



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT

HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

NEW MEXICO WAGE SUBSIDY PROGRAM

III. PROGRAMS AFFECTED

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

IV. ACTION

FINAL REGULATION

V. BACKGROUND

The Department held a public hearing on September 30, 2014; no comments were received with regards to the regulations proposed in the Human Services Register Vol. 37, No. 51. The Department is finalizing the regulations as proposed.

VI. EFFECTIVE DATE

November 1, 2014

VII. PUBLICATION

Publication of these regulations approved on 10/9/14 by:

Sidonie Squier

SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 102 CASH ASSISTANCE PROGRAMS
PART 462 NEW MEXICO WAGE SUBSIDY PROGRAM

8.102.462.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.102.462.1 NMAC - N, 04/01/2012]

8.102.462.2 SCOPE: The rule applies to the general public.
[8.102.462.2 NMAC - N, 04/01/2012]

8.102.462.3 STATUTORY AUTHORITY:

A. New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

B. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, NMSA 1978, Section 27-2B-1 et seq., the New Mexico works program was created.

[8.102.462.3 NMAC - N, 04/01/2012]

8.102.462.4 DURATION: Permanent.

[8.102.462.4 NMAC - N, 04/01/2012]

8.102.462.5 EFFECTIVE DATE: April 1, 2012, unless a later date is cited at the end of a section.

[8.102.462.5 NMAC - N, 04/01/2012]

8.102.462.6 OBJECTIVE:

A. The purpose of the New Mexico works (NMW) program is to improve the quality of life for parents and children by increasing family income, resources and support. The further purpose of the program is to increase family income through family employment and child support and by utilizing cash assistance as a support service to enable and assist parents to participate in employment. This is achieved by participation in, and successful completion of the activities described in this part.

B. The New Mexico wage subsidy program is a subsidized employment opportunity where a TANF cash assistance participant is employed full time. The department or its agents may subsidize the up to 50 percent of the employee's salary with funds from the TANF block grant. Funding of the program is contingent on specific appropriation of state and federal funding.

[8.102.462.6 NMAC - N, 04/01/2012]

8.102.462.7 DEFINITIONS: [Reserved]

8.102.462.8 CASE ADMINISTRATION FOR THE NEW MEXICO WAGE SUBSIDY PROGRAM:

The New Mexico wage subsidy program is a subsidized employment opportunity where a TANF cash assistance participant is employed full-time. Payments to employers are made from TANF block grant funds.

A. Initial eligibility: Active participants in the TANF/NMW program may be referred to participating employers to be considered for a New Mexico wage subsidy position. To be eligible for these positions, the participant must meet the following criteria:

- (1) have sufficient work experience;
- (2) be a registered participant in NMW;
- (3) is not in current conciliation or being sanctioned for non-cooperation with the NMW work requirements or child support requirements;
- (4) have citizenship documentation and a social security number; and
- (5) have verification of their highest educational level attained.

B. Certification period: A participant may be employed through the New Mexico wage subsidy program for up to 12 months.

C. Effects on TANF cash assistance:

- (1) the participant is ineligible for TANF cash assistance while participating in the wage

subsidy program;

- (2) the months of participation in the wage subsidy program will not count against a participant's 60 month term limit;
- (3) the participant remains eligible for medicaid;
- (4) the participant's wages count against as income for determining food stamp eligibility.
- (5) the participant may be eligible for a supplemental cash assistance payment if the wage subsidy employment is lost during the month, or if the net monthly full-time wage paid to the participant is less than the TANF cash assistance to which the participant would otherwise be eligible; and
- (6) the participant's earnings are exempt from HUD housing determinations.

D. Continued eligibility: the following requirements must be met for to ensure continued participation in the New Mexico wage subsidy program:

- (1) the participant must remain eligible for TANF for the duration of the wage subsidy employment term;
- (2) must maintain satisfactory attendance at the employment site; and
- (3) continued NMW participation by the second parent in a two parent family.

[8.102.462.8 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012]

8.102.462.9 PROGRAM LIMITATIONS:

A. Failure to comply with other requirements: The benefit group shall be transitioned back to the NMW cash assistance and appropriate sanctions applied if a participant fails or refuses to comply with child support enforcement, or school attendance, or reporting requirements in the NMW cash assistance program. The transition is effective in the month following the month the failure or refusal to comply is established.

B. Two-parent family: In a two-parent family where only one of the parents is a participant in the New Mexico wage subsidy program, the other parent, if considered as a mandatory participant in the NMW work program, shall be required to participate in qualified work activities for a minimum of 30 hours per week. At least 20 hours a week must be spent in qualified primary work activities.

C. If a wage subsidy participant voluntarily quits a job without good cause, as determined by the NMW service provider or the department, the participant will no longer be considered for participation in the wage subsidy program. Refer to 8.102.620 NMAC for good cause provisions.

D. The TANF cash assistance participant will then have 10 days to notify the NMW service provider and renew work participation activities or be subject to the conciliation/sanction process for non-compliance with the work program.

[8.102.462.9 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012]

8.102.462.10 REQUIREMENTS FOR PARTICIPATING EMPLOYERS: Participating employers shall:

- A.** hire NMW participants for subsidized positions and offer a reasonable possibility of unsubsidized employment after the subsidy period;
- B.** not require participants to work in excess of forty hours per week;
- C.** pay a wage that is equal to the wage paid to permanent employees performing the same job duties and no less than the federal minimum wage;
- D.** ensure that the subsidized employment does not impair an existing contract or collective bargaining agreement;
- E.** ensure that the subsidized employment does not displace currently employed persons or fill positions that are vacant due to a layoff;
- F.** maintain health, safety and work conditions at or above levels generally acceptable in the industry and not less than those of comparable jobs offered by the employer;
- G.** provide on-the-job training necessary for subsidized participants to perform their duties;
- H.** sign an agreement for each placement outlining the specific job offered to a subsidized employee and agreeing to abide by all of the requirements of the wage subsidy program;
- I.** provide workers' compensation coverage for each subsidized employee;
- J.** provide other benefits (includes but is not be limited to, health care coverage, paid sick leave, holiday and vacation pay) equal to those for new employees, or as required by state and federal law, whichever is greater; and
- K.** inform the department of any absences resulting in leave without pay; and
- L.** proceed with termination of any New Mexico wage subsidy employee who has used an excess of 16 hours excused absences in a month or 80 cumulative hours over the course of the wage subsidy term.

[8.102.462.10 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012]

8.102.462.11 DEPARTMENT REQUIREMENTS: The department shall:

- A. suspend regular TANF cash assistance payments to the benefit group for the calendar month in which an employer makes the first subsidized wage payment to a participant in the benefit group;
- B. pay employers each month, from the TANF block grant, an amount that equals fifty percent of the wages paid by the employer to program participants;
- C. issue a supplemental TANF cash assistance payment if the net monthly full-time wage paid to the participant is less than the TANF cash assistance amount for which the participant would otherwise be eligible;
- D. reimburse the participating employer each month through current invoice procedures; and
- E. assist the work program contractor by referring participants who may be eligible for the New Mexico wage subsidy program.

[8.102.462.11 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012]

8.102.462.12 NMW SERVICE PROVIDER REQUIREMENTS: The department's NMW service provider shall:

- A. provide an orientation for all participants who are accepted into the wage subsidy program;
- B. identify eligible participants and refer them to potential employers;
- C. submit a list of referrals to the local ISD office to verify eligibility for NMW cash assistance;
- D. assist the TANF cash assistance participant in submitting applications for employment; and
- E. provide case management by monitoring employee work efforts and production to ensure job retention.

[8.102.462.12 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012]

8.102.462.13 LEAVE BALANCES AND ABSENCES:

- A. **Annual and sick leave:** While participating in the NMW wage subsidy program, the participant is entitled to accrue a balance of both sick and annual leave, as provided by the employer.
- B. **Excused absences:** Participants are entitled to unpaid excused absences at the discretion of the site supervisor or NMW service provider. A participant may not be allowed more than 16 hours of unpaid excused absences in any month or 80 hours cumulatively during the wage subsidy term, without good cause. Absences are approved by the site supervisor or by the NMW service provider.
- C. Absences in excess of the accrued annual, sick and the unpaid excused absence totals will result in termination of the NMW wage subsidy activity and the participant will be subject to the conciliation and sanction process in accordance with regulation at 8.102.620 NMAC. The appropriate termination process dictated by the employer's human resources procedures shall be followed.

[8.102.462.13 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012; A, 11/01/14]

HISTORY OF 8.102.462 NMAC:

NMAC History:

8 NMAC 3.FAP.460, Work Program Activities, filed 06/16/1997.

8 NMAC 3.FAP.460, Work Program Activities, filed 06/16/1998.

History of Repealed Material:

8.102.460 NMAC, Recipient Policies - Defining Group Work Program Activities, filed 03/02/2001 - Repealed effective 07/01/2001.

8.102.460 NMAC, Recipient Policies - Defining Group Work Program Activities, filed 06/18/2001 - Repealed effective 07/16/2007.

8.102.460 NMAC, Recipient Policies - Defining Group Work Program Activities, filed 07/02/2007 - Repealed effective 04/01/2012.