



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT

HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

MANDATORY & VOLUNTARY PARTICIPATION IN EMPLOYMENT AND
TRAINING (E&T) REQUIREMENTS

III. PROGRAMS AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

IV. ACTION

FINAL REGULATION

V. BACKGROUND

In accordance with the Department's mission, "To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance," the Department is promulgating final regulations that were proposed in the Human Services Register Vol. 36 No. 4 to create a mandatory SNAP Employment and Training (E&T) Program for SNAP recipients. A mandatory SNAP E&T work program will help to ensure that program participants have the skills, training or work experience to obtain and/or keep employment.

This regulation will require SNAP applicants and recipients, who are classified as mandatory participants, to participate in the SNAP E&T component of Individual or Group Job Search with Employer Contacts. Individuals who do not meet the requirements of the program will be disqualified from receiving SNAP benefits for a specified time period. The Department is finalizing this rule with amendments based on the comments received.

A public hearing was held on April 15, 2013, where one person attended and provided verbal comments. Written comments were also received from five sources. The comments and responses are summarized below.

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

Comment: Throughout these proposed rules there is a reference to the “food stamps or food stamp program”. In addition, these proposed regulations use SNAP and food stamp or food stamp program interchangeably. The name of the program has changed to the Supplemental Nutrition Assistance Program (SNAP) and these proposed rules should also reflect that change.

Response: The Department has standardized the naming of the program and is utilizing the name SNAP throughout the regulation.

Comment: The proposed regulation at 8.139.410.12A requiring work registration as a prerequisite to certification contradicts the proposed regulation at 8.139.410.D(1)(c) NMAC, which states an individual is considered registered once they have completed and signed the application and their case is approved. Are the work registration requirements as a prerequisite to certification applicable to mandatory and voluntary participant E & T participants, except for completing the IRP? Are the work registration requirements as a prerequisite to certification applicable to mandatory and volunteer E & T participant, or is an individual considered registered upon approval of SNAP benefits? Per federal law for SNAP, is the department allowed to make work registration a prerequisite to certification? If so, I would suggest only mandatory work registrants be subject to this requirement and disqualification.

Response: The Department has clarified the rule at 8.139.410.12A NMAC to reflect that the work registration requirement is a condition of eligibility, unless the individual is exempt from the E & T work requirements. The Department has modified the regulation to only require work registration for the mandatory population. Federal regulations require, as a condition of eligibility, that a mandatory participant register for work. The Department has clarified this language to comport with the federal regulations.

The Department has also clarified the completion of the IRP is an optional requirement that may be completed by both mandatory and volunteer participants. Federal law at 7 CFR 273.7(a)(1)(i) requires as a condition of eligibility, that a mandatory participant register for work. The Department has clarified this language to comport with the federal law.

Comment: There are contradictory age requirements in the proposed regulations. At 8.139.410.12B NMAC the regulation mandates every physically or mentally fit household member who is 18 years of age or older and under age 50, where no child under the age of 18 is residing in the participating SNAP household, and who is determined mandatory must register for the E & T program. At 8.139.410.12D (1) (a) NMAC, the proposed regulation reads “Unless exempt, every household member age 18 through 50 must register for employment.

Response: The Department has accepted the comment and modified the regulations related to age description discrepancy. The Department will modify the regulations to correct the contradictory language regarding age requirements. We will be making changes to all of the citations you have referenced in this section (8.139.410.12B NMAC, 8.139.410.12D(1)(a) NMAC and 8.139.410.12D(2)(a) NMAC and one additional section – 8.139.410.12L NMAC.

Comment: The proposed regulation pertaining to dependent children in the household as a means of exempting an individual is confusing and there is a possibility of misinterpretation in the two citations at 8.139.41012B and 8.139.410.12D(2)(c). It is not known what the intent of the Department is as far as exempting an individual in relation to a dependent child. Where there are two households residing in a home and one is a SNAP household, must the child reside in the SNAP household (child resides in the participating SNAP household) or will an exemption apply if the child resides in the home, but not in the SNAP household, such as a foster child (even if the child is not eligible for SNAP benefits)?

Response: The Department has removed the language regarding residing with a dependent child from regulation at 8.139.410.12B NMAC. The intent of including an individual residing with a dependent child under the age of 18 is to be inclusive of all individuals who may be included in the SNAP household. Further, the child must reside within the SNAP household, if they simply reside in the home as indicated in the comment then the exemption would not apply.

Comment: The proposed rule at 8.139.410.12.D(1)(a) NMAC is confusing (and grammatically incorrect). Since the general heading for paragraph (1) is "general conditions for registration," paragraph (a) can read as follows:

- (a) “Unless exempted, a SNAP household member age 18 through 50 (or 49, as the case may be) must register for employment.
- (b) “A household member that has his or her 18th birthday within the household’s established certification period must fulfill the E & T work program registration requirement as part of the household’s next scheduled recertification.” *Renumber existing (b), (c), (d), and (e) to (c), (d), (e) and (f) respectively.*

Response: The Department has accepted the comment and the suggested change to separate the two requirements listed in the proposed.

Comment: There is a redundant and unnecessary phrase at 8.139.410.12E(4) as it was renumbered. The phrase occurring the second time “for all mandatory and voluntary participants referred to the E & T work program” can be deleted.

Response: The Department agrees with the comment and has amended the language as suggested.

Comment: The E & T State Plan for FY 2013 requires the Work Agreement to be completed 30 days following approval for receipt of SNAP benefits. The proposed regulations state the participant only has 15 days.

Response: The Department has reviewed the E & T State Plan and agrees the participant has 30 days from the date of approval to complete the Work Agreement.

The Department received two comments regarding the support services available to participants in the SNAP E & T work program.

Comment: Has there been a change as child care will only be paid for job search for volunteers since mandatory individuals do not have children? The only activity component listed in policy is job search, for volunteers is vocational training, education, work experience no longer valid activities in which they can participate and be eligible for child care through CYFD?

Response: Child care assistance is available for both mandatory and volunteer participants during their participation in the Individual or Group Job Search with Employer Contacts component. This is the only E & T component for which child care assistance is available.

Comment: Mandatory participants must complete registration with workforce connections and complete job readiness/job club within 30 days of the WPA? The time frames for completion and to be eligible for a reimbursement is different than the E & T State Plan.

Response: To be eligible for a transportation reimbursement, the participant must complete the component within 90 days. The regulations provide the following timeline:

Day of Approval of SNAP Benefits =	Day one
Assessment Completion =	Day 15
WPA Completion=	Day 30
First 12 job contacts due=	Day 60 or 30 days after completion of the WPA
Second 12 job contacts due =	Day 90 or 60 days after the completion of the WPA.

The Department has added some clarifying language to reflect that the completion dates are counted from the date of approval or from the WPA.

The Department received four comments regarding the removal of the good cause element for noncompliance with the SNAP E & T requirements of "problems caused by registrant's or participant's inability to speak or read English."

Comments:

1) "§ 8.139.410.12(E)(5) provides a non-exhaustive list of circumstances under which HSD could determine that a SNAP recipient who did not meet the E&T requirements had 'good cause' not to do so and would therefore not be subject to

sanction. Currently § 8.139.410.12(E)(5)(b)(iv) states that one acceptable 'good cause' element is the participant's inability to speak or read English. We cannot imagine a justification for this change. As you know, HSD is subject to Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of (among other things) nation origin in government programs. Discrimination based on the language a person speaks would be considered a violation of Title VI. Furthermore, President Clinton's Executive Order 13166 and the Dept. of Justice guidance that followed it make clear that HSD must not discriminate in this way."

2) "The proposed change to the employment and training requirements does not recognize a participant's inability to speak or read English as a good cause for exemption. However, the proposed change also does not clarify how provisions for services for individuals who might not speak or read English will be made. We are concerned that many of our clients and many other Spanish-speaking community members in New Mexico who are unable to speak or read English will lose their access to this essential nutritional assistance program. We urge you to leave a participant's inability to speak or read English as a good cause exception."

3) "If the Department does eliminate the exemption from non-English speakers, it must do so in a way that provides services for these individuals in compliance with federal Title VI law. SWLC recommends that HSD reinstate the exception for non-English speakers' compliance with the SNAP program's employment, training and work registration requirements."

4) "We also question how this provision would affect those who do not speak or read English due to vision or hearing loss. While you might consider such barriers to put that person outside of the "able-bodied" standard – and thus exempt – there are those who might not choose to be exempt but would want to be able to access some benefits of the E&T program. In doing so, they might have occasion to need to claim good cause for not fully complying with requirements. It is not clear under the current 'good cause' elements that they would be able to do so. For all these reasons we urge you to reconsider this amendment."

Response: The Department's mission is "to reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance." The E&T work program is offered according to this mission to provide all mandatory participants with the proper support services to address the barriers that may be keeping the participants from being self-sufficient. Further, the Department is committed to providing appropriate accommodations for all participants in accordance with the ADA, Title VI of the Civil rights Act, President Clinton's Executive Order 13166 and the Dept. of Justice guidance.

The removal of the good cause element "participant's with an inability to speak or read English are not excluded from participation in the E & T work program" does not remove the Department's requirement to comply with Federal Laws. It supports the mission that

the Department provides the support services to address barriers to self-sufficiency prior and during participation. At application or recertification the ISD caseworkers will identify individuals who are mandatory and those who are exempt from participation in the SNAP E&T work program.

The SNAP E & T work program provider will conduct an assessment with mandatory and volunteer participants to address barriers to locating and maintaining employment. Upon identification that an individual has limited English proficiency, language barriers or hearing loss, they will be appropriately accommodated prior to beginning the Individual or Group Job Search with Employer contacts. The E&T work program provider will continue to provide proper accommodations if after the first 30 days, it is determined that an individual is having difficulty meeting the requirements of the program due to limited English proficiency or identification of barriers that may not have been identified during the assessment.

For individuals who are primary Spanish speakers, they will be provided with an assessment and job search activities in Spanish. Individuals speaking languages other than Spanish will be provided translation services utilizing the State's contracted Language translation services.

The Department received one comment regarding the process for assessment and identification of individuals for participation in the SNAP E & T work program.

Comment: A second concern is that the process to assess persons for participation in SNAP currently does not adequately identify barriers. Again, people with significant disabilities will not be identified. We think this regulation will be implemented prematurely before people are adequately protected and that it will mean that people will be inappropriately sanctioned. Not that this was the intent of the regulation but that it will be the inevitable consequence of the regulation. We expect that the results of the regulation and working with the contractor, SL Start, will be the same as it was for NM Works; especially if the department did not come up with a comprehensive plan for protecting people with disabilities when we asked ISD to do so for the NM Works Program.

Response: The Department is mindful of its obligations under the ADA to screen applicants/ recipients for disabilities and, when applicable, to offer reasonable accommodations and it administers the SNAP E & T work program accordingly.

The Department received one comment regarding the implementation of a work program when the economic situation in New Mexico remains unchanged.

Comment: There has been a waiver in place for ABAWDs through FNS to be exempted from work requirements which have been in place due to unemployment climate. We think it is premature to reinstate work requirements for SNAP for this population when the economic situation in New Mexico remains the same as it was when the waiver was

put into place...HSD should not implement the SNAP E & T program until the employment picture has improved sufficiently to justify opting out of the federal waiver.

Response: The Department currently has a wavier through the United States Department of Agriculture Food and Nutrition Services to waive the SNAP Able Bodied Adults without Dependents (ABAWD) time limits for participation in SNAP. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PROWRA) limits the receipt of SNAP benefits to three months in a three year period for ABAWDs who are not working, participating in and complying with the requirements of a work program for 20 hours or more each week. The Department is not reinstating the ABAWD time limits. The proposed rule implements a mandatory Employment and Training Work program. The requirement for participation will be mandatory for those counties whose unemployment rate at the time of implementation is less than 9.9%.

VI. EFFECTIVE DATE

June 1, 2013

X. PUBLICATION

Publication of these regulations approved on _____ by:

SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

Response: The Department currently has a wavier through the United States Department of Agriculture Food and Nutrition Services to waive the SNAP Able Bodied Adults without Dependents (ABAWD) time limits for participation in SNAP. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PROWRA) limits the receipt of SNAP benefits to three months in a three year period for ABAWDs who are not working, participating in and complying with the requirements of a work program for 20 hours or more each week. The Department is not reinstating the ABAWD time limits. The proposed rule implements a mandatory Employment and Training Work program. The requirement for participation will be mandatory for those counties whose unemployment rate at the time of implementation is less than 9.9%.

VI. EFFECTIVE DATE

June 1, 2013

X. PUBLICATION

Publication of these regulations approved on 5/14/13 by:



SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

This is an amendment to 8.139.410 NMAC, Section 12, effective 6-1-2013.

8.139.410.12 EMPLOYMENT, TRAINING AND WORK REGISTRATION

A. Employment and training ~~[(E & T)] E&T~~ work registration: Compliance with work registration is a prerequisite to certification ~~[and cannot be waived]~~ , 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)] E&T~~ work requirements: As a condition of eligibility for ~~[food stamps]~~ participation in SNAP, every physically ~~[or]~~ and mentally fit household member who is ~~[46]~~ 18 years of age or older and ~~[under]~~ younger than age ~~[60]~~ 50 and who is determined mandatory, must register for the ~~[(E & T)] E&T~~ program.

C. Non-compliance with ~~[(E & T)] 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 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)] E&T~~ work requirements:

(1) General conditions for registration:

(a) Unless exempt, every household member ~~[age 16 through 59]~~ age 18 through 50 must register for employment. ~~[If a household member has his/her 16th 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 18th birthday within the established certification period, they must fulfill the E&T work program registration requirement as part of the next recertification.

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

~~[(e)]~~ ~~—An individual will be considered registered once they have completed and signed an application and their case is approved.]~~

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

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

(a) an individual younger than ~~[46]~~ 18 years of age or an individual ~~[60]~~ 50 years of age or older;

~~[(b)]~~ ~~—an individual age 16 or 17 who is not the head of household or 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;]~~

~~[(e)]~~ (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;

(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;

(d) a parent or other household member who is responsible for the care of [a dependent child under age six or] 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;

~~[(i)]~~ ~~—if the child has his/her sixth 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 food stamp 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;~~

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

(f) an individual who receives unemployment compensation benefits 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 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)~~ (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]~~ E&T program;

~~(ii)~~ (i) 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;

~~(iii)~~ (k) a student who is eligible to participate in the ~~[FSP]~~ 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);

~~(j)~~ (l) a household member who has made application for SSI and ~~[food stamp]~~ SNAP benefits at the social security administration, and whose application for ~~[food stamp]~~ SNAP benefits has been received by HSD, and who is determined eligible for ~~[food stamp]~~ 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 unemployment rate 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 ~~[when the change is reported]~~ 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 ~~[out of a project area]~~ 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 ~~[project area]~~ county which does not administer a work program through income support division, and who is not exempt from ~~[E & T]~~ E&T work registration, will be entered into the individual's computer file. Those individuals will be dropped from referral to the ~~[E & T]~~ E&T work program.

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

E. ~~[E & T]~~ E&T work program: The income support division (ISD) administers the work program for applicants and recipients of ~~[food stamp]~~ 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 ~~[the FSP]~~ SNAP to gain skills ~~[-, training, work, or work experience]~~ that will increase an individual's ability to obtain ~~[and/or]~~ and keep employment.

(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 [~~FSP~~] 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 [~~in Paragraph (2) of Subsection D of 8.139.410.12 NMAC~~].

(3) **Reporting changes to the [~~E & T~~] E&T work program:** The following changes will be reported to the [~~E & T~~] 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 registrant or participant of:~~

- ~~(i) mandatory and voluntary E & T work program requirements, including rights and responsibilities;~~
- ~~(ii) services, 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 up to the regulatory monthly limit for reasonable and necessary costs directly related to work program participation;~~
- ~~(d) reporting voluntary work participants who wish to de-register]~~

(5) **Good cause for noncompliance with [~~E & T~~] 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.

- (a) Good cause is determined by considering the facts and circumstances involved, including information submitted by the household member and employer.
- (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;
 - ~~[(iv) problems caused by registrant's or participant's inability to speak or read English;~~
 - ~~(v) unavailability of transportation; or~~
 - ~~[(vi) (v) lack of adequate child care for children who have reached age six but are~~
- younger than age 12.

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.

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 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 a disqualification, unless good cause exists.

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>.

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

(a) Individual or group job search with employer contacts is the only 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 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) 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.

(ii) All mandatory and voluntary participants 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.

(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.

(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.

K. E&T work program support services:

(1) **Child care:** Mandatory and volunteer participant may be eligible for child care services to meet the 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 if they have successfully completed the E&T work program component as defined in Paragraph J of this section.

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

[F.] **L. Disqualification for noncompliance:** [No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in the food stamp program if the individual fails or refuses, without good cause, to comply with work requirements in Subsection C of 8.139.410.12 NMAC.] **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.**

(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;

(b) **second occurrence:** until compliance or for six months, whichever is later;

(c) **third occurrence:** until compliance or for one year, whichever is later.

(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. [Food stamp] **SNAP** benefits shall be increased or decreased according to the change processing requirements at 8.139.120.10 NMAC.

(4) **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 [food stamp] **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 [the FSP] **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 reporting households:** An individual who has failed or refused to comply with work requirements during a semiannual 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) Disqualification in the last month of certification: For all participating households, including households subject to semiannual 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 ~~[food stamp]~~ 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 ~~[food stamp]~~ 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) Lifting the disqualification: An individual who has been disqualified may resume participation during the disqualification period by becoming exempt from ~~[E & F]~~ E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible.

[G.] 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 ~~[the FSP]~~ SNAP but may not change the designation during a certification period, unless there is a change in household composition.

(2) Compliance with ~~[E & F]~~ 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 ~~[the FSP]~~ 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 ~~[the FSP]~~ SNAP.

[02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.FSP.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013]