearing. The hearing is conducted in accordance with 8.50.130 NMAC.

[8.50.112.16 NMAC - N, 07/01/2019]



This is an amendment to 8.50.125 NMAC, Section 10, paragraph A, subparagraph 5-16, effective 07/01/2019.;

**8.50.125.10 COLLECTION OF FEES/RECOUPMENTS:**

**A. Fee types and amounts:**

- (1) non-IV-D wage withholding payment processing only: \$25 (annually)
- (2) non-IV-aA full service IRS collection: applicable federal fee
- (3) paternity genetic testing: as charged by lab
- (4) non-IV-A/IV-E case processing: actual cost
- ~~(5) parent locate only: \$60~~
- ~~(6)(5) filing fee: actual cost~~
- ~~(7)(6) witness fee: actual cost~~
- ~~(8)(7) service of process: actual cost~~
- ~~(9)(8) expert witness fee: actual cost~~
- ~~(10)(9) court costs: as assessed~~
- ~~(11)(10) establishment of support obligation and paternity (if necessary): \$250~~
- ~~(12)(11) modification: \$150~~
- ~~(13)(12) enforcement: \$250~~
- ~~(14)(13) tax intercept related: as determined by federal regulations~~
- ~~(15)(14) IRS tax intercept service: \$25~~
- ~~(16)(15) TRD tax intercept service: \$20~~
- (16) administrative offset: applicable federal fee

[8.50.125.10 NMAC -Rp, 12/30/2010; A, 07/01/2019];

[8.50.125.10 NMAC - Rp, 8.50.125.10 NMAC, 12/30/10]

This is an amendment to 8.50.125 NMAC, Section 11, paragraph I, effective 07/01/2019.;

**8.50.125.11 DISTRIBUTION OF COLLECTIONS (EXCEPT FOR FEDERAL INCOME TAX REFUND OFFSETS):**

I. ~~No collections~~ Collected funds will be sent to ~~third parties, attorneys, or agents, except in cases where there is a court order directing the support payment(s) to a person or entity other than the custodial party.~~ distributed to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

[8.50.125.12 NMAC - Rp, 12/30/2010; A, 07/01/2019];

[8.50.125.11 NMAC - Rp, 8.50.125.11 NMAC, 12/30/10]

**8.50.125.10 COLLECTION OF FEES/RECOUPMENTS:**

**A.** Fee types and amounts:

- (1) non-IV-D wage withholding payment processing only: \$25 (annually)
- (2) non-IV-A full service IRS collection: applicable federal fee
- (3) paternity genetic testing: as charged by lab
- (4) non-IV-A/IV-E case processing: actual cost
- (5) filing fee: actual cost
- (6) witness fee: actual cost
- (7) service of process: actual cost
- (8) expert witness fee: actual cost
- (9) court costs: as assessed
- (10) establishment of support obligation and paternity (if necessary): \$250
- (11) modification: \$150
- (12) enforcement: \$250
- (13) tax intercept related: as determined by federal regulations
- (14) IRS tax intercept service: \$25
- (15) TRD tax intercept service: \$20
- (16) administrative offset: applicable federal fee

[8.50.125.10 NMAC - Rp, 12/30/10, A, 07/01/2019]

**8.50.125.11 DISTRIBUTION OF COLLECTIONS (EXCEPT FOR FEDERAL INCOME TAX REFUND OFFSETS):**

**I.** Collected funds will be distributed to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

[8.50.125.11 NMAC - Rp, 12/30/10, A, 07/01/2019]

**This is an amendment to 8.50.130 NMAC, Section 8, paragraph A and C, effective 07/01/2019.;**

**8.50.130.8 ADMINISTRATIVE HEARINGS:** The Title IV-D agency will provide for administrative hearings for:

A. an obligor requesting a review pertaining to income withholding, an adverse administrative order, ~~or~~ referral for federal tax intercept, referral for state tax intercept, referral for passport denial, referral for administrative offset, lien on lottery winnings, lien on gaming winnings, or referral for the FIDM program;

C. an obligor's spouse who requests the refund of more ~~that~~ than one-half of a state tax intercept; and  
[8.50.130.8 NMAC -Rp, 12/30/2010; A, 07/01/2019];  
[8.50.130.8 NMAC - Rp, 8.50.130.8 NMAC, 12/30/10]

**This is an amendment o 8.50.130 NMAC, Section 10, paragraph F, effective 07/01/2019.;**

**8.50.130.10 NOTICE OF ADMINISTRATIVE ENFORCEMENT ACTION:**

F. Notice to obligor for administrative offset referral: Notice regarding the referral for administrative offset is included in the FMS offset notice and is sent to the obligor at the last known address on file with the IV-D agency.

[8.50.130.10 NMAC – RP, 12/30/2010; A, 07/01/2019];  
[8.50.130.10 NMAC - Rp, 8.50.130.8 NMAC, 12/30/10]

**8.50.130.8 ADMINISTRATIVE HEARINGS:** The Title IV-D agency will provide for administrative hearings for:

A. an obligor requesting a review pertaining to income withholding, an adverse administrative order, ~~or~~ referral for federal tax intercept, referral for state tax intercept, referral for passport denial, referral for administrative offset, lien on lottery winnings, lien on gaming winnings, or referral for the FIDM program;

C. an obligor's spouse who requests the refund of more than one-half of a state tax intercept;  
and

[8.50.130.8 NMAC - Rp, 12/30/10, A, 07/01/2019]

**8.50.130.10 NOTICE OF ADMINISTRATIVE ENFORCEMENT ACTION:**

F. Notice to obligor for administrative offset referral: Notice regarding the referral for administrative offset is included in the FMS offset notice and is sent to the obligor at the last known address on file with the IV-D agency.

[8.50.130.10 NMAC - Rp, 12/30/10, A, 07/01/2019]

# Billing Information Sheet

## Your agency must complete the following:

Publish in the *New Mexico Register*

Volume:  Issue:  Publication date:

Agency's 3-digit DFA code:

Purchase order 15-digit number:

Agency name:   
Division name (if applicable):   
Street address or P.O. Box:   
City, State and Zip code:

Contact person's name:   
Contact person's phone number:   
Contact person's e-mail address:

Notice name (if submitting a notice):  
Example: Notice of Rulemaking Hearing

**Or** Rule NMAC number and rule name (if filing an amendment, repeal & replace, repeal, new rule etc.)  
Example: 19.31.3 NMAC, Hunting and Fishing License Application

Electronic file name(s):   
**(ALD Use Only)**

Analyst's initials:

**(ALD Use Only)**



# State of New Mexico Purchase Order

PO Number to be on all Invoices and Correspondence

Page: 1

## Human Services Department

1474 Rodeo Rd.  
Santa Fe NM 87505-5630  
United States

### Dispatched

### Dispatch Via Print

<b>Purchase Order</b> 63000-0000032914	<b>Date</b> 03-12-2019	<b>Revision</b>
<b>Payment Terms</b> Pay Now	<b>Freight Terms</b> FOB Destination	<b>Ship Via</b> Best Way
<b>Buyer</b> LOYOLA R. LUCERO	<b>Phone</b> 505/827-1390	<b>Currency</b> USD

**Supplier:** 0000000729  
STATE RECORDS CENTER &  
ARCHIVES  
COMMISSION OF PUBLIC  
RECORDS  
1205 CAMINO CARLOS REY  
SANTA FE NM 87507  
United States

**Ship To:** 1474 Rodeo Rd  
Santa Fe NM 87505  
United States

**Bill To:** 1474 Rodeo Rd  
Santa Fe NM 87505  
United States

**Origin:** EXE      **ExclExcl#:** 13-1-98-A

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
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1 - 1	Advertising of final rules 8 pages total Child Support Enforcement Division	1.00	EA	\$800.00	\$800.00	03/12/2019
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Attention: CHARLETTE.  
PROBST

63000-05200-7101000000-546900- -HSDCSED045- -119-C0000

**Schedule Total**                \$800.00

**Item Total**                \$800.00

questions contact Charlette Probst

**Total PO Amount**      \$800.00

Agency Approval - I certify that the proposed purchase represented by this document is authorized by and is made in accordance with all State (and if applicable Federal) legislation rules and regulation. I further certify that adequate unencumbered cash and budget expenditure authority exists for this proposed purchase and all other outstanding purchase commitments and accounts payable.

Authorized Signature