



STATE OF NEW MEXICO



HUMAN SERVICES DEPARTMENT  
**HUMAN SERVICES REGISTER**

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**I. DEPARTMENT**

HUMAN SERVICES DEPARTMENT

**II. SUBJECT**

MANDATORY PARTICIPATION IN SNAP EMPLOYMENT AND TRAINING  
(E&T) REQUIREMENTS FOR ADULTS WITH DEPENDENTS

AND

REINSTATEMENT OF THE ABLE BODIED ADULTS WITHOUT DEPENDENTS  
(ABAWD) WORK REQUIREMENTS AND TIME LIMITS

**III. PROGRAMS AFFECTED**

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

**IV. ACTION**

FINAL RULE

**V. BACKGROUND**

The Department is finalizing regulations that were proposed in the Human Services Register Vol. 38 No. 13. This final regulation implements the Employment and Training (E&T) requirements for mandatory SNAP participants and mandatory participants who are identified as Able Bodied Adults Without Dependents (ABAWDs).

This regulation will require SNAP applicants and recipients, who are classified as mandatory participants, to participate in SNAP E&T or ABAWD qualifying activities. Various individuals will be exempt from participation in accordance with NM Administrative code and NM E&T State plan which can be found at <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-plans-and-reports.aspx>. The Department is finalizing this rule with amendments based on the comments received.

A public hearing was held on July 17, 2015, where approximately 58 persons attended and provided verbal comments. Written comments were also received from several sources. The comments, edits and responses are summarized below.

## Summary

### Healthy adults without dependents (also known as ABAWDs)

- Effective January 1, 2016, the Department will implement the federally required 3 month time limit tracking within a fixed 36 month timeframe.
- From October 1, 2015 through December 31, 2015, the Department will continue to operate a mandatory E&T program for healthy adults without dependents.

### Healthy adults with dependents (also known as non-ABAWDs)

- The E&T requirements will be voluntary for SNAP recipients with dependents from October 1, 2015 to September 30, 2016; these individuals will not be subject to disqualification during this time period for non-compliance with the E&T program.
- Upon recertification, SNAP eligible, healthy adults with dependents who do not meet an exemption as of October 1, 2016, will become mandatory for the E&T program.

The Department received and has read all verbal and written comments. The Department has made edits to the proposed regulation based on comments received from various sources and to eliminate the redundancy, contradictions and correct grammatical errors.

**Comment:** The Department received comments stating the proposed regulations will adversely affect the following individual/entities: NM low income families, unemployed individuals with disabilities, homeless, trans-gendered, elderly, children, pregnant women, rural/frontier communities, businesses, NM food banks, pantries and many other vulnerable populations. Several other individuals commented that NM's economy is still down and lacks the jobs needed to sufficiently support this change.

**Response:** The proposed regulations only affected a limited SNAP recipient population. Many of the comments that were received did not apply because the proposed regulation did not affect the populations that were the concern of the commenter.

The Department has made several changes to the regulations and the E&T State Plan that address the concerns that are applicable to the intended population. These changes include making the E&T program voluntary for adults with dependents through September 30, 2016; this will allow individuals the ability to volunteer for the E&T program and not be subject to disqualification during this time period. The Department

has also lowered the amount of required hours individuals with dependents will have to complete in a qualified E&T activity, if living in a county defined as rural.

**Comment:** The Department received comments regarding the lack of childcare in many areas in NM and the cost of childcare being too expensive for this vulnerable population.

**Response:** The Department will now exempt a healthy adult with a dependent child under the age 13 from the E&T program requirements.

**Comment:** Commenters expressed concerns regarding individuals who do not have access to transportation and reside in high unemployment areas throughout the state.

**Response:** The regulation as proposed previously increased the examples of good cause due to transportation issues. The final regulation clarifies the following good cause exceptions:

- Lack of transportation and the distance to walk to the activity site exceeds 5 miles roundtrip;
- No available jobs within reasonable commuting distance; a distance is considered unreasonable if the round trip exceeds 2 hours by public or private transportation;

**Comment:** The Department has not defined physically or mentally unfit to work. Workers and SNAP participants have no way to verify whether a SNAP participant's mental or physical condition qualifies him or her for an "unfit for work" exemption from work registration and mandatory E & T.

**Response:** The Department added additional language at 8.139.410.12(D)(2) NMAC, to clarify the definition of "unfit to work".

**Comment:** The Department can waive the ABAWD time limit in as many counties and tribal areas as possible under federal law.

**Response:** The Department is requesting Federal approval from FNS to waive the following counties, tribes, pueblos and nations from the ABAWD time limit, due to a two year average unemployment rate 20% above the national average as of the submittal date of the E&T state plan. The two-year average for the counties, tribes, pueblos and nations is based on data from Bureau of Labor Statistics from March 2013-February 2015:

Counties

Cibola County	Rio Arriba County
Guadalupe County	Sierra County
Luna County	Taos County
McKinley County	Torrance County

Mora County

Valencia County

Tribes, Pueblos and Nations

Acoma Pueblo  
Jemez Pueblo  
Jicarilla Apache Nation  
Laguna Pueblo  
Mescalero Nation  
Nambe Pueblo  
Navajo Nation  
Ohkay Owingeh

Picuris Pueblo  
San Felipe Pueblo  
San Ildefonso Pueblo  
Sandia Pueblo  
Santa Ana Pueblo  
Santo Domingo Pueblo  
Taos Pueblo  
Zia Pueblo  
Zuni Pueblo

For healthy adults with dependents, the Department will use the same methodology for calculating the county based exemptions as that used for healthy adults without dependents.

**Comment:** The Department can use the least restrictive sanction process in a mandatory E&T program as possible.

**Response:** The comment was noted and no change to the proposed regulation was required as the Department already proposed a less restrictive disqualification methodology for healthy adults with dependents.

**Comment:** Federal law also allows states to exempt an additional 15% of the state's ABAWD caseload from the time limit.

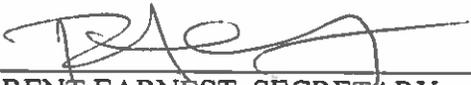
**Response:** The 15% ABAWD exemption is not available to NMHSD at this time.

**VI. PUBLICATION DATE**

September 15, 2015

**VII. PUBLICATION**

Publication of these final regulations approved on August 28, 2015 by:

  
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BRENT EARNEST, SECRETARY  
HUMAN SERVICES DEPARTMENT

## VIII. Final Regulations

This is the FINAL amendment to 8.139.410 NMAC, Section 12

### 8.139.410.12 EMPLOYMENT, TRAINING AND WORK REGISTRATION

**A. Employment and training E&T work registration:** Compliance with work registration is a prerequisite to certification, unless exempt. Benefits may not be conditionally granted before registration of all mandatory household members, except when verification cannot be obtained prior to the expedited service time limit. Work registration exemptions must be verified before certification.

**B. Compliance with E&T work requirements:** As a condition of eligibility for participation in SNAP, every physically and mentally fit household member who is ~~[18]~~16 years of age or older and younger than age ~~[50]~~60 and who is determined mandatory, must register for the E&T program.

**C. Non-compliance with E&T work requirements:** Non-compliance with E&T work requirements is considered to exist when an individual:

- (1) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by Income Support Division (ISD); or
- (2) fails or refuses to comply with the requirements under Title IV-A of the Social Security Act, or work requirements for individuals receiving UCB.

**D. E&T work requirements:**

**(1) General conditions for registration:**

**(a)** Unless exempt, every household member age ~~[18]~~16 through ~~[50]~~59 must register for employment. If a household member has their 16<sup>th</sup> birthday within a certification period, the work registration requirement must be fulfilled as part of the next scheduled recertification process, unless the member qualifies for an exemption.

**(b)** ~~[If a household member has their 18<sup>th</sup> birthday within the established certification period, they must fulfill the E&T work program registration requirement as part of the next recertification.]~~ An individual who does not qualify for an exemption must be registered for employment at initial certification or when added to the SNAP household and at least every 12 months thereafter, as a condition of eligibility.

~~[(e)—An individual who does not qualify for an exemption must be registered for employment at initial certification or when added to the SNAP household, and at least every 12 months thereafter, as a condition of eligibility.]~~

~~[(d)](c)~~ **(c)** Strikers whose households are eligible to apply for assistance, as defined in Subsection B of 8.139.400.11 NMAC, must register for work, unless covered by an exemption.

~~[(e)](d)~~ **(d)** Individuals exempt from registration may volunteer to participate in the E&T program.

**(2) Individuals exempt from registration:** The following individuals are exempt from the work registration requirement:

**(a)** an individual younger than ~~[18]~~16 years of age or an individual ~~[50]~~60 years of age or older;

**(b)** an individual ~~[who is physically or mentally unfit for employment; if physical or mental unfitness is claimed but not evident, verification is required; verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or a statement from a physician or licensed or~~

certified psychologist]age 16 or 17 who is attending school or enrolled in an employment and training program at least half time, as defined by the school or employment and training program;

(c) [a natural parent, adoptive or step parent or individual residing in a SNAP household that includes a child younger than age 18, even if the child is not eligible for SNAP benefits]an individual who is physically or mentally unfit for employment. This can be demonstrated by providing reliable medical and or behavioral health documentation.

(i) the caseworker shall review all information available to him/her, including documentation, when required, and will make the determination about whether an individual SNAP participant should be exempted from the E & T Program;

(ii) to obtain verification, the caseworker shall use electronic databases when available;

(iii) when electronic databases are not available: the SNAP participant is responsible for providing the necessary documentation in accordance with 8.100.130.8 NMAC;

(iv) to determine an exemption exists on the basis of pregnancy, physical or mental unfitness, the individual must provide written documentation by a medical practitioner such as a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist or social worker. 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;

(v) in the case of a pregnancy, the documentation must verify the pregnancy and identify the expected date of delivery;

(vi) if a SNAP participant is deemed physically and mentally fit, and thus not exempt from the E&T Program, the participant will have an opportunity to appeal the mandatory status decision to the fair hearing bureau in accordance with 8.100.970.8 NMAC.

(d) a parent or other household member who is responsible for the care of [an incapacitated person; the incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care]a dependent child under age thirteen or an incapacitated person;

(i) if the child has their thirteenth birthday during the certification period, the individual responsible for the care of the child is required to be registered as part of the next scheduled recertification, unless the individual qualifies for another exemption;

(ii) the exemption applies to the person who actually provides the care;

(iii) the dependent child or incapacitated person need not be considered a member of the SNAP household or even reside with the household;

(iv) a SNAP participant who is the sole provider of the care for an ill or incapacitated person. In order to meet this exemption, the SNAP participant must provide medical documentation (which could include a letter from the incapacitated individuals health provider) that the person is the sole caretaker for a disabled person and must demonstrate that the SNAP participant cannot be out of the

home for the number of hours necessary, or on the computer as is necessary, to meet the work participation hours:

(v) Only those care activities around which work program activities cannot be scheduled are taken into consideration. Food purchase and preparation activities, home maintenance chores, etc. are activities which may be scheduled and performed at time other than work program participation hours:

(e) an individual subject to and complying with any work requirement under Title IV of the Social Security Act, including TANF work requirements or subject to and complying with ABAWD work requirements;

(f) an individual who receives unemployment compensation benefits (UCB) and is subject to and complying with a federal or state unemployment compensation system; an individual who has applied for but who has not yet received UCB is exempt if required to register with the department of [~~labor~~] workforce solutions as part of the unemployment compensation application process;

(g) an individual who is a regular participant in a state certified drug or alcohol treatment and rehabilitation program;

(h) an individual who is employed or self-employed and working a minimum of 30 hours a week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

(i) migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days are exempt, although this does not prevent such individuals from seeking services from the E&T program;

(j) workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

(k) a student who is eligible to participate in the SNAP program, and who is enrolled at least half time in any recognized school, high school, training program, or institution of higher education; this exemption remains in effect during normal periods of class attendance, vacations, and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer session);

(l) a household member who has made application for SSI and SNAP benefits at the social security administration, and whose application for SNAP benefits has been received by HSD, and who is determined eligible for SNAP benefits, shall be exempt from work registration until an SSI determination is made; a household member who is determined ineligible for SSI shall have the exemption from E&T work requirements evaluated at the time of the denial of SSI;

(m) a pregnant woman; or

(n) residing in a county [~~with greater than 10 percent~~] that has an unemployment rate 20 percent above the national average as defined by the department.

**(3) Interim changes in status:**

(a) Anyone losing exempt status because of changes subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will be required to register at the next recertification.

(b) Anyone gaining or losing exempt status because of changes not subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will have his/her work status evaluated at the next recertification.

(4) **Processing changes:** Mandatory work participants who move from one county to another retain their work registration status at their new location, unless they become exempt.

(5) **Residing in a non-work program county:**

(a) The appropriate work registration code of any individual living in a county which does not administer a work program through the income support division (ISD), and who is not exempt from E&T work registration, will be entered into the individual's computer file. Those individuals will be dropped from referral to the E&T work program.

(b) Any household member living in a non-work program area may volunteer to participate in the E&T work program. ~~[The nearest county administering a work program through ISD will accept the participant.]~~

E. **E&T work program:** ~~[The income support division (ISD)]~~ ISD administers the work program for applicants and recipients of SNAP benefits who are mandatory and who voluntarily participate in the work program. The purpose of the work program is to assist household members participating in SNAP to gain skills, ~~[that will increase an individual's ability to obtain and keep employment]~~ opportunities, training or experience that will improve their employment prospects or earning potential.

(1) **Work registrant responsibilities:** Each household member who must be registered for work is required to register at the time of initial application and every 12 months thereafter:

(2) **HSD responsibilities:** HSD is responsible for:

(a) screening each household member to determine work registration status;

(b) registering mandatory and voluntary participants;

(c) providing information and explaining to each applicant the E&T work requirements, rights and responsibilities and consequences for failure or refusal to comply; such information must be provided at application, at recertification, and when a previously exempt or new household member must be registered;

(d) disqualifying non-compliant individuals, and reinstating individuals who are subsequently determined to meet an exemption.

(3) **Reporting changes to the E&T work program:** The following changes will be reported to the E&T work program:

(a) work participants who become exempt from work registration;

(b) work participants who are no longer certified for participation;

(c) work participants who move from the project area; and

(d) voluntary work participants who are deregistered.

(e) In most cases, the changes listed above are reported by entering the appropriate information into the household's computer file. In some cases, a manual form is used to report new information to the work program.

(4) **Work program responsibilities:** The E&T work program service provider is responsible for providing mandatory and voluntary participants referred to the

E&T work program with the orientation, assessment, and development of a work participation agreement (WPA) and an individual responsibility plan (IRP).

**(a) Scheduling and conducting assessment sessions:** the work program will inform each participant of:

**(i)** mandatory and voluntary E&T work program requirements, including rights and responsibilities;

**(ii)** services;

**(iii)** benefits;

**(b) Placing a voluntary participant in a work activity:** a participant may be placed in any work activity deemed appropriate by the work program;

**(c) Authorizing reimbursements:** the work program staff will authorize allowable reimbursements up to the regulatory monthly limit for reasonable and necessary costs directly related to work program participation.

**(d) Reporting requirements:** the E&T work program service provider is responsible for reporting the following to HSD:

**(i)** mandatory participants fail or refuse to comply;

**(ii)** voluntary work participants wish to de-register.

**(5) Good cause for noncompliance with E&T work requirements:**

The work program will report [~~registrants or~~] participants who fail or refuse to comply with work registration or who voluntarily quit a job, or reduce their work hours without good cause. The HSD has the primary responsibility to determine whether good cause exists for a failure or refusal to comply. Good cause will be evaluated on an individual basis and will only be granted until the cause no longer exists or at the next recertification, whichever is sooner.

**(a)** Good cause is determined by considering the facts and circumstances involved, including information submitted by the household member and [~~employer~~] the work experience or community service site.

**(b)** Good cause includes circumstances beyond an individual's control, such as, but not limited to:

**(i)** [~~registrant or~~] participant household member's illness;

**(ii)** illness of another household member requiring the presence of the [~~registered or~~] participating member;

**(iii)** [~~household emergency~~] an individual or family crisis or a family circumstance that may preclude participation;

**(iv)** [~~unavailability~~] lack of transportation[; or] and the distance to walk to the activity site exceeds five miles roundtrip;

**(v)** [~~lack of adequate child care for children who have reached age six but are younger than age 12.~~];

**(v)** individual whose physical residence is more than 30 miles away from an income support field office, workforce solutions office or employment services provider;

**(vi)** court appearance;

**(vii)** farmworkers who are away from their permanent residence or home base who travel to work in agriculture or a related industry during part of the year and are under contract or similar agreement with an employer to begin work within 30 days of the date the individual notified HSD or E&T work program service provider;

(viii) an absence of dependent care or transportation support services necessary for participation;

(ix) receipt of job referral that results in an offer below the federal minimum wage, except when a lower wage is permissible under federal minimum wage law;

(x) individual is a victim of family violence;

(xi) no available jobs within reasonable commuting; or distance; a distance is considered unreasonable if the round trip exceeds two hours by public or private transportation;

(xii) the individual's monthly expenses for transportation and dependent care expenses, which are necessary and directly related to participation in the E&T program, exceed the allowable reimbursement amount.

**F. Orientation:** Participants of E&T shall be provided an E&T work program orientation with their assessment, which explains the work program and its objectives to the participant. The orientation shall include the following information:

- (1) the participants rights and responsibilities;
- (2) support services;
- (3) benefits of participation in the E&T work program; and
- (4) consequences of non-compliance with the E&T work program

requirements.

**G. Assessment:**

(1) **Requirements:** No later than 15 calendar days after an application is approved, participants shall have an assessment done by the E&T work program service provider. The assessment is a necessary pre-cursor to the IRP, development of WPA, and is a crucial and necessary element in meeting the E&T work program requirements.

(2) **Elements:**

(a) Complete the assessment no later than 15 calendar days following approval of assistance for the participant in which the assessment is carried out; there are a variety of assessment tools and forms that may be used, provided that they address the participant's education, skills, prior work experience and employability.

(b) The assessment may include referrals for counseling, if a barrier to employment exists related to alcohol or drug abuse or mental health.

(3) **Disqualification:** ~~[Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists]~~ No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with E&T allowable components.

**H. Individual responsibility plan (IRP):**

(1) **Requirements:** Mandatory participants may complete an IRP with the assistance of the E&T work program service provider no later than 15 days from the date of approval of assistance.

(2) **General purpose:** The IRP is:

(a) a personal planning tool, intended to assist the participant in long-term career planning, address barriers and secure and maintain employment;

(b) intended to assist the participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals; and

(c) not intended to fulfill the limited purpose of identifying work activities which will meet E&T work program participation requirements; the participant is encouraged to use the IRP to assist in setting long-term employment goals.

(3) **Elements:** The IRP shall include a specific achievable employment goal or goals and a plan for securing and maintaining employment.

**I. Work participation agreement (WPA):**

(1) **General:** The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet the E&T work program requirements and the participant is referred to receive available support services.

(2) **Contents of the agreement:** At a minimum, the WPA shall:

- (a) list the participant's approved work component;
- (b) list the level of effort for each activity;
- (c) list the support services to be provided by the department;
- (d) list the reasonable accommodations that may be necessary

to ensure meaningful engagement;

(e) be signed by the participant; and

(f) upon approval of the component and support services, signed by the E&T work program service provider.

(3) **Completion of a WPA:** The participant must complete the WPA with the E&T work program service provider:

(a) no later than 30 calendar days from date of approval for benefits; or

(b) prior to requesting support services associated with such activity;

(c) no later than five days after the expiration of an existing WPA.

(4) **Disqualification:** ~~[Failure or refusal to develop, sign or meet the components outlined in the WPA may result in a disqualification, unless good cause exists]~~ No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with E&T allowable components.

**J. [E&T component:**

(1) ~~**Allowable components:** The E&T work program outlines allowable components annually through the supplemental nutrition assistance program employment and training state plan. The state plan is submitted and approved by the United States department of agriculture food and nutrition services. The annual state plan can be found on the human services department income support division website at the following link: <http://www.hsd.state.nm.us/isd/ISDPlans.html>.]~~ **E&T allowable components:**

~~(2)~~(1) **Individual or group job search with employer contacts:**

(a) **General:** The purpose of the Job Search component is to provide the participant a reasonable opportunity to find suitable employment. Individual or group job search with employer contacts is ~~[the only]~~ an allowable E&T component for mandatory and voluntary participants. Support services such as the transportation reimbursement and child care assistance is to be provided for participants in this component ~~[only]~~. This is a two part component which may include class room training and requires a minimum of 12 or 24 employer contacts over a two month period.

~~[(b) The individual and group job search training is designed to impart basic job search techniques in order to secure employment, and job maintenance habits necessary for continued employment.]~~

~~[(i)](b) **Component Activities:** All mandatory and voluntary participants are required to register as a “job seeker” through the New Mexico department of workforce solutions (DWS), “New Mexico workforce connection” online portal for job-matching services and resources. The mandatory and volunteer participants are required to submit a copy of the registration to the E&T work program service provider to verify completion of the registration within 30 days after the WPA is approved.~~

~~[(i)](i) All mandatory and voluntary participants in this component are required to complete the individual or group job search training with employer contacts [no later than 60 days after the WPA is approved. The participant is required to have completed and submit verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA. The participant is required to have completed and submit verification of 24 employer contacts within 60 days of the approved WPA].~~

~~(ii) The participant is required to have completed and submitted verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA and submit no later than 60 days of the approved WPA, verification of the additional 12 employer contacts to equal the requirement of 24 employer contacts.~~

~~(iii) [Disqualification: Failure to complete each element of the individual and group job search training with employer contacts component is subject to disqualification from SNAP, unless good cause exists] Individuals residing in an area that is determined to be rural, as defined by the department, will only be required to complete the 12 verifiable employer contacts, within a thirty-day period.~~

~~(c) [Successful completion: Participants who complete the individual or group job search and employer contact component within 90 days of the date of approval for newly certified and ongoing benefits are eligible for the transportation reimbursement, subject to available funding.] Disqualification: Failure to complete each element of the individual and group job search training with employer contacts component is subject to disqualification from SNAP, unless good cause exists.~~

~~(d) **Successful completion:** Participants who complete the individual or group job search and employer contact component [within 90 days of the date of approval for newly certified and ongoing benefits] are eligible for the transportation reimbursement, subject to available funding.~~

~~(2) **Work Experience:**~~

~~(a) **General:** The purpose of the work experience component is to improve the employability of household members through actual work experience or training, or both, and to enable individuals involved with such programs to move promptly into regular public or private employment. Support services such as the transportation reimbursement and child care assistance may be available for participants.~~

~~(b) **Component Activities:**~~

~~(i) The maximum monthly hours are calculated by dividing the total household SNAP benefits received by the Federal minimum wage.~~

~~(ii) On-the-job skills training.~~

(iii) Work experience related to their occupational interests.

(c) Disqualification: Failure to complete each element of the work experience component is subject to disqualification from SNAP, unless good cause exists.

(d) Successful completion: Participants who complete the work experience component are eligible for the transportation reimbursement, subject to available funding.

(3) Community Service:

(a) General: The purpose of the community service component is to provide opportunities for on-the-job skills training, improve employability and/or assistance to communities. Support services such as the transportation reimbursement and child care assistance may be available for participants.

(b) Component Activities:

(i) The maximum monthly participation hours are calculated by dividing the total household SNAP benefits received by the Federal minimum wage.

(ii) On-the-job skills training.

(iii) Work-like experience.

(c) Disqualification: Failure to complete each element of the community service component is subject to disqualification from SNAP, unless good cause exists.

(d) Successful completion: Participants who complete the community service component are eligible for the transportation reimbursement, subject to available funding.

**K. E&T work program support services:**

**(1) Child care:** Mandatory and volunteer participants may be eligible for child care services to meet the required E&T activities [~~requirements of the individual and group job search component~~].

**(a)** Mandatory and volunteer participants must have a completed WPA from the E&T work program service provider to identify the number of hours child care will be needed to successfully complete the activity.

**(b)** E&T mandatory and volunteer participants may only receive child care services when they are placed in the approved E&T components.

**(2) Transportation reimbursements:** Mandatory and volunteer participants are eligible to receive a [~~\$25.00~~] transportation reimbursement as determined by the department if they have [~~successfully~~] completed the required E&T [work program component] activities as defined in Paragraph J of this section.

**(3)** Support services are subject to the availability of state and federal funding.

**L. Disqualification for noncompliance:** [~~A mandatory individual who fails or refuses, without good cause, to comply with the E&T work requirements will not be eligible to participate in SNAP.~~] No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with E&T allowable components. This disqualification process applies to participants who are not required to complete the 20-hour-a-week work requirement.

(1) **Individual disqualification:** Any individual who fails or refuses to comply with the work registration, without good cause will be disqualified as follows:

(a) **first occurrence:** ~~[until compliance or for three months, whichever is later]~~ for three months or until compliance, whichever occurs earlier;

(b) **second occurrence:** ~~[until compliance or for six months, whichever is later]~~ for six months or until compliance, whichever occurs earlier;

(c) **third occurrence:** ~~[until compliance or for one year, whichever is later]~~ for one year or until compliance whichever occurs earlier.

(2) **Individual that is voluntarily participating:** Any individual that is voluntarily participating in the work program is not subject to disqualification for non-compliance with work requirements.

(3) **Treatment of income and resources:** All the income and resources of an individual disqualified for noncompliance with work requirements will be counted to determine the household's income and resource maximum levels, and benefit amount (see Subsection C of 8.139.520.10 NMAC). Any reported change that does not relate to the individual disqualification shall be processed after the appropriate determination ~~[in (a), (b) or (c) or (d) above]~~ is made. SNAP benefits shall be increased or decreased according to the change processing requirements at 8.139.120.10 NMAC.

(4) **Notice of adverse action:** Within 10 days of determining that a participant has failed to meet an E&T requirement, the 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.

~~[(4)](5) **Determining the disqualification period:**~~

(a) **At application:** An individual who is a member in an applicant household, and who is in a prior disqualification period, will be denied SNAP benefits beginning with the month of application.

(b) **During participation:** An individual who has failed or refused to comply with work requirements while participating in SNAP will be ineligible to participate beginning with the month following the month in which the notice of adverse action time limit expires.

(c) ~~[Semiannual]~~ **Simplified reporting households:** An individual who has failed or refused to comply with work requirements during a ~~[semiannual]~~ simplified reporting period, shall be ineligible to participate in SNAP beginning with the month following the month the notice of adverse action time limit expires. If the adverse action time limit will expire in the month after the notice would have been sent, the caseworker must wait until the first day of the following month to send the notice of adverse action.

~~[(5)](6) **Disqualification in the last month of certification:**~~ For all participating households, including households subject to ~~[semiannual]~~ simplified reporting:

(a) If a notice of noncompliance is received in the last month of the certification period, an adverse action notice will be sent to the household. The disqualification period begins the first month following the month the adverse action time limit expires, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

(b) If the adverse action time limit expires in the last month of the household's certification period, the disqualification penalty will begin the following month, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

~~[(6)](7)~~ **Lifting the disqualification:** An individual who has been disqualified may resume participation ~~[during the disqualification period by becoming exempt from E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible.]~~ in SNAP benefits if:

(a) The participant corrects the failure of compliance with E&T requirements during the notice of adverse action 13-day time period. Once corrected, the occurrence shall not count as an occurrence of noncompliance.

(b) Failure to comply during the notice of adverse action 13-day time period shall cause the occurrence to become effective.

(c) the participant becomes exempt or meets a good cause from E&T work requirements listed in 8.139.410.12 NMAC or;

(d) The participant corrects the failure of compliance and has been disqualified a minimum of one month.

(i) The disqualification will continue until the participant complies or serves out the time frame for the occurrence level.

(ii) Participants disqualified due to not meeting the required hours, must demonstrate the hourly compliance prior to lifting disqualification.

**M. Head of household provisions:**

(1) **Designation:** The household may designate any adult parent of a child in the household as the head of household, if all adult household members making application agree to the selection. A household may designate the head of household each time the household is certified for participation in SNAP but may not change the designation during a certification period, unless there is a change in household composition.

(2) **Compliance with E&T work requirements:** For purposes of determining compliance with the work requirements in Subsection C of 8.139.410.12 NMAC, the head of household will be considered as an individual household member. The head of household will be disqualified in accordance with the disqualification penalties in Paragraph (1) of Subsection H of 8.139.410.12 NMAC.

(a) If the head of household leaves the household during a period of ineligibility, the disqualification follows the individual. The remaining household members, if otherwise eligible, continue to be eligible to participate in SNAP.

(b) If the head of household becomes the head of another household, the individual disqualification continues to apply. The other household members continue to be eligible to participate in SNAP.

**This is the Final amendment to 8.139.410 NMAC, Section 14**

**8.139.410.14 ABLE BODIED ADULTS WITHOUT ~~[CHILDREN]~~ DEPENDENTS (ABAWDS):** An applicant or recipient who is a mandatory work participant in the ~~[food stamp]~~ SNAP E&T program shall be considered for compliance with the 20-hour-a-week

work requirement for ABAWDs. Unless determined exempt, any individual who is a mandatory ABAWD shall be required to comply with the 20-hour-a-week work requirement to maintain eligibility for ~~[food stamp]~~ SNAP benefits. ~~[The ABAWD 20-hour-a-week work requirement has been suspended based on the American Recovery and Reinvestment Act of 2009 effective April 1, 2009 through September 30, 2011.]~~ The ABAWD 20 hour-a-week work requirement will be in effect as of January 1, 2016 through December 31, 2018.

**A. Exemptions:**

~~[(1)]~~ Certain individuals are exempt from the ABAWD 20-hour-a-week work:

~~[(a)]~~(1) an individual determined to be exempt from work requirements of the ~~[food stamp]~~ SNAP E&T program set forth at Subsection D of this section;

~~[(b)]~~(2) an individual under age 18 or age 50 or older;

~~[(c)]~~(3) an individual medically certified as physically or mentally unfit for employment as defined in subsection D of 8.139.410 NMAC;

~~[(d)]~~(4) a pregnant woman;

~~[(e)]~~(5) an individual residing in a ~~[food stamp]~~ SNAP household that includes at least one child under the age of 18, even if the child is not eligible for ~~[food stamp]~~ SNAP benefits;

~~[(f)]~~(6) a natural, adoptive or step-parent residing in a ~~[food stamp]~~ SNAP household that includes at least one child under the age of 18, even if the child is not eligible for ~~[food stamp]~~ SNAP benefits;

~~[(g)]~~(7) residing in a non-ABAWD county as documented by federal waiver or suspension of the 20-hour-a-week work requirement.

~~[(2)]~~ **Medical reports:** ~~To determine an exemption from the 20-hour-a-week work requirement on the basis of pregnancy or physical or mental unfitness, the individual must provide a written report by a medical practitioner such as a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist or social worker.~~

~~(a)~~ In the case of a pregnancy, the report must verify the pregnancy and identify the expected date of delivery.

~~(b)~~ A claim of physical or mental unfitness must be substantiated by a written report identifying the physical or mental condition and certifying that the person is unfit for employment.]

**B. Time limited eligibility for ABAWDs:** An ABAWD who is determined mandatory to comply with the 20-hour-a-week work requirement shall not be eligible to participate in the ~~[food stamp]~~ SNAP program as a member of any household if the individual received ~~[food stamp]~~ SNAP benefits but failed to comply with the 20-hour-a-week work requirement for three countable months in a 36-month period, until they subsequently meet the requirements to regain eligibility.

(1) **36 month period:** The 36 month period is a fixed calendar month period beginning on ~~[December 1, 2002. The period ends on November 30, 2005.]~~ January 1, 2016 through December 31, 2018.

(2) **Countable months in the 36-month time limit:** Within the fixed 36-month period, an ABAWD shall have a month counted toward the three-month time limit if the 20-hour-a-week work requirement is not met and the household received a full month's benefits.

(a) In no event shall a month be counted toward the three-month time limit if the individual has not attained the age of 18.

(b) A month that an ABAWD has used without fulfilling the work requirement in another state shall be counted toward the three-month time limit as long as the other state verifies the month has been used as a non-work month.

**C. Fulfilling the 20-hour-a-week work requirement:**

(1) Working: For purposes of determining the activities that count towards the 20-hour-a-week work requirement, the time spent working in exchange for money, or working in exchange for goods or services, or unpaid work, or any combination of these activities shall be considered as employment and credited toward the 20-hour-a-week work requirement.

(2) **Work activities:** Allowable work activities that count towards the 20-hour-a-week work requirement include:

(a) employment for at least 20 hours a week averaged monthly or 80 hours a month, but not unreported employment; in the case of self-employment income, gross monthly earnings, as determined under Paragraph (2) of Subsection E of 8.139.520.10 NMAC, are divided by the federal minimum wage to determine the number of hours that are countable in meeting the work requirement;

(b) participation in and compliance with the requirements of a work program at least 20 hours a week;

(c) any combination of employment and participation in a work program for at least 20 hours a week;

(d) job search or job search training activities that are incorporated into the department's [a] work program or another state or local program that meets [~~food stamp~~]SNAP E&T requirements as long as the job search or job search training activities equal less than half the work requirement; or

(e) participation in and compliance with a workfare program.

(3) **Work program:** Allowable activities in a work program include those performed under:

(a) the Workforce Investment Act (Public Law 105-220);

(b) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296);

(c) the department's [~~food stamp~~] SNAP E&T program;

(d) any other state or local program which is recognized by the department as meeting [~~food stamp~~] SNAP E&T program requirements.

**D. Reporting and verifying work participation:**

(1) It is the responsibility of the individual subject to the work requirement to report:

(a) whether or not that individual has worked or participated in a work program;

(b) the number of hours spent in work or work program activities;

(c) how the work requirement was fulfilled; and

(d) when the individual's work hours fall below 20 hours a week, averaged monthly, or 80 hours a month.

(2) Verification of the time spent working is mandatory in order to receive credit toward the work requirement. It is the responsibility of the individual subject to the work requirement to provide verification of participation in work activities

by the fifth calendar day of each month following the month of participation in work activities.

**E. Good cause for failure to meet the work requirement, as defined in Subsection E of 8.139.410.12 NMAC:** An ABAWD may establish good cause for failure to meet the 20-hour-a-week work requirement if the absence from work is temporary and the individual retains employment, or if participation in work activities resulted from a temporary absence due to circumstances beyond the individual's control. [~~Good cause reasons include, but are not limited to, illness, illness of another household member requiring the presence of the ABAWD, a household emergency, or the unavailability of transportation.~~] Good cause is established on an individual basis.

**F. Regaining eligibility:** An individual who becomes ineligible due to failure to meet the work requirement for three months can regain eligibility by working or participating in an approved work program for at least 80 hours during any 30 consecutive day-period following the date of ineligibility.

(1) An individual who regains eligibility is eligible on an ongoing basis provided he or she continues to meet the 20-hour-a-week work requirement.

(2) There is no limit to the number of times an individual may regain eligibility during the 36-month period.

**G. Failure to meet the work requirement after regaining eligibility:** An individual who has regained eligibility and who subsequently fails to meet the 20-hour-a-week work requirement in any month left in the 36-month period shall be eligible to receive [~~food stamp~~] SNAP benefits for a three consecutive month period.

(1) The three-month period begins with the month the work requirement was not met, provided the individual is otherwise eligible.

(2) Upon expiration of the three months, the individual becomes ineligible for the remainder of the fixed 36-month period.

(3) The individual may re-establish eligibility by either regaining eligibility or because a determination is made that the individual becomes exempt from the 20-hour-a-week work requirement.

**H. Costs:** Except for costs assumed by HSD pursuant to an approved [~~food stamp~~] SNAP E&T supportive services plan, HSD has no financial responsibility for any costs or liabilities incurred by persons electing to participate in a work program in order to meet the [~~food stamp~~] SNAP work requirement.