



HUMAN SERVICES  
DEPARTMENT

STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT

# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

## II. SUBJECT

INCREASE IN RESOURCE LIMITS

## III. PROGRAMS AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

## IV. ACTION

EMERGENCY AMENDMENT

## V. BACKGROUND

New Mexico administers the Supplemental Nutrition Assistance Program according to the federal guidelines of the United States Department of Agriculture, Food and Nutrition Services (FNS) in adjusting maximum allowable resources for inflation. Under the Food and Nutrition Act of 2008, [http://www.fns.usda.gov/sites/default/files/PL\\_110-246.pdf](http://www.fns.usda.gov/sites/default/files/PL_110-246.pdf), resource limit adjustments are effective as of October 1, 2014. The Department is proposing amendments to 8.139.100, 8.139.120 and 8.139.510 NMAC. These sections of administrative code were created under the Food and Nutrition Act of 2008. These resource limit adjustments are mandated and are considered emergency amendments due to the short time New Mexico and other states have to implement the new changes.

FNS increased the resource limit from \$2,000.00 to \$2,250.00 and from \$3,000.00 to \$3,250.00 for households consisting of or including a member who is elderly or disabled as defined at Paragraph (23) of Subsection A of 8.139.100.7 NMAC. As New Mexico has adopted broad based Category Eligibility (CE) for SNAP, the resource limits are only applicable to certain individuals. These include:

- Any member who is disqualified for an IPV;
- Any member who is disqualified for failure to comply with work registration or E&T requirements, including voluntarily quitting a job or reducing employment hours without good cause;

- Any member who is disqualified because of fleeing felon status or parole/probation violations;
- The household member who is institutionalized; or
- The household refuses to cooperate in providing information that is necessary to determine eligibility.

The Department is also replacing Food Stamp Program with Supplemental Nutrition Assistance Program (SNAP) where applicable in the amended sections.

## VI. EMERGENCY REGULATIONS

**This is an emergency amendment to 8.139.100 NMAC, Section 11, effective March 1, 2015.**

### 8.139.100.11 GENERAL PROGRAM DESCRIPTION:

**A. Purpose:** The [~~food-stamp program~~] Supplemental Nutrition Assistance Program (SNAP) is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households.

**B. Household participation:** Participation in [~~the food-stamp program~~] SNAP shall be limited to those households whose income and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Eligibility for the program is determined by comparing the applicant group's income, resources, and non-financial eligibility information to the program's policies.

**C. National standards:** Uniform national standards for determining eligibility and participation are established each year, and are effective every October. A household shall meet income and resource limits and other specific eligibility criteria before approval for participation in [~~the food-stamp program~~] SNAP. The income test is based on 130% of the federal poverty level. Resource eligibility limits are \$[~~2,000~~]2,250 for households whose members are under 60 years of age, and \$[~~3,000~~]3,250 for households containing one or more individuals 60 years of age or over. The federal government funds program benefits at 100% and administrative costs at 50%. [2/01/95; 8.139.100.11 NMAC -Rn & A, 8.139.100.10 NMAC, 02/14/2002; A/E, 10/01/2014]

**This is an emergency amendment to 8.139.120 NMAC, Section 12, effective March 1, 2015.**

### 8.139.120.12 REQUIREMENTS FOR HOUSEHOLDS ON REGULAR REPORTING:

**A.** A regular reporting household includes all households not assigned to simplified reporting. If changes occur during a household's certification period, that affect eligibility or benefit amount, the caseworker shall take action to adjust the household's eligibility or [~~food-stamp~~] SNAP benefit amount.

**B.** Benefit determinations or changes on or after April 1, 2010, to earned and unearned income shall be calculated using the conversion factors at Paragraph (6) of

Subsection D of 8.139.120.10 NMAC provided income is reported to the agency, and verified by the household. All other households shall have their income calculated at the next interim report or recertification.

**C. Household responsibilities:**

(1) **At application:** An applicant must report all changes affecting eligibility and ~~[food-stamp-program]~~ SNAP benefit amount that may have occurred since the date the application was filed and before the date of the certification interview.

(2) Changes occurring after the interview, but before the date of the approval notice, must be reported by the household within 10 days of the date the household receives its approval notice.

(3) **Reporting during the certification period:** A household must report changes within 10 days of the date a change becomes known to the household. No change reporting requirements may be imposed except as provided in (a) through (f) below. A household must report:

(a) **earned income:** a change in the source of earned income, including starting or stopping a job; or

(i) changing jobs if the change in employment results in a change in income;

(ii) a change in the amount of gross earned income received by a member of the household, if the amount changes by more than \$100 per month.

(b) **unearned income:**

(i) a change in the source of unearned income;

(ii) a change of more than \$50 in the amount of unearned income except that changes in cost of living increases (COLAs), and mass changes in the social security and SSI benefits and changes in cash assistance amounts in programs administered by ISD including TANF, GA, EWP, and RRP do not have to be reported;

(c) changes in household composition, such as when an individual moves into or leaves the household;

(d) changes in residence and the resulting change in shelter costs;

(e) when cash on hand, stocks, bonds or money in a bank account reach or exceed \$~~[2,000]~~ 2,250, or \$~~[3,000]~~ 3,250 for elderly/disabled households;

(f) changes in the legal obligation to pay child support, including termination of the obligation; a household with less than a three-month record of child support payments shall be required to report changes greater than \$50.00 from the amount used in the most recent certification action.

(4) **Time limits:**

(a) The 10-day period begins with the date the change becomes known to the household. For the purposes of reporting:

(i) a financial change shall be considered as timely if the change is reported no later than 10 days after the household receives the first payment or makes the first payment attributable to the change;

(ii) a non-financial change shall be considered timely if the change is reported no later than 10 days after it occurs.

(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 household's report plus three days mailing time.

(c) Households 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 advance notice is required if the change will result in a reduction or termination of benefits.

**D. HSD responsibilities:** The caseworker shall inform the household of its responsibility to report changes. The caseworker shall review any change reported by the household to determine if the change must be acted on and shall take the required action 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 [~~food-stamp program~~] SNAP benefit amount.

**(1) Action on changes for regular reporting households:**

(a) When a household reports a change, the caseworker shall take action to determine the household's eligibility or [~~food-stamp program~~] SNAP benefit amount within 10 days of the date the change is reported.

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

(i) If the caseworker receives a written report from the household that meets the standards of Subsection C of 8.139.120.15 NMAC, action shall be taken for the following month without an advance notice of adverse action. The household 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.

(ii) If the change is reported by any other means, e.g., by phone, in person, etc., within 10 days, the caseworker shall take action to issue a notice of adverse action (Subsection B of 8.139.120.15 NMAC) 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.

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

**(2) Increased benefits:**

(a) For changes resulting in an increase, other than changes described in (b) below, the caseworker shall make the change effective no later than the first benefit amount issued 10 days after the date the change was reported (conforms to ISD2 mass run date).

(b) For changes resulting in an increase in ~~[food stamp program]~~ SNAP benefits because of the addition of a new household member who is not a member of another certified household or a decrease of \$50.00 or more in the household's gross monthly income, the caseworker shall make the change effective not later than the first ~~[food stamp program]~~ SNAP benefit amount issued 10 days after the date the change was reported (conforms to ISD2 mass run date). In no event shall these changes take effect any later than the month following the month the change was reported. If the change is reported timely but the increase cannot be made effective the following month, the caseworker shall issue a supplement to the household in the following month.

(c) **Providing verification:** The household shall be allowed 10 days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If necessary verification is not provided at the time a change is reported, the household shall be allowed 10 days, plus three days if a notice is mailed, to provide verification. 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 ~~[food stamp program]~~ SNAP benefit amount shall revert to the original benefit amount.

(3) **Decreased benefits:** When a household timely reports a change which will decrease benefits, the caseworker shall issue an adverse action notice to the household (Subsection B of 8.139.120.15 NMAC). If the adverse action time limit expires in the following month, there is no overissuance in the following month and the household 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 household reports a change that 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 overissuance to the household in the following month and the household 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; the certification period shall be allowed to expire. The caseworker shall document the change in the case record.

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

**E. Failure to report changes:**

(1) If the caseworker discovers that the household failed to report a change as required, the caseworker shall evaluate the change to determine whether the household received benefits to which it was not entitled. After verifying the change, the caseworker shall initiate a claim against the household for any month in which the

household was overissued [~~food-stamp-program~~] SNAP benefits. The first month of the overissuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Paragraph (2) of Subsection B of 8.139.120.12 NMAC above.

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

**F. Other changes:**

(1) **Eligibility standard:** When a household becomes entitled to a different eligibility standard, the caseworker shall apply the new standard whenever there is a change in household eligibility, benefit amount, or certification period, whichever occurs first.

(2) **Reconstituted household:** If members in the household separate into two or more households, the individuals who left the original household shall not be eligible for separate status in the month the change occurs. An adverse action notice is required whenever members leave the household. If the adverse action time limit expires in the month the change occurs, the individuals in the reconstituted household may be certified in the month following the month the change occurs. If the notice of adverse action time limit expires in the month following the month the change occurred, the reconstituted household shall not be certified until the month following the month the notice time limit expires.

(3) **Shortened certification period:** Whenever a determination is made that a household's certification period must be shortened, the household is entitled to an expiration notice. A household shall be informed that its certification period shall end the month following the month the expiration notice is sent. The household shall be given an opportunity to timely reapply for benefits.

(4) **Unreported changes:** The caseworker shall act on all changes of which the caseworker becomes aware. 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 [~~food-stamp-program~~] SNAP benefit amount is issued to the household.

[05/15/97; 8.139.120.12 NMAC - Rn & A, 8.139.120.11 NMAC, 02/14/2002; 8.139.120.12 NMAC - Rn & A/E, 8.139.120.10 NMAC, 10/15/2008; A, 12/31/2008; A, 04/01/2010; A/E, 10/01/2014]

**This is an emergency amendment to 8.139.510 NMAC, Section 8, effective March 1, 2015.**

### **8.139.510.8 RESOURCE ELIGIBILITY STANDARDS**

A. The maximum allowable resources, including both liquid and non-liquid assets, of all members of a household cannot exceed:

(1) \$~~[2,000]~~ 2,250; or

(2) \$~~[3,000]~~ 3,250 for households consisting of or including a member who is elderly or disabled as defined at Paragraph [~~(23)~~] (28) of Subsection A of 8.139.100.7 NMAC.

B. The value of a nonexempt resource is its equity value. Equity value is the fair market value less encumbrances. The value of stocks and bonds, such as U.S. savings bonds, is their cash value, not their face value.

C. It is a household's responsibility to report all resources held at the time of application and any anticipated to be received, or that are later received during the certification period, that might place the household's resources above the maximum allowed.

D. **Categorically eligible households:** Households that are categorically eligible do not need to meet the resource limits or provisions of this section.

E. **Sponsored aliens:** For households containing sponsored aliens, a prorated amount of the countable resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) are deemed to be those of the sponsored alien, in accordance with sponsored alien provisions in 8.139.420.9 NMAC.

F. **Non-household members:** The resources of non-household members, defined in 8.139.400.10 NMAC shall not be considered available to the household.

G. **Resources of ineligible or disqualified household members:** The resources of ineligible or disqualified household members shall be counted as available to the household in their entirety. If a resource exclusion applies to a household member, the exclusion shall also apply to the resources of an ineligible or disqualified person whose resources are counted as available to the household.

[02/01/95, 07/01/97, 07/01/98, 06/01/99; 8.139.510.8 NMAC - Rn, 8 NMAC 3.FSP.510, 05/15/2001; A, 02/01/2002; A, 10/01/2002; A, 04/01/2010; A/E, 10/01/2014]

This register and the emergency amendments 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 register and the emergency regulations may be requested by contacting Income Support Division Policy and Program Development Bureau by phone (505) 827-7219 or by e-mail at [samuel.peinado@state.nm.us](mailto:samuel.peinado@state.nm.us).

## VII. PUBLICATION DATE

FEBRUARY 27, 2015

## VIII. PUBLIC HEARING

A public hearing to receive testimony on these emergency amendments to these regulations will be held on March 30, 2015 at 10:00 AM.

The hearing will be held at the Income Support Division Conference Room at Pollon Plaza, 2009 S. Pacheco St., Santa Fe, NM 87505. The Conference room is located in room 120 on the lower level. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-827-7274.

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 505-827-7701 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

### IX. ADDRESS

Interested persons may address written or recorded comments to:

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

Interested persons may also address comments via electronic mail to:  
[samuelp@state.nm.us](mailto:samuelp@state.nm.us)

### X. PUBLICATION

Publication of these emergency regulations approved on February 6, 2015  
by:

  
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BRENT EARNEST, SECRETARY-DESIGNATE  
HUMAN SERVICES DEPARTMENT