



STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT  
**HUMAN SERVICES REGISTER**

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**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**

PROPOSED REGULATION

**V. BACKGROUND**

In Federal Fiscal Year 2013, the Human Services Department is proposing to implement a mandatory Employment & Training (E & T) program for childless adults receiving Supplemental Nutrition Assistance Program (SNAP). Those individuals who are mandatory will be required to complete either a group or individual job search annually to meet the E & T work program requirements. A mandatory E & T work program will ensure SNAP program participants have the skills, training or work experience to obtain and/or keep employment.

**VI. Proposed Regulations**

This register and proposed regulations are available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/ISDRegisters.html>. If you do not have Internet access, a copy of the proposed regulations may be requested by contacting Income Support Division Policy and Program Development Bureau at 827-7219.

**VIII. PUBLIC HEARING**

A public hearing to receive testimony on this regulation will be held on April 15, 2013 from 9:00 a.m. to 10:00 a.m. 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 toll free 1-800-432-6217.

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 New Mexico Human Services Department toll free at 1-800-432-6217, in Santa Fe at 827-9454, or through the New Mexico Relay system, toll free at 1-800-659-8331. 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:


Sidonie Squier, Secretary  
Human Services Department  
P.O. Box 2348 Pollon Plaza  
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to:

[Vida.Tapia-Sanchez@state.nm.us](mailto:Vida.Tapia-Sanchez@state.nm.us)

### X. PUBLICATION

Publication of these emergency regulations approved on 2/26/13  
by:

  
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SIDONIE SQUIER, SECRETARY  
HUMAN SERVICES DEPARTMENT

This is a proposed amendment to section 12 of 8.139.410 NMAC.

**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 and cannot be waived. 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 food stamps, every physically or mentally fit household member who is ~~[46]~~ 18 years of age or older and under age ~~[60]~~ 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.

**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 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 ~~[46]~~ 18 through ~~[59]~~ 50 must register for employment ~~[- If a household member has his/her [16<sup>th</sup>] 18<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.], household members that have their 18<sup>th</sup> birthday with the established certification period must fulfill the E & T work program registration requirement as part of the next scheduled recertification.~~

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

(c) 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 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 under the age of 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 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;

~~[(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) 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;

(ii) 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;

(i) a student who is eligible to participate in the [FSP] food stamp 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) a household member who has made application for SSI and food stamp benefits at the social security administration, and whose application for food stamp benefits has been received by HSD, and who is determined eligible for food stamp 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[-] ;

(k) a pregnant woman;

(l) 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.

(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 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 which does not administer a work program through income support division, 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 project area administering a work program through ISD will accept the participant.

**E. E & T work program:** The income support division (ISD) administers the work program for applicants and recipients of food stamp 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] food stamp program to gain skills~~[-, training, work, or work experience]~~ that will increase an individual's ability to obtain and/or 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 employment and training 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 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, development of a work participation agreement (WPA) and an individual responsibility plan (IRP) for all mandatory and voluntary participants referred to the E & T work program.

~~[(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 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)](iv) unavailability of transportation; or~~

~~(vi)](v) lack of adequate child care for children who have reached age six but are under age 12.~~

**F. Orientation:** Participants of E & T shall be provided an E & T work program orientation, 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:** All participants are required to 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;

**(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; and

**(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

**(7)** 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 15 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 Components:**

**(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 Job Search with Employer Contacts:**

**(a)** Individual and Group Job Search with employer contact 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. This component is designed to impart basic job search techniques and job maintenance habits necessary for continuous employment.

(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 as defined by the department no later than 30 days after the WPA is approved.

(iii) **Disqualification:** Failure to complete the individual and group job search training component is subject to disqualification from the food stamp program, unless good cause exists.

(c) **Employer contacts:**

(i) Each mandatory and voluntary participant is required make a minimum of 24 employer contacts no later than 60 days after the date of approval for newly certified and ongoing food stamp benefits. The participant is required to complete a minimum of 12 of the 24 employer contacts within the first 30 days of the approved WPA.

(ii) Each participant shall provide verification of the minimum job contacts to the E& T work program service provider no later the 5<sup>th</sup> of the month for the duration of the WPA. The E & T work program service provider will randomly sample a specified number of employer contacts to validate the authenticity of the contacts.

(iii) **Disqualification:** Participants who fail to provide verification or complete the minimum monthly employer contacts is subject to disqualification, unless good cause exists.

(iv) **Successful completion:** Participants who complete the individual or group job search and employer contact component within 90 days of the referral to the E & T work program service provider and 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 through the New Mexico children, youth and families department

(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 reimbursements 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 [46] 18 years of age or older and under the age of [60] 50 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.

(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 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 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] food stamp program 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 the food stamp program 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 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 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 & 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] food stamp program 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 the [FSP] food stamp program.

**(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] food stamp program.

[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]