



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
HUMAN SERVICES REGISTER

DEPARTMENT

HUMAN SERVICES DEPARTMENT

SUBJECT

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP):

SIMPLIFIED REPORTING REQUIREMENTS

SUSPENSION OF ALL REPORTING REQUIREMENTS DURING TRANSITIONAL FOOD
STAMP PERIOD

CITIZENSHIP AND ALIEN STATUS

GENERAL WORK REQUIREMENTS

EMPLOYMENT AND TRAINING (E&T) REQUIREMENTS

ABLE BODIED ADULTS WITHOUT DEPENDENTS REQUIREMENTS AND TIME LIMITS

PROGRAMS AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

ACTION

PROPOSED RULE

BACKGROUND

The Department is promulgating proposed regulations to the Supplemental Nutrition Assistance Program (SNAP) Simplified Reporting Requirements, Citizenship and Alien Status, mandatory SNAP Work Requirements, Employment and Training (E&T) program and the reinstatement of the Able Bodied Adults without Dependents (ABAWDs) requirements.

Supplemental Nutrition Assistance Program (SNAP):

The Department is proposing the reorganization of the SNAP Simplified Reporting (SR) requirements, the elimination of Regular Reporting requirements, and revising language within that section to align with Code of Federal Regulations (CFR).

The Department is proposing to suspend all reporting requirements for those households on transitional food stamps (TFS).

The Department is proposing to update Citizenship and Alien status to be in compliance with CFR.

The Department is proposing to separate general work requirements from the Employment and Training (E&T) program requirements for SNAP.

The Department is proposing to update the E&T program requirements.

The Department is proposing to update the Able Bodied Adults Without Dependents (ABAWD) requirements and time limits in accordance with the Food and Nutrition Act and Title 7 of the Code of Federal Regulations, part 273. This program is referred to as the time limit rule or the able bodied adults without dependents (“ABAWD”) program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f).

VI. PROPOSED REGULATIONS

This register and proposed regulations 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 proposed regulations may be requested by contacting the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, New Mexico 87504-2348 or by calling 505-827-7250 or 505-827-1326. The New Mexico Human Services Department (HSD) will hold a public hearing to allow comment on the proposed amendments of the Supplemental Nutrition Assistance Program (SNAP) regulations. The hearing will be held on Friday, April 28, 2017, from 9:00 a.m. to 12:00 p.m., at the Department of Health (DOH) Harold Runnels Building Auditorium, 1190 St. Francis Drive, Santa Fe, NM. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling (505) 827-7254. 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 505-827-6201 or through the New Mexico Relay system, toll free at #711. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

VII. PUBLICATION DATE

March 28, 2017

VIII. ADDRESS


Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 4:30 p.m. on the date of the hearing, April 28, 2017. Please send comments to:

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

You may send comments electronically to: HSD-isdrules@state.nm.us

IX. PUBLICATION

Publication of these proposed regulations approved on 3/23/17
by:

for 

BRENT EARNEST, SECRETARY
HUMAN SERVICES DEPARTMENT

These are the **PROPOSED** amendments to 8.139.100 NMAC, Sections 5, 7 and 8.

8.139.100.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.100.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 06/01/2017]

8.139.100.7 DEFINITIONS:

A. Definitions A-L:

(1) **Adequate notice:** means a written notice sent by mail or electronically that includes a statement of the action HSD has taken or intends to take, reason for the action, household right to a fair hearing, name of the individual to contact for additional information, the availability of continued benefits liability of the household for any over-issuances received if hearing decision is adverse to the household. An adequate notice may be received prior to an action to reduce benefits, or at the time reduced benefits will be received, or if benefits are terminated, at the time benefits would have been received if they had not been terminated. In all cases, participants have 13 days from the mailing or electronic distribution date of the notice to request that benefits be restored to their previous level pending the outcome of an administrative hearing.

(2) **Adjusted net income:** means the household's gross monthly income less the standard deduction, earned income deduction, dependent care deduction and the shelter deduction. (Medical expenses are allowed for certain eligible members as a deduction from their gross income).

(3) **Application:** means a request, on the appropriate ISD form, submitted in a written or electronic format with the signature of the applicant or on the applicant's behalf by an authorized representative, for assistance.

~~[(4) **Annual reporting:** is a reporting requirement where the SNAP household is placed on a 24-month certification period and requires the household to submit a report in the twelfth month of the certification period.]~~

~~[(5)]~~ (4) **Attendant:** means an individual needed in the home for medical, housekeeping, or child care reasons.

~~[(6)]~~ (5) **Authorized representative:** means an individual designated by a household or responsible member to act on its behalf in applying for SNAP benefits, obtaining SNAP benefits, or using SNAP benefits to purchase food for the household. This can include a public or private, nonprofit organization or institution providing assistance, such as a treatment or rehabilitation center or shelter which acts on behalf of the resident applicant.

~~[(7)]~~ (6) **Benefit month:** means the month for which SNAP benefits have been issued. This term is synonymous with issuance month defined below.

~~[(8)]~~ (7) **Beginning month:** means the first month for which a household is certified after a lapse in certification of at least one calendar month. Beginning month and initial month are used interchangeably. A household is budgeted prospectively in a beginning month.

~~[(9)]~~ (8) **Boarder:** means an individual to whom a household furnishes lodging and meals for reasonable compensation. Such a person is not considered a member of the household for determining the SNAP benefit amount.

~~[(10)]~~ (9) **Boarding house:** means a commercial establishment, which offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house is not used to establish if a boarding

house is a commercial enterprise.

~~[(11)]~~ **(10) Budget month:** means the calendar month for which income and other circumstances of the household are determined in order to calculate the SNAP benefit amount. During the beginning month of application, prospective budgeting shall be used and therefore, the budget month and the issuance month are the same.

~~[(12)]~~ **(11) Capital gains:** means proceeds from the sale of capital goods or equipment.

~~[(13)]~~ **(12) Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions:

(a) **Financial CE:** Any SNAP household in which all members receive Title IV-A assistance (TANF), general assistance (GA), or supplemental security income (SSI) benefits is considered to be categorically eligible for SNAP benefits.

(b) **Broad-based CE:** Any SNAP household, in good standing, in which at least one member is receiving a non-cash TANF/MOE funded benefit or service and household income is below 165% FPG.

~~[(14)]~~ **(13) Cash assistance (CA) households:** (also referred to as financial assistance) means households composed entirely of persons who receive CA payments. Cash assistance (CA) means any of the following programs authorized by the Social Security Act of 1935, as amended: old age assistance; temporary assistance to needy families (TANF); aid to the blind; aid to the permanently and totally disabled; and aid to the aged, blind or disabled. It also means general assistance (GA), cash payments financed by state or local funds made to adults with no children who have been determined disabled, or to children who live with an adult who is not related. CA households composed entirely of TANF, GA or SSI recipients are categorically eligible for SNAP.

~~[(15)]~~ **(14) Certification:** means the authorization of eligibility of a household and issuance of SNAP benefits.

~~[(16)]~~ **(15) Certification period:** means the period assigned for which a household is eligible to receive SNAP benefits. The certification period shall conform to calendar months and includes the requirement for the completion of an interim report form in accordance with Subsection A of 8.139.120.9 NMAC. ~~[to be completed in the sixth month for semi-annual reporting households and the twelfth month for annual reporting households.]~~

~~[(17)]~~ **(16) Collateral contact:** means an individual or agency designated by the household to provide information concerning eligibility.

~~[(18)]~~ **(17) Communal diner:** means an individual 60 years of age or over who is not a resident of an institution or a boarding house, who is living alone or with a spouse, and elects to use SNAP benefits to purchase meals prepared for the elderly at a communal dining facility which has been authorized by USDA/FNS to accept SNAP benefits.

~~[(19)]~~ **(18) Communal dining facility:** means a public or nonprofit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for SSI recipients, and their spouses; a public or private nonprofit establishment (eating or otherwise) that feeds elderly persons or SSI recipients and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an

appropriate state or local agency to offer meals at concession prices to elderly persons or SSI recipients and their spouses. Such establishments include a facility such as a senior citizen's center, an apartment building occupied primarily by elderly persons, or any public or private nonprofit school (tax exempt) which prepares and serves meals for elderly persons.

~~[(20)]~~ **(19) Conversion factor:** means the calculation used to convert income that is received on a weekly or biweekly basis to an anticipated monthly amount.

~~[(21)]~~ **(20) Date of application:** means the date an application is received by the income support division offices during regular business hours. Applications that are dropped off or submitted electronically after regular business hours will be considered received as of the next business day.

~~[(22)]~~ **(21) Date of admission:** means the date established by the United States citizenship and immigration services as the date an alien (or sponsored alien) was admitted for permanent residence.

~~[(23)]~~ **(22) Date of entry:** means the date established by the United States citizenship and immigration services as the date an alien (or sponsored alien) was admitted for permanent residence.

~~[(24)]~~ **(23) Disability:** means the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment.

~~[(25)]~~ **(24) Disabled member:** see elderly or disabled member.

~~[(26)]~~ **(25) Documentation:** means a written statement entered in the paper or electronic case record regarding the type of verification used and a summary of the information obtained to determine eligibility.

~~[(27)]~~ **(26) Drug addiction or alcoholic treatment and rehabilitation program:** means any drug addiction treatment or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center under part B of title XIX of the Public Health Service Act (42 U.S.C. 3004 et seq.)

~~[(28)]~~ **(27) Elderly or disabled member:**

(a) **Elderly:** means an individual 60 years or older.

(b) **Disabled:** means a person who meets any of the following

standards:

(i) receives supplemental security income (SSI) under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;

(ii) receives federally or state administered supplemental benefits under section 1616a of the Social Security Act, provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;

(iii) receives federally or state administered supplemental benefits under section 211(a) of Pub. L. 93-66, supplemental security income benefits for essential persons;

(iv) receives disability retirement benefits from a government agency (e.g. civil service, ERA, and PERA) because of a disability considered permanent under section 221(i) of the Social Security Act;

(v) is a veteran with a service-connected or non-service connected disability rated by the veterans administration (VA) as total or paid as total by the VA under title 38 of the United States Code;

(vi) is a veteran considered by the VA to be in need of regular aid and attendance or permanently homebound under title 38 of the United States code;

(vii) is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently homebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States code;

(viii) is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for service-connected death or pension benefits for a non-service-connected death under title 38 of the United States code and has a disability considered permanent under section 221(i) of the Social Security Act ("entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated, or have been approved for such payments, but are not yet receiving them); or

(ix) receives an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive medicare by the railroad retirement board, or section 2(a)(i)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act;

(x) is a recipient of interim assistance benefits pending the receipt of supplemental security income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based state general assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the state agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).

~~[(29)]~~ **(28) Eligible foods:** means:

(a) any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot-food products prepared for immediate consumption;

(b) seeds and plants to grow foods for the personal consumption of eligible households;

(c) meals prepared and delivered by an authorized meal delivery service to households eligible to use SNAP benefits to purchase delivered meals, or meals served by an authorized communal dining facility for the elderly, for SSI households, or both, to households eligible to use SNAP benefits for communal dining;

(d) meals prepared and served by a drug addict or alcoholic treatment and rehabilitation center to eligible households;

(e) meals prepared and served by a group living arrangement facility to residents who are blind or disabled as found in the definition of "elderly or disabled member" contained in this section;

(f) meals prepared and served by a shelter for battered women and children to its eligible residents; and

(g) in the case of homeless SNAP households, meals prepared and served by an authorized public or private nonprofit establishment (e.g. soup kitchen, temporary shelter) approved by HSD that feeds homeless persons.

~~[(30)]~~ **(29) Encumbrance:** means debt owed on property.

~~[(31)]~~ **(30) Equity value:** means the fair market value of property, less any encumbrances owed on the property.

~~[(32)]~~ **(31) Excluded household members:** means individuals residing within a household who are excluded when determining household size, the SNAP benefit amount or the appropriate maximum food stamp allotment (MFSA). These include ineligible aliens, individuals disqualified for failure to provide an SSN or to comply with the work requirements, and those disqualified for intentional program violation. The resources and income (counted in whole or in part) of these individuals shall be considered available to the remaining household members.

~~[(33)]~~ **(32) Expedited services:** means the process by which households reporting little or no income or resources shall be provided an opportunity to participate in the FSP, no later than the seventh calendar day following the date the application was filed.

~~[(34)]~~ **(33) Expungement:** means the permanent deletion of SNAP benefits from an EBT account that is stale.

~~[(35)]~~ **(34) Fair hearing:** an administrative procedure during which a claimant or the claimant's representative may present a grievance to show why he/she believes an action or proposed action by HSD is incorrect or inaccurate.

~~[(36)]~~ **(35) Fair market value (FMV):** means the amount an item can be expected to sell for on the open market.

~~[(37)]~~ **(36) FNS:** means the food and nutrition service of the United States department of agriculture (USDA).

~~[(38)]~~ **(37) Food Stamp Act:** the Food and Nutrition Act of 2008, and subsequent amendments.

~~[(39)]~~ **(38) Fraud:** intentionally making a misrepresentation of, or failing to disclose, a material fact: with the knowledge that such a fact is material (necessary to determine initial/ongoing eligibility or benefit entitlement); and with the knowledge that the information is false; and with the intent that the information be acted upon (deceive/cheat); with reasonable reliance on the person who hears the information to accept it as the truth.

~~[(40)]~~ **(39) Full time employment:** means working 30 hours or more per week, or earning income equivalent to the federal minimum wage multiplied by 30 hours.

~~[(41)]~~ **(40) General assistance (GA) households:** means a household in which all members receive cash assistance financed by state or local funds.

~~[(42)]~~ **(41) Gross income:** means the total amount of income that a household is entitled to receive before any voluntary or involuntary deductions are made, such as, but not limited to, federal and state taxes, FICA, garnishments, insurance premiums (including medicare), and monies due and owing the household, but diverted by the provider. Gross income does not include specific income exclusions, such as, but not limited to, the cost of producing self-employment income, and income excluded by federal law.

~~[(43)]~~ **(42) Group living arrangements:** means a residential setting that serves no more than sixteen residents that is certified by DOH under regulations issued under section 1616(e) of the Social Security Act, or under standards determined by the secretary to be comparable to standards implemented by appropriate state agencies under section 1616(e) of the Social Security Act. To be eligible for SNAP benefits, a resident shall be living in a public or private non-profit group living arrangement and

must be blind or disabled as defined in the definition of "elderly or disabled member" set forth at (i) through (x) of Subparagraph (b) of Paragraph (25) of Subsection A of 8.139.100.7 NMAC.

~~[(44)]~~ **(43) Head of household:** the household is the basic assistance unit for the SNAP program. The household has the right to select the head of household in accordance with CFR 273.1 (d).

~~[(45)]~~ **(44) Homeless individual:** means an individual who lacks a fixed and regular nighttime residence, or an individual whose primary nighttime residence is:

(a) a supervised shelter providing temporary accommodations (such as a welfare hotel or congregate shelter);

(b) a halfway house or similar institution providing temporary residence for individuals intended to be institutionalized;

(c) a temporary accommodation for no more than 90 days in the residence of another individual, beginning on the date the individual moves into the temporary residence; or

(d) a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (e.g. a hallway, a bus station, a lobby or similar places).

~~[(46)]~~ **(45) Homeless meal provider:** means a public or private nonprofit establishment, (e.g., soup kitchen, temporary shelter), approved by an appropriate state agency, that feeds homeless persons.

~~[(47)]~~ **(46) Immigrant:** means a lawfully admitted alien who entered the U.S. with the expressed intention of establishing permanent residence as defined in the federal act.

~~[(48)]~~ **(47) Ineligible alien:** means an individual who does not meet the eligible alien requirements or who is not admitted for permanent residence.

~~[(49)]~~ **(48) Income:** means all monies received by the household from any source, excluding only the items specified by law or regulation. Income is also defined as any monetary gain or benefit to the household.

~~[(50)]~~ **(49) Income and eligibility verification system:** means a system of information acquisition and exchange for purposes of income and eligibility verification which meets the requirements of section 1137 of the Social Security Act, referred to as IEVS.

~~[(51)]~~ **(50) Initial month:** means the first month for which a first-time household is certified for participation in SNAP. An initial month is also a month in which a household is certified following a break in participation of one calendar month or longer. For migrant or seasonal farm worker households, an initial month shall only be considered if there has been an interruption in certification of at least one calendar month.

~~[(52)]~~ **(51) Inquiry:** means a request for information about eligibility requirements for a cash, medical, or food assistance program that is not an application (although the inquiry may be followed by an application).

~~[(53)]~~ **(52) Institution of higher education:** means certain college-level institutions, such as vocational schools, trade schools, and career colleges that award academic degrees or professional certifications.

~~[(54)]~~ **(53) Institution of post-secondary education:** means any public or private educational institution that normally requires a high school diploma or equivalency certificate for enrollment, or that admits persons who are beyond the age of

compulsory school attendance in the state in which the institution is located regardless of the high school prerequisite, provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or provides a program of training to prepare students for gainful employment.

~~[(55)]~~ **(54) Irrevocable trust:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

~~[(56)]~~ **(55) Issuance month:** means the calendar month for which SNAP is issued. In prospective budgeting, the budget and issuance months are the same. In retrospective budgeting, the issuance month follows the budget month.

~~[(57)]~~ **(56) Low-income household:** means a household whose annual income does not exceed one hundred and twenty-five percent of the office of management and budget poverty guideline.

B. Definitions M-Z:

(1) Maintenance of effort (MOE): means the amount of general funds the state agency must expend annually on the four purposes of temporary assistance for needy families (TANF) to meet a minimum expenditure requirement based on a state's historical assistance to families with dependent children (AFDC) expenditures.

(2) Maximum food stamp allotment (MFSA): means the cost of the diet required to feed a family of four persons consisting of a man and a woman 20 through 50, a child six through eight, and a child nine through 11 years of age. The cost of such a diet shall be the basis for uniform SNAP benefit amounts for all households, regardless of their actual composition. In order to develop maximum SNAP benefit amounts, the USDA makes adjustments for household size taking into account the economies of scale and other adjustments as required by law. The MFSA is used to determine if a boarder is paying reasonable compensation for services. The maximum SNAP allotment (MFSA) was previously named the thrifty food plan (TFP).

(3) Meal delivery service: means a political subdivision, a private nonprofit organization, or a private establishment with which a state or local agency has contracted for the preparation and delivery of meals at concession prices to elderly persons, and their spouses, and to the physically or mentally handicapped, and to persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

(4) Medicaid: medical assistance under title XIX of the Social Security Act, as amended.

(5) Migrant/migrant household: means an individual who travels away from home on a regular basis with a group of laborers to seek employment in an agriculturally related activity. A migrant household is a group that travels for this purpose.

(6) Mixed households: means those households in which some but not all of the members receive cash assistance benefits.

(7) Net monthly income: means gross nonexempt income minus the allowable deductions. It is the income figure used to determine eligibility and SNAP benefit amount.

(8) Non-cash assistance (NCA) households: means any household, which does not meet the definition of a cash assistance household, including households composed of both cash assistance and NCA members (mixed household). Same as non-financial households (NFA).

(9) **Non-cash TANF/MOE benefit or service:** means non-cash TANF/MOE benefit or services include programs or services that do not provide cash to recipients, but are funded by the TANF program, either by the federal TANF block grant or the state MOE share. These services may include transportation, childcare, counseling programs, parenting programs, pamphlets or referrals to other TANF/MOE-funded services.

(10) **Non-financial assistance (NFA) households:** means any household, which does not meet the definition of a financial assistance household, including households composed of both cash assistance and NFA members (mixed household). NFA has the same meaning as non-cash households (NCA).

(11) **Nonhousehold members:** means persons residing with a household who are specifically excluded by regulation from being included in the household certification, and whose income and resources are excluded. Nonhousehold members include roomers, boarders, attendants, and ineligible students. Included in this classification are institutionalized household members such as children attending school away from home and members who are hospitalized or in a nursing home.

(12) **Notice:** means written correspondence that is generated by any method including handwritten, typed or electronic, delivered to the client or an authorized representative by hand, U.S. mail, professional delivery or by any electronic means. The term "written notice" and "notice" are used interchangeably.

(13) **Notice of adverse action (NOAA):** means a notice informing the household that an action is being taken by the department that adversely affects eligibility or the amount of benefits a household receives, including withholding, suspending, reducing or terminating benefits. The NOAA shall be issued to the household before taking the adverse action. Benefits will not be reduced until 13 days from the date on the adverse action. If the 13th day falls on a weekend or holiday, the next working day is counted as the last day of the 13-day adverse action period.

(14) **Over-issuance:** means the amount by which SNAP benefits issued to a household exceed the amount the household was eligible to receive.

(15) **Period of intended use:** means the month in which the benefits are issued if issued before the 20th of the month. For benefits issued after the 20th of the month, the period of intended use is the rest of the month and the following month.

(16) **Principal wage earner:** means the household member with the greatest amount of earned income in the two months preceding a determination that a program rule has been violated. This applies only if the employment involves 20 hours or more a week or pays wages equivalent to the federal minimum wage multiplied by 20 hours. In making this evaluation, the entire household membership shall be considered, even those who are excluded or disqualified but whose income must be counted for eligibility and benefit amount determination. For purposes of determining noncompliance with the SNAP work requirements, including employment and training components, voluntary quit, and work-fare, the head of household is the principal wage earner unless the household has selected an adult parent of children (of any age) or an adult with parental control over children (under age 18) as the designated head of household as agreed upon by all adult members of the household. A person of any age shall not be considered the principal wage earner if the person is living with a parent or person fulfilling the role of parent or the parent or parent-substitute is:

- (a) registered for employment;
- (b) exempt because of Title IV compliance;

- (c) in receipt of UCB or is registered as part of the UCB process; or
- (d) employed or self-employed a minimum of 30 hours a week or receiving income at the federal minimum hourly rate multiplied by 30 hours.
- (17) **Prospective budgeting:** means the computation of a household's eligibility and benefit amount based on a reasonable estimate of income and circumstances that will exist in the current month and future months.
- (18) **Quality control (QC):** means the federal mandate, as part of the performance reporting system whereby each state agency is required to review a sample of active cases for eligibility and benefit issuance, and to review a sample of negative cases for correct application of policy. The objectives are to determine a state's compliance with the Food Stamp Act and CFR regulations, and to establish the basis for a state's error rate, corrective action to avoid future errors, and liability for errors in excess of national standards, or eligibility for enhanced federal funding if the error rate is below national standards.
- (19) **Real property:** means land, buildings, and whatever is built on or affixed to the land.
- (20) **Recipient:** means a person receiving SNAP benefits. Recipient is the same as participant.
- (21) **Refugee:** means a lawfully admitted individual granted conditional entry into the U.S.
- (22) **Reasonable compensation:** means a boarder payment amount that equals or exceeds the MFSA for the number of boarders.
- ~~[(23) **Regular reporting:** means a reporting requirement in which a household is not required to meet semiannual reporting requirements, but must report a financial or non-financial change within 10 days of the date the change becomes known to the household.~~
- ~~(a) A financial change becomes known to the household when the household receives the first payment attributed to an income or resource change, or when the first payment is made for an allowable expense.~~
- ~~(b) A non-financial change, including but not limited to, a change in household composition or a change in address, becomes known to the household on the date the change takes place.]~~
- ~~(24)~~ (23) **Retail food store:** means:
- (a) an establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume, as determined by visual inspection, sales records, purchase records, or other inventory or accounting record keeping methods that are customary or reasonable in the retail food industry, is more than fifty percent staple food items for home preparation and consumption;
- (b) public or private communal dining facilities and meal delivery services; private nonprofit drug addict or alcoholic treatment and rehabilitation programs; publicly operated community mental health centers which conduct residential programs for drug addicts or alcoholics;
- (c) public or private nonprofit group living arrangements, or public or private nonprofit shelters for battered women and children, or public or private nonprofit establishments, approved by HSD, or a local agency, that feed homeless persons;

(d) any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; a farmer's market.

~~[(25)]~~ (24) **Retrospective budgeting:** means the computation of a household's benefits for an issuance month based on actual income and circumstances that existed in the previous month, the "budget" month.

~~[(26)]~~ (25) **Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income and who does not have the usual withholding deducted from this income. Self-employed individuals are not eligible to draw UCB by virtue of their job efforts.

~~[(27)]~~ **Semiannual reporting:** means a reporting requirement that allows a 12-month certification period and requires a household to submit a report in the sixth month of the certification period. The household is required to report changes during the certification period in accordance with regulation at 8.139.120 NMAC.]

~~[(28)]~~ **Simplified reporting:** means an alternative change reporting requirement for households that receive SNAP benefits.]

~~[(29)]~~ (26) **Shelter for battered women and children:** means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

(27) **Simplified reporting: an alternative change reporting requirement for households that receive SNAP benefits.**

~~[(30)]~~ (28) **Sponsor:** means a person who executed an affidavit(s) of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission to the United States as a permanent resident.

~~[(31)]~~ (29) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Subsection 101(a)(15) and Subsection 101(a)(2) of the Immigration and Nationality Act.

~~[(32)]~~ (30) **Spouse:** means either of two individuals who:
(a) would be defined as married to each other under applicable state law; or

(b) are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

~~[(33)]~~ (31) **Stale:** means EBT accounts which have not been accessed or had any withdrawal activity by the household for 90 days from the most recent date of withdrawal.

~~[(34)]~~ (32) **Standard utility allowance (SUA):** means an average utility amount used year round that includes the actual expense of heating and cooling fuel, electricity (apart from heating or cooling), the basic service fee for one telephone, water, sewerage, and garbage and trash collection. This amount is adjusted annually to reflect changes in expenses. A cooling expense is a verifiable utility expense relating to the operation of air conditioning.

~~[(35)]~~ (33) **State wage information collection agency:** means for New Mexico the department of workforce solutions, employment security division (ESD) which administers the state employment compensation law and provides a quarterly report of employment related income and eligibility data.

~~[(36)]~~ (34) **Striker:** means anyone involved in a strike or concerted

work stoppage by employees (including stoppage due to the expiration of a collective bargaining agreement) and any concerted slow down or other concerted interruption of operations by employees.

~~[(37)]~~ **(35) Student:** means an individual attending at least half time, as defined by the institution any kindergarten, preschool, grade school, high school, vocational school, technical school, training program, college, or university.

~~[(38)]~~ **(36) Supplemental nutrition assistance program (SNAP):** The Food and Nutrition Act of 2008 changed the federal name of the food stamp program to the supplemental nutrition assistance program. SNAP is synonymous with the food stamp program.

~~[(39)]~~ **(37) Supplemental nutrition assistance program trafficking:** means:

(a) The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(b) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;

(c) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(d) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(e) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

~~[(40)]~~ **(38) Supplemental security income (SSI):** means monthly cash payments made under the authority of:

(a) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; or

(b) section 1616(a) of the Social Security Act; or

(c) section 212(a) of P.L. 93-66.

~~[(41)]~~ **(39) SSI household:** means a household in which all members are applicants or recipients of SSI. An SSI household may also apply for SNAP through a social security office. The application must be forwarded to the appropriate SNAP (ISD) office for processing. SSI households are categorically eligible.

~~[(42)]~~ **(40) Supplementary unemployment benefits (SUB):** part of the guaranteed annual wage provisions in the auto industry whereby the company supplements state UCB to insure that laid off workers receive a guaranteed amount of income during the layoff period.

~~[(43)]~~ **(41) Thrifty food plan (TFP):** see maximum food stamp allotment.

~~[(44)]~~ **(42) Transitional housing:** means housing for which the purpose is to facilitate the movement of homeless individuals and families to permanent

housing within 24 months, or such longer period as is determined necessary. All types of housing meant to be transitional should be considered as such for the purpose of determining exclusion. The definition does not exclude specific types of housing and does not require the presence of cooking facilities in a dwelling.

~~[(45)]~~ (43) **Vehicles:** means a mode of transportation for the conveyance of passengers to or from employment, daily living, or for the transportation of goods. Boats, trailers and mobile homes shall not be considered vehicles, for purposes of SNAP.

~~[(46)]~~ (44) **Verification:** means the use of third-party information or documentation to establish the accuracy of statements on the application.
[8.139.100.7 NMAC - Rn, 8.139.650.7 NMAC & A, 02/14/2002; A, 01/01/2004; A, 02/28/2007; A/E, 10/15/2008; A, 04/01/2010; A, 07/15/2013; A, 06/01/2017]

8.139.100.8 ABBREVIATIONS & ACRONYMS:

A. Abbreviations and acronyms:

- (1) **ABAWD:** able bodied adults without dependents
- (2) **AFDC:** aid to families with dependent children (replaced by

TANF effective July 1, 1997)

~~[(3)]~~ ~~AR:~~ ~~annual reporting]~~

~~[(4)]~~ (3) **BIA-GA:** bureau of Indian affairs-general assistance

~~[(5)]~~ (4) **CA:** cash assistance (same as financial assistance)

~~[(6)]~~ (5) **CE:** categorical eligibility or categorically eligible

~~[(7)]~~ (6) **CFR:** code of federal regulations

~~[(8)]~~ (7) **CPI-U:** consumer price index for urban consumers

~~[(9)]~~ (8) **CS:** child support

~~[(10)]~~ (9) **CSED:** (HSD) child support enforcement division

~~[(11)]~~ (10) **CYFD:** (New Mexico) children youth & families

department

~~[(12)]~~ (11) **DOH:** (New Mexico) department of health

~~[(13)]~~ (12) **DOJ:** (United States) department of justice

~~[(14)]~~ (13) **DOL:** (New Mexico) department of labor

~~[(15)]~~ (14) **DOT:** dictionary of occupational titles

~~[(16)]~~ (15) **DRIPS:** disqualified recipient information processing

system

~~[(17)]~~ (16) **E&T:** employment and training

~~[(18)]~~ (17) **EBT:** electronic benefit transfer

~~[(19)]~~ (18) **EC:** employment counselor

~~[(20)]~~ (19) **EI:** earned income

~~[(21)]~~ (20) **EW:** eligibility worker (now FAA or caseworker)

~~[(22)]~~ (21) **FA:** financial assistance (same as cash assistance)

~~[(23)]~~ (22) **FAA:** family assistance analyst (caseworker)

~~[(24)]~~ (23) **FCS:** food and consumer services of the USDA, now FNS

~~[(25)]~~ (24) **FFY:** federal fiscal year

~~[(26)]~~ (25) **FMV:** fair market value

~~[(27)]~~ (26) **FNS:** food and nutrition service

~~[(28)]~~ (27) **FSP:** food stamp program

~~[(29)]~~ (28) **GA:** general assistance

~~[(30)]~~ (29) **GED:** general equivalency degree

[(31)] (30) HHS: (U.S.) health and human services
 [(32)] (31) HSD: (New Mexico) human services department
 [(33)] (32) HUD: (U.S.) housing and urban development
 [(34)] (33) IEVS: income and eligibility verification system
 [(35)] (34) IPV: intentional program violation
 [(36)] (35) ISD: (HSD) income support division
 [(37)] (36) ISD2: integrated services delivery for ISD
 [(38)] (37) ISS: income support specialist (now FAA or caseworker)
 [(39)] (38) JOBS: jobs opportunities and basic skills (a work program
 under AFDC)
 [(40)] (39) JTPA: Job Training Partnership Act (now WIA)
 [(41)] (40) LIHEAP: low income home energy assistance program
 [(42)] (41) LITAP: low income telephone assistance program
 [(43)] (42) MFSA: maximum food stamp allotment (benefit amount)
 [(44)] (43) MRRB: monthly reporting and retrospective budgeting
 [(45)] (44) MVD: (New Mexico) motor vehicle division
 [(46)] (45) NADA: national automobile dealers association
 [(47)] (46) NFA: nonfinancial assistance (same as non-cash assistance
 (NCA)
 [(48)] (47) NMW: New Mexico works
 [(49)] (48) QC: quality control
 (50) RR: regular reporting or regular reporters
 [(51)] (49) RSVP: retired seniors volunteer program
 [(52)] (50) SAVE: systematic alien verification for entitlements
 [(53)] (51) SNAP: supplemental nutrition assistance program
 [(54)] (52) SR: [~~semiannual~~] simplified reporting
 [(55)] (53) SSA: social security administration
 [(56)] (54) SSI: supplemental security income
 [(57)] (55) SSN: social security number
 [(58)] (56) SUA: standard utility allowance
 [(59)] (57) SWICA: state wage information collection agency
 [(60)] (58) TANF: temporary assistance to needy families (block
 grant program under Title IV-A of the Social Security Act)
 [(61)] (59) TAPP: tribal assistance project program (Navajo)
 [(62)] (60) TFP: thrifty food plan (now the maximum [~~food-stamp~~]
 SNAP allotment)
 [(63)] (61) UCB: unemployment compensation benefits
 [(64)] (62) USCIS: United States citizenship and immigration
 services
 [(65)] (63) USDA: U. S. department of agriculture
 [(66)] (64) VA: veterans administration
 [(67)] (65) WIA: Workforce Investment Act (formally JTPA)
 B. [Reserved]

[8.139.100.8 NMAC - Rn, 8.139.650.8 NMAC & A, 02/14/2002; A, 01/01/2004; A, 02/28/2007; A/E, 10/15/2008; A, 07/15/2013; A, 06/01/2017]

These are the PROPOSED amendments to 8.139.110 NMAC, Sections 5 and 11.

8.139.110.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.110.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 06/01/2017]

8.139.110.11 INTERVIEWS

A. Purpose and scope of interview: The interview is an official and confidential discussion of household circumstances with the applicant. It is intended to provide the applicant with program information, and the worker with the facts needed to make a reasonable eligibility determination. The interview is not simply to review the information on the application, but also to explore and clarify any unclear and incomplete information. The scope of the interview shall not extend beyond examination of the applicant's circumstances that directly relate to determining eligibility and benefit amounts. The interview shall be held prior to disposition of the application.

B. Joint cash assistance/SNAP interview: At initial application for cash assistance (CA), a single interview shall be conducted concurrently for both cash assistance and SNAP benefits if the client wishes to apply for both programs. Federal SNAP regulations specifically provide that applicants for both programs shall not be required to see a different ISD worker or be otherwise subjected to two interviews in order to obtain the benefits of both programs. Following the single interview, the application may be processed by separate workers to determine eligibility for SNAP benefits and cash assistance. In an expedited SNAP certification situation, a second interview is permitted if an immediate interview for cash assistance cannot be arranged.

C. Individuals interviewed: Applicants, including those who submit applications by mail, shall be interviewed in person at the local ISD office. When circumstances warrant, the household shall be interviewed by telephone, or at another place reasonably accessible and agreeable to both the applicant and ISD. The applicant may bring any person he chooses to the interview.

D. Out of office interviews:

(1) An SNAP applicant shall not be required to have an initial office interview if the applicant is unable to appoint an authorized representative and the household has no member(s) able to come to ISD because the member(s) is elderly or disabled, as defined.

(2) The initial office interview can also be waived if requested by any household that is unable to appoint an authorized representative who is willing and able to perform this function, and who lives in a location not served by a certification office.

(3) **Hardship conditions:** The office interview for SNAP households shall be waived when the applicant meets one of the following conditions:

- (a) over the age of 60;
- (b) disabled;
- (c) employed 20 or more hours per week;
- (d) has a dependent child under the age of 6;
- (e) has transportation difficulties;
- (f) illness;
- (g) care of a household member;
- (h) resides in a rural area;
- (i) prolonged severe weather;

(j) other hardship identified as situations warrant; as authorized by the county director.

(4) A face-to-face interview must be granted to any recipient who requests one.

E. Face-to-face/telephone interviews: A household must have a face-to-face interview at initial certification and at least once every 12 months thereafter.

(1) A household certified for longer than 12 months is excluded.

(2) At recertification, a household is considered to have met the face-to-face requirement when alternative recertification interviews are conducted by telephone.

(3) No household shall have the face-to-face interview waived for two consecutive recertifications.

(4) The requirement for a face-to-face interview may be waived on a case-by-case basis because of household hardship conditions.

F. Applicant information: During the application interview all reasonable steps shall be taken to make the applicant feel at ease and protect the applicant's right to privacy.

(1) All applicants shall be provided with the following information at initial certification and recertification:

(a) ISD's nondiscrimination policy and procedures;

(b) complaint and fair hearing procedures and clients' rights;

(c) program procedures, including the use of IEVS, SDX, BENDEX information, and CSED and MVD interfaces;

(d) application processing standards, including time limits;

(e) procedures in cases of over-issuance or under-issuance;

(f) requirement for cooperation with quality control reviewers (QC), including penalties for non-cooperation;

(g) work requirements and penalties for non-cooperation, including voluntary quit and associated penalties;

(h) responsibility to contact the local ISD office to reschedule missed appointments; and

(i) exemption from gross receipts tax collection by the retailer on eligible food purchased with SNAP benefits.

(j) For households applying for cash assistance programs and SNAP, ISD must explain that limits and other requirements that apply to the receipt of cash benefits do not apply to the receipt of SNAP benefits.

(k) ISD has a responsibility to help applicants obtain verification if the applicant indicates that the verification may be difficult for the applicant to obtain and offer to assist with obtaining verification if it appears the household will not be able to obtain it.

(l) ISD will provide an explanation of information that still needs to be verified and how to verify in accordance with 8.100.130.9 NMAC and 8.100.130.10 NMAC.

(m) Review all information that ISD has on file and will not require further verification of eligibility factors already established that are not subject to change.

(n) ISD will review all household information received from data scans with the household during the interview and will not require further verification unless it is questionable or outdated.

~~[(o) Certified change reporting requirements for households assigned to certified change reporting including the following:~~

~~(i) A written and oral explanation of how certified change reporting works as defined at 8.139.120.12 NMAC;~~

~~(ii) A written and oral explanation of the reporting requirements which includes: what needs to be reported and verified; how to obtain assistance; timeframe for reporting changes; and the consequences of failing to report. Certified change reporting requirements are found at 8.139.120.12 NMAC.]~~

~~[(p)] (o) Simplified reporting requirements for those households assigned [or transferred] to simplified reporting including the following:~~

~~(i) A written and oral explanation of how simplified reporting works as defined at 8.139.120.9 NMAC;~~

~~(ii) A written and oral explanation of the reporting requirements which includes: what needs to be reported and verified; when the report is due; how to obtain assistance; and the consequences of failing to file a report. Simplified reporting requirements are found at 8.139.120.9 NMAC.~~

(2) Fair hearing information:

(a) Notification of right to request hearing: At the time of application each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or representative, such as a legal counsel, relative, friend or other individual.

(b) Periodic notification: At any time a household informs the local office that it disagrees with an HSD action, the household shall be reminded of the right to request a fair hearing.

(c) Forwarding hearing request: A request for a hearing made either orally or in writing by a household or representative shall be forwarded to the fair hearings bureau. If it is unclear from a request what action a household or representative wishes to appeal, a clarification may be requested by HSD. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

(d) Providing a hearing: The fair hearing process shall be available to any household which feels an action taken by HSD is incorrect, and which affects participation of the household in the SNAP.

(e) Other representation: If there is an individual or organization available that provides free legal representation, the household shall be informed of the availability of that source.

(3) Agency conference information: A household shall be informed of the availability of an agency conference to resolve a dispute. HSD shall schedule an agency conference for a household when a dispute arises.

(a) Denial of expedited service: An agency conference shall be offered to a household which wishes to contest a denial of expedited service. An agency conference for such a household shall be scheduled within two working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

(b) **Adverse actions:** ISD may also offer an agency conference to a household adversely affected by an ISD action.

(c) **Use of agency conference:** ISD shall inform a household that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

G. Scheduling interviews: ISD will schedule an interview to be held within 10 working days of the date the application was received that is, to the extent possible, convenient for both the applicant and ISD. The application received date is the first day the application is received within regular business hours. ISD will provide the applicant with a written appointment letter that will include: the date, time and place of the appointment, the name and telephone number of the local county office, the consequences of missing an appointment, how to reschedule an appointment, the possibility of a telephone interview, and that the spouse, any other responsible person in the household, or an authorized representative may attend the interview with the applicant or in the applicant's place.

H. Missed interviews: ISD shall notify a household that it missed its first interview appointment and that the household is responsible for rescheduling a missed interview. ISD shall send the household a notice of missed interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the ISD shall schedule a second interview. The household is responsible for rescheduling a missed interview. If the household requests a second interview ISD within the 30-day application-processing period, ISD shall schedule a second interview. When the applicant contacts the local ISD office, either orally or in writing, ISD shall reschedule the interview as soon as possible within the 30-day processing period, without requiring the applicant to provide good cause for failing to appear. If the household is determined eligible, benefits will be pro-rated from the date of application. If the applicant does not contact the office or does not appear for the rescheduled interview, the application shall be denied on the 30th day (or the next work day) after the application was filed (see Section 8.139.110.12 NMAC).

[02/01/95, 06/01/95, 10/01/95, 06/01/99; 8.139.110.11 NMAC - Rn, 8 NMAC 3.FSP.113, 05/01/2001; A, 02/14/2002; A, 01/01/2004; A, 08/01/2008; A, 03/01/2017; A, 06/01/2017]

These are the PROPOSED amendments to 8.139.120 NMAC, Sections 5, 9, 10, 11 and 12.

8.139.120.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.120.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001]

8.139.120.9 [SIMPLIFIED REPORTING: ~~Simplified reporting includes two types of reporting requirements for households that receive food stamp benefits semiannual and annual reporting.~~

~~_____ A. _____ Household responsibilities at application:~~

~~_____ (1) _____ An applicant must report all changes affecting eligibility and food stamp 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 must be reported by the household subject to simplified reporting requirements contained in this section.~~

~~**B. Households excluded from simplified reporting:** The following household are excluded from simplified reporting, shall be certified for no longer than three months and are subject to the reporting requirements at 8.139.120.12 NMAC:~~

~~(1) A household determined by the county director to have insufficient stability and warrants an alternative reporting requirement.~~

~~(2) A household that reports an imminent change in residence to another state.~~

~~**C. Certification periods for households assigned to simplified reporting:**~~

~~(1) The following households shall be assigned a semiannual 12 month reporting period with an interim report due at 6 months:~~

~~(a) a household in which all members are ABAWDs;~~

~~(b) a household in which all members are elderly or disabled with earned income;~~

~~(c) a household in which all members are migrant or seasonal farm workers.~~

~~(2) A household in which all members are elderly or disabled as defined at 8.139.100.7 NMAC or are determined to be categorically eligible as defined at Subsection A of 8.139.420.8 NMAC shall be assigned a 24-month reporting period with an interim report due at 12 months.~~

~~(3) A household may report an increase in medical expenses for a household member eligible to claim a medical deduction. Food stamp benefits will be adjusted in the month following the month in which the change is reported and verified by the caseworker.~~

~~(4) The household's food stamp benefit amount will be adjusted in accordance with the mass change requirements as set forth in 8.139.120.13 NMAC.~~

~~**D. Applicant household:** A household that is approved for food stamp benefits on or after October 1, 2008 shall be assigned a certification period in accordance with the household's circumstances as stated at Subsection C of 8.139.120.9 NMAC, retroactive to the month of application.~~

~~**E. Participating household:** If a household reports a change that makes them ineligible for simplified reporting, they shall be assigned an alternative reporting period when they file an interim report or recertify, whichever comes first.~~

~~**F. Reporting changes for simplified reporting households:** A household assigned to simplified reporting must report, during its certification period, when the household's income reaches or exceeds the food stamp program monthly gross income limit for the size of the household. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.]~~

~~**SIMPLIFIED REPORTING:** All households will be assigned to simplified reporting (SR). Households must submit an interim report once every six or twelve months, depending on their certification period. Households assigned to a 12-month certification period have an interim report form due at six months.~~

~~**A. Household Certification Periods:** A household that is approved for SNAP benefits shall be assigned the longest certification period possible in accordance with the household's circumstances. Households wherein all adult members are elderly or disabled, with no earned income, will be assigned a 24-month certification period. All other households will be assigned a 12-month certification period.~~

B. Household responsibility to turn in interim report form:

(1) A household assigned to a 12-month certification period shall be required to file an interim report form no later than the tenth day of the sixth month of the certification period.

(2) A household assigned to a 24-month certification period shall be required to file an interim report form no later than the tenth day of the twelfth month of the certification period.

C. Information that ISD is responsible to provide to households regarding simplified reporting: At the initial certification and at recertification, ISD shall provide the household with the following:

(1) A written and oral explanation of how simplified reporting works;

(2) A written and oral explanation of the reporting requirements including:

(a) what needs to be reported and verified;

(b) when the interim report form is due;

(c) how to obtain assistance; and

(d) the consequences of failing to file an interim report form.

D. Information requirements for the interim report form: The interim report form will be written in clear, simple language, include information on the availability of a Spanish version of the document described in 7 CFR 272.4(b), and shall specify:

(1) the deadline date to submit the form to ISD to ensure uninterrupted benefits if the household is determined eligible;

(2) the consequences of submitting a late or incomplete form including whether ISD shall delay benefits if the form is not received by the due date;

(3) verification that may be needed with the form;

(4) a statement to be signed by a member of the household indicating his or her understanding that the information provided may result in a reduction or termination of benefits;

(5) where to call for help in completing the form;

(6) a statement explaining that ISD will not change certain deductions until the household's next recertification and identify those deductions if ISD has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c) of section 7 CFR 273.12;

(7) a brief explanation of fraud penalties; and

(8) how the agency may use social security numbers.

E. The following information, along with required verification, must be returned to ISD with the interim report form:

(1) a change of more than one hundred dollars (\$100.00) in the amount of unearned income, except changes relating to public assistance (PA) or general assistance (GA) programs when jointly processed with SNAP cases;

(2) a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

(3) changes in either:

(a) the wage rate or salary or a change in full-time or part-time employment status as defined in 8.102.461.11(C) NMAC, provided the household is certified for no more than six months; or

(b) a change in the amount earned of more than one hundred dollars (\$100) a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.

(4) all changes in household composition, such as the addition or loss of a household member;

(5) changes in residence and the resulting shelter costs;

(6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at 8.139.420.8 and 9 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed the resource limit set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at 8.139.420.8 and 9 NMAC;

(8) changes in the legal obligation to pay child support; and

(9) for able-bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged monthly, as defined in 7 CFR 273.24(a)(1)(i).

F. ISD's responsibility with interim report forms:

(1) Interim report form is not received: If a household fails to file a report by the specific filing date, defined in Subsection E of 8.139.120.11 NMAC, ISD will send a notice to the household advising of the missing report no later than 10 calendar days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation shall be terminated.

(2) Incomplete interim report form is received:

(a) An interim report form that is not signed shall be returned to the household for a signature. The household:

(i) shall be notified that the form is incomplete;

(ii) what needs to be completed to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the signed interim report form to be reviewed for completeness.

(b) An interim report form that is incomplete because required verification is not provided shall not be returned to the household. The household:

(i) shall be notified that the form is incomplete;

(ii) what information must be provided to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the verification to process the interim report form.

(3) Complete interim report form is received:

(a) A form that is complete and all verifications are provided, shall be processed within 10 calendar days of receipt.

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:

(i) shall be notified that verification is questionable; and

(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.

(c) A deduction that is verified within the month the interim

report form is due shall be processed as part of the interim report form.

(d) A deduction that is verified in the month after the interim report form is due shall be processed as a change reported by the household.

(e) If the household files a timely and complete report resulting in reduction or termination of benefits, ISD shall send a notice of case action. The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient information or verification regarding a deductible expense, ISD will not terminate the household, but will instead determine the household's benefits excluding the deduction from the benefit calculation.

G. Changes that must be reported at any time during certification period: Households must report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household has at least 10 calendar days within which to report the change. The interim report form is the sole reporting requirement for any information that is required to be reported on the form, except that a household must report at any time during the certification period:

(1) The household must report when its monthly gross income exceeds 130 percent of poverty level. The household shall use the monthly gross income limit for the household size that existed at the time of certification or recertification regardless of any subsequent changes to its household size; and

(2) Able-bodied adults subject to the time limit in accordance with 7 CFR 273.24 shall report whenever their work hours fall below 20 hours per week, averaged monthly.

H. Action on changes reported outside of the interim report form: In addition to changes that must be reported in accordance with Subsection E of 8.139.120.11 NMAC, ISD must act on changes in between interim report forms, if it would increase the household's benefits. ISD shall not act on changes that would result in a decrease in the household's benefits unless:

(1) The household has voluntarily requested that its case be closed;

(2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined:

(a) information is not questionable; and

(b) the provider of the information is the primary source of information; or

(c) the recipient's attestation exactly matches the information received from a third party.

(3) A household member has been identified as a fleeing felon or probation violator in accordance with 7 CFR 273.11(n);

(4) There has been a change in the household's cash grant, or where cash and SNAP cases are jointly processed in accordance with 7 CFR 273.2(j)(2).

I. Responsibilities on reported changes outside of the interim report form: When a household reports a change, ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 working days of the date the change is reported.

(1) During the certification period, action shall not be taken on changes to medical expenses of households eligible for the medical expense deduction which ISD learns of from a source other than the household and which, in order to take action, requires ISD to contact the household for verification. ISD shall act only on those

changes in medical expenses that it learns about from a source other than the household, if those changes are verified upon receipt and do not necessitate contact with the household.

(2) **Decreased or termination of benefits:** For reported and verified changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

(a) Issue a notice of adverse action within 10 calendar days of the date the change was reported and verified unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.

(b) When a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

(c) When a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(3) **Increased benefits:** For reported and verified changes that result in an increase of household benefits, ISD shall act on the change as follows:

(a) For changes which result in an increase in a household's benefits, other than changes described in paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD.

(b) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, ISD shall make the change effective not later than the first allotment issued 10 calendar days after the date the change was reported.

(i) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(ii) If the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the tenth day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) **No change in SNAP benefit amount:** When a reported change has no effect on the SNAP benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(5) **Providing verification:** The household shall be allowed 10 calendar 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 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' SNAP benefit amount shall revert to the original benefit amount.

J. **Resolving unclear information:** During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD

cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure in accordance with 8.100.130.12 NMAC:

K. Failure to report changes: If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

(1) **Decreased benefit amount:** After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance 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 Subsection B (2) 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 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 calendar days after the date the change was reported.

[02/01/95, 10/01/95, 06/15/96, 09/14/96, 11/01/96, 07/01/98, 06/01/99; 8.139.120.9 NMAC - Rn, 8 NMAC 3 FSP.123, 05/15/2001; 8.139.120.9 - N, 02/14/2002; A, 01/01/2004; A, 07/16/2008; A, 08/15/2008; A/E, 10/15/2008; A, 12/31/2008; A, 06/01/2017]

8.139.120.10[~~REQUIREMENTS FOR SEMIANNUAL HOUSEHOLDS:~~

~~**A. Household responsibilities at application:** 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.~~

~~**B.** A household subject to semiannual reporting shall be required to file a semiannual report no later than the tenth day of the sixth month of the 12-month certification period. The following information, along with required verification, must be provided with the report:~~

~~(1) any change in household composition, whether a member has moved in or out of the home, and the date the change took place;~~

~~(2) the gross monthly income received from employment by each household member;~~

~~(3) the gross monthly unearned income received by each household member;~~

~~(4) changes in countable resources if the total of all countable resources for the food stamp household exceeds the applicable resource limit;~~

~~(5) dependent care expenses;~~

~~(6) a change in medical expenses;~~

~~(7) a change in child support obligations;~~

~~(8) student status for anyone living in the home over the age of 17 years, including but not limited to:~~

- ~~(a) a change in status from non-college to college student;~~
- ~~(b) a change in status from college student to non-college status;~~
- ~~(c) a change in post-secondary curriculum to or from at least halftime; and~~
- ~~(d) participation in or termination of work study;~~
- ~~(9) a change in immigrant (alien) status for a household member.~~

~~C. Budgeting methodology for semiannual reporting:~~

- ~~(1) Prospective budgeting shall be used for an applicant household at initial application and at recertification as set forth at 8.139.500.9 NMAC.~~
- ~~(2) Initial application: Eligibility and amount of payment for the applicant household shall be determined prospectively for the each of the first six months of the certification.~~
- ~~(3) Processing the semiannual report: Eligibility and food stamp benefit amount shall be determined prospectively for the six months following the month the semiannual report is due.~~
- ~~(4) Recertification: Eligibility and amount of payment shall be determined prospectively for each of the six months following the last month of the previous certification period.~~

~~D. Determining a household's eligibility and food stamp benefit amount:~~

- ~~(1) Income received weekly, bi-weekly, semi-monthly or monthly: The household must submit and the department shall accept as verification the income received from any consecutive 30 day period that includes 30 days prior to the month the report is due and the month the report is due.~~
- ~~(2) Income received more frequently than weekly: For households with income received more often than weekly:~~
 - ~~(a) exact income rather than averaged and converted income shall be used to determine eligibility and food stamp benefit amount; and~~
 - ~~(b) the household must submit, and the department shall accept as verification income received from any consecutive 30 day period that includes 30 days prior to the month the semiannual report is due and the month the report is due.~~
- ~~(3) If a determination is made that the use of the pay data for the budgeting methods described in (1) and (2), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; the caseworker shall use whatever method gives the most accurate estimate of earnings.~~
- ~~(4) Income received less frequently than monthly: The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover, including but not limited to income sources from sharecropping, farming, self-employment, contract income and income for a school employee or teacher who may not have a contract.~~
- ~~(5) Self employment:~~
 - ~~(a) Requirements for determination of net self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment income are set forth at Subsection B of 8.100.130.14 NMAC.~~
 - ~~(b) A household assigned to semiannual reporting that has its self-employment income annualized shall be required to report changes in self-~~

~~employment income on the semiannual report if the household has filed a tax return after its last approval or recertification of food stamps.~~

~~(c) A household assigned to semiannual reporting whose self-employment income is not annualized must report self-employment income on the semiannual report. The income reported on the semiannual report will be calculated in the following manner:~~

~~(i) When a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the six-month period covered by the semiannual report.~~

~~(ii) Seasonal income: Self-employment income that is intended to meet a household's needs for only part of the year shall be averaged over the time the income is intended to cover.~~

~~(d) A household that fails to provide verification of an allowable deduction shall not be allowed the deduction. The caseworker shall process the report if all other mandatory verification has been provided.~~

~~(6) Use of conversion factors: Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:~~

~~(a) income received on a weekly basis is averaged and multiplied by 4.0;~~

~~(b) income received on a biweekly basis is averaged and multiplied by 2.0;~~

~~(c) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.~~

~~(7) Effective April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Subsection D of 8.139.120.10 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.~~

~~(a) Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.~~

~~(b) Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.~~

~~**E. Time limits for processing a semiannual report received by the county office:**~~

~~(1) The semiannual report form and all verification provided shall be reviewed for completeness within 10 working days of receipt.~~

~~(a) A form that is complete and all verifications are provided, shall be processed within 10 working days of receipt.~~

~~(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:~~

~~(i) shall be notified that verification is questionable; and~~

~~(ii) shall be given 10 calendar days to provide the~~

verification to process the allowable deduction.

~~(e) A deduction that is verified within the month the semiannual report is due shall be processed as part of the semiannual report.~~

~~(d) A deduction that is verified in the month after the semiannual report is due shall be processed as a change reported by the household.~~

~~(2) Incomplete semiannual report is received:~~

~~(a) A semiannual report form that is not signed shall be returned to the household for a signature.~~

~~(b) A semiannual report that is incomplete because required verification is not provided shall not be returned to the household. The household shall be notified that the form is incomplete and what information must be provided to complete the semiannual report.~~

~~(3) A household must return the completed semiannual report form by the end of the month in which the report is due in order to process the report for the following month.~~

~~F. A household that fails to submit a semiannual report by the end of the month in which the report is due shall lose its right to uninterrupted benefits and shall be issued an adequate notice of closure.~~

~~G. Information requirements for the semiannual report: The semiannual report form shall specify:~~

~~(1) the deadline date to submit the form to ensure uninterrupted benefits if the household is determined eligible;~~

~~(2) the consequences of submitting a late or incomplete form;~~

~~(3) that verification of some allowable expenses may be required in order for the deduction to be allowed;~~

~~(4) where to call for help in completing the form;~~

~~(5) the consequences of providing incorrect information;~~

~~(6) the notice of rights.~~

~~H. Disaster victims: A household participating in the food stamp program and subject to semiannual reporting shall be required to comply with semiannual reporting requirements during the disaster period. The household remains responsible for submitting the required information set forth in 8.139.120.9 NMAC, to the field office that handles its ongoing case.~~

~~I. Reporting requirement for semiannual reporting households: A household assigned to semiannual reporting shall only be required to report when the household's gross income exceeds the federal poverty guidelines for the size of the household. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.~~

~~J. Action on changes reported between reporting periods for households assigned to semiannual reporting: The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:~~

~~(1) a household not entitled to CE reports income in excess of 130% of federal poverty guidelines for the size of the household;~~

~~(2) a household entitled to CE reports income in excess of 165% of federal poverty guidelines for the size of the household;~~

~~(a) a household reports or HSD receives documented evidence that the household has moved or intends to move out of the state on a specific date;~~

~~_____ (b) a household requests closure;~~
~~_____ (c) HSD receives documented evidence that the head of household has died; or~~
~~_____ (d) a household that fails to comply with work requirements as specified at 8.139.410.12 and 8.102.620.10 and 11 NMAC.~~

~~_____ (3) A newborn shall be added to the household effective the month following the month the change is reported, if the addition is reported to the agency by the household or by the hospital for medicaid purposes.~~

~~_____ (4) The loss of earned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification, whichever is first, provided that:~~

~~_____ (a) the loss of income was reported and verified by the household;~~

~~_____ (b) the loss of income was not due to voluntary quit.~~

~~_____ (5) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the household.~~

~~_____ K. Transitional food stamps: A household assigned to semiannual reporting that is approved for transitional food stamps shall have the semiannual reporting requirements terminated during the transitional food stamp benefit period.~~

~~_____ L. Action on cash assistance applications:~~

~~_____ (1) A food stamp household assigned to semiannual reporting that is later approved for cash assistance shall be required to file the scheduled semiannual report or to recertify eligibility at the intervals set at initial food stamp application. The timing of the cash certification and semiannual reporting requirements shall be set to match the requirements of the food stamp program.~~

~~_____ (2) A household assigned to semiannual reporting that is approved for TANF, GA, or EWP a day or more after food stamp approval shall have food stamp benefits adjusted in the month following the month of cash assistance approval.]~~

RESERVED

[02/01/95, 07/01/98; 8.139.120.10 NMAC - Rn & A, 8.139.120.9 NMAC, 02/14/2002; A, 01/01/2004; A/E, 10/15/2008; A, 12/31/2008; A, 04/01/2010; Repealed, 06/01/2017]

8.139.120.11 [REQUIREMENTS FOR ANNUAL REPORTING HOUSEHOLDS:

~~_____ A. Household responsibilities at application: An applicant must report all changes affecting eligibility and food stamp benefit amount that may have occurred since the date the application was filed and before the date of the certification interview. Changes occurring after the interview must be reported by the household subject to the annual reporting requirements in this section.~~

~~_____ B. Reporting requirements for annual reporting households: A household subject to annual reporting shall be required to file an annual report no later than the tenth day of the twelfth month of the 24 month certification period. The following information, along with verification, must be provided with the report:~~

~~_____ (1) any change in household composition, whether a member has moved in or out of the home, and the date the change took place;~~

~~_____ (2) the gross monthly income received from employment by each household member;~~

- ~~_____ (3) the gross monthly unearned income received by each household member;~~
- ~~_____ (4) changes in countable resources if the total of all countable resources for the food stamp household exceeds the applicable resource limit, such as but not limited to:

 - ~~_____ (a) the account number and balance for a new checking or savings account belonging to any household member; or~~
 - ~~_____ (b) the amount of any new stocks or bonds or other financial instruments belonging to any household member;~~
 - ~~_____ (5) dependent care expenses;~~
 - ~~_____ (6) expenses for shelter, utilities, and telephone, only if a change has occurred since the last certification, or a change will occur in the month following the month the report is due, including but not limited to:

 - ~~_____ (a) a change in residence;~~
 - ~~_____ (b) a change in shelter expense;~~
 - ~~_____ (c) a change in billing for utilities, but not including variances in utility bills from month to month for the same service; or~~
 - ~~_____ (d) an increase in shelter expenses that will take place in the month following the report month; or~~
 - ~~_____ (e) a termination of any shelter, utility, or telephone expense;~~~~
 - ~~or~~
 - ~~_____ (f) a new shelter or utility expense;~~
 - ~~_____ (7) a change in medical expenses;~~
 - ~~_____ (8) a change in child support obligations;~~
 - ~~_____ (9) student status for anyone living in the home over the age of 17 years, including but not limited to:

 - ~~_____ (a) a change in status from non-college to college student;~~
 - ~~_____ (b) a change in status from college student to non-college status;~~
 - ~~_____ (c) a change in post-secondary curriculum to or from at least halftime; and~~
 - ~~_____ (d) participation in or termination of work study;~~~~
 - ~~_____ (10) a change in immigrant (alien) status for a household member.~~~~

~~_____ **C. Budgeting methodology for annual reporting at initial application and interim review:**~~

- ~~_____ (1) Prospective budgeting shall be used for an applicant household at initial application and at interim review as set forth at 8.139.500.9 NMAC.~~
- ~~_____ (2) **Initial application:** At approval, eligibility and amount of payment for the applicant household shall be determined prospectively for the each of the first 12 months of the certification.~~
- ~~_____ (3) **Recertification:** At approval, eligibility and amount of payment shall be determined prospectively for each of the 12 months following the last month of the previous certification period.~~

~~_____ **D. Budgeting methodology for processing an annual report:**~~

- ~~_____ (1) **Processing the annual report:** Eligibility and food stamp benefit amount shall be determined prospectively for the 12 months following the month the annual report is due.~~
- ~~_____ (2) **Determining a household's eligibility and food stamp benefit**~~

amount:

~~(a) — Income received weekly, bi-weekly, semi-monthly or monthly: the household must submit and the department shall accept as verification the income received from any consecutive 30-day period that includes 30 days prior to the month the report is due and the month the report is due.~~

~~(b) — Income received more frequently than weekly: For households with income received more often than weekly:~~

~~(i) — exact income rather than averaged and converted income shall be used to determine eligibility and food-stamp benefit amount; and~~

~~(ii) — the household must submit, and the department shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the semiannual report is due and the month the report is due.~~

~~(c) — If a determination is made that the use of the pay data for the budgeting methods described in (a) through (b), above, does not give the most accurate estimate of monthly earnings due to unique circumstances; the caseworker shall use whatever method gives the most accurate estimate of earnings.~~

~~(d) — Income received less frequently than monthly: The amount of monthly gross income that is received less frequently than monthly shall be determined by dividing the total income by the number of months the income is intended to cover, including but is not limited to income sources from sharecropping, farming, self-employment, contract income and income for a tenured teacher who may not have a contract.~~

~~(3) — Use of conversion factors: Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:~~

~~(a) — income received on a weekly basis is averaged and multiplied by 4.0;~~

~~(b) — income received on a biweekly basis is averaged and multiplied by 2.0;~~

~~(c) — averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.~~

~~(4) — Effective April 1, 2010, changes to earned and unearned income shall be calculated using the conversion factors at Paragraph (4) of Subsection F of 8.102.120.11 NMAC provided new income is reported to the agency and verified by the household. All other households will have the income calculated at the next interim report or recertification.~~

~~(a) — Recertification and interim reports submitted prior to April 1, 2010, but processed in April 2010 or later shall be processed using the March 2010 income conversion methodology.~~

~~(b) — Changes to earned or unearned income reported prior to April 1, 2010, but processed in April 2010 or later shall be processed using the income conversion methodology applicable for the benefit month being processed.~~

~~**E. Time limits for annual report received by the county office:**~~

~~(1) — The annual report form and all required verification provided shall be reviewed for completeness within 10 working days of receipt.~~

~~(a) — A form that is complete and all required verifications are~~

~~provided, shall be processed within 10 working days of receipt.~~

~~(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable. The household:~~

~~(i) shall be notified that verification is questionable; and~~

~~(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.~~

~~(c) A deduction that is verified within the month the annual report is due shall be processed as part of the annual report.~~

~~(d) A deduction that is verified in the month after the annual report is due shall be processed as a change reported by the household.~~

~~(2) **Incomplete annual report is received:**~~

~~(a) An annual report form that is not signed shall be returned to the household for a signature.~~

~~(b) An annual report that is incomplete because required verification is not provided shall not be returned to the household. The household shall be notified that the form is incomplete and what information must be provided to complete the semiannual report.~~

~~(3) A household must return the completed annual report form by the end of the month in which the report is due in order to process the report for the following month.~~

~~F. A household that fails to submit an annual report by the end of the month in which the report is due shall lose its right to uninterrupted benefits and shall be issued an adequate notice of closure.~~

~~G. **Information requirements for the annual report:** The annual report form shall specify:~~

~~(1) the deadline date to submit the form to ensure uninterrupted benefits if the household is determined eligible;~~

~~(2) the consequences of submitting a late or incomplete form;~~

~~(3) that verification of some allowable expenses may be required in order for the deduction to be allowed;~~

~~(4) where to call for help in completing the form;~~

~~(5) the consequences of providing incorrect information;~~

~~(6) the notice of rights.~~

~~H. **Disaster victims:** A household participating in the food stamp program and subject to annual reporting shall be required to comply with annual reporting requirements during the disaster period. The household remains responsible for submitting the required information set forth in 8.139.120.11 NMAC, to the field office that handles its ongoing case.~~

~~I. **Reporting requirement for annual reporting households:** A categorically eligible household assigned to annual reporting shall have no further reporting requirement, until they must file an annual report or recertify, whichever comes first. All other households must file a report if their income exceeds 130% of the federal poverty guidelines and if the household remains eligible have no further reporting requirement until the household must file an annual report or recertify, whichever comes first. A household is required to report the change no later than 10 calendar days from the end of the calendar month in which the change occurred.~~

~~J. Action on changes reported between reporting periods for households assigned to annual reporting:~~

~~(1) The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:~~

- ~~(a) a household not entitled to categorical-eligible reports income in excess of 130% of federal poverty guidelines for the size of the household;~~
- ~~(b) a household entitled categorically eligible reports income in excess of 165% of federal poverty guidelines for the size of households;~~
- ~~(c) household reports or HSD receives documented evidence that the household has moved or intends to move out of the state on a specific date;~~
- ~~(d) a household requests closure; or~~
- ~~(e) HSD receives documented evidence that the head of household has died.~~

~~(2) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled semiannual report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the household.~~

~~(3) If a household reports a change that makes them ineligible for annual reporting, they shall be assigned an alternative reporting period when they file an annual report or recertify, whichever comes first.]~~ RESERVED

[02/01/95; 8.139.120.11 NMAC - Rn & A, 8.139.120.10 NMAC, 02/14/2002; 8.139.120.11 NMAC - N/E, 10/15/2008; A, 12/31/2008; A, 04/01/2010; Repealed, 06/01/2017]

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 households certification period, that affect eligibility or benefit amount, the caseworker shall take action to adjust the household's eligibility or 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 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;~~

~~(e) 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 \$2,250, or \$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 3-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 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 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 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 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 3 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 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 SNAP benefit amount:** When a reported change has no effect on the 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 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 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 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 SNAP benefit amount is issued to the household.] RESERVED [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, 03/01/2015; Repealed, 06/01/2017]~~

These are the PROPOSED amendments to 8.139.410, Sections 5, 9, 12, 13 and 14.

8.139.410.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.410.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001]

8.139.410.9 CITIZENSHIP AND [ALIEN STATUS] IMMIGRATION STATUS

FOR ELIGIBILITY: [~~Participation in SNAP is limited to individuals who live in the United States, and who are U.S. citizens or aliens with eligible immigration status. Among those ineligible for participation are alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in another country.] Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below.~~

~~[A. Eligibility:] No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:~~

~~(1) a U.S. citizen;~~

~~(2) a U.S. non citizen national~~

~~(3) an American Indian who is:~~

~~(a) an American Indian born in Canada who possesses at least fifty percent of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply; or~~

~~(b) a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians;~~

~~(4) Hmong or Highland Laotian who is:~~

~~(a) a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975 who is lawfully residing in the U.S.;~~

~~(b) the spouse, or surviving spouse of such Hmong or Highland~~

Laotian, or

~~(e) — an unmarried or surviving dependent child who is under the age of 18 or if a full time student under the age of 22; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday of such Hmong or Highland Laotian.~~

~~(5) — Human trafficking victim who is:~~

~~(a) — certified by the DHS, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA;~~

~~(b) — under the age of 18, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA;~~

~~(c) — the spouse, child, parent or unmarried minor sibling of a victim of a severe form of trafficking in persons under 21 years of age, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA;~~

~~(d) — the spouse or child of a victim of a severe form of trafficking in persons 21 years of age or older, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA.]~~

A. A U.S. citizen; or

B. A U.S. non-citizen national; or

C. A qualified immigrant as detailed in this subsection;

(1) lawful permanent resident;

(2) refugee or asylee;

(3) persons granted withholding of deportation or removal, conditional entrants, in effect prior to April 1, 1980, and persons paroled into the U.S. for at least one year;

(4) Cuban or Haitian entrants; or

(5) battered spouses and children with a pending or approved self-petition or immigrant visa, or application for cancellation of removal or suspension of deportation, and whose need for benefits has a substantial connection to the battery or cruelty; and parents, spouses, and children of same; and

(6) also meets the criteria in either subsection D or E below;

(7) or individuals listed in subsection F below.

D. Qualified immigrants listed in subsection C above who entered the U.S. before August 22, 1996 are eligible only if they:

(1) were 65 or older and were lawfully residing in the U.S. on September 22, 1996; or

(2) are under age 18; or

(3) have been in "qualified" immigrant status for at least five years; or

(4) lawful permanent residents who have worked or can be credited with 40 hours of qualifying quarters; or

(5) granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian immigrant; or

(6) are receiving disability-related assistance; or

(7) veteran, active duty military; spouse, un-remarried surviving spouse, or child; or

(8) member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; spouse, surviving spouse, or child of tribe member;

or

(9) certain American Indians born abroad.

E. Qualified immigrants listed in subsection C above who entered the U.S. after August 22, 1996 are eligible only if they:

(1) are under age 18; or

(2) have been in "qualified" immigrant status for at least five years; or

(3) lawful permanent residents who have worked or can be credited with 40 hours of qualifying quarters; or

(4) granted refugee or asylum status or withholding of deportation/removal, Cuban/Haitian entrant, or Amerasian immigrant, or Iraqi or Afghan special immigrant status; or

(5) are receiving disability-related assistance; or

(6) veteran, active duty military; spouse, un-remarried surviving spouse, or child; or

(7) member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; spouse, surviving spouse, or child of tribe member;

or

(8) certain American Indians born abroad.

F. An immigrant not of qualified status but meeting one of the following categories:

(1) lawfully present member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S., or a spouse, surviving spouse, or child of the tribe member; or

(2) an American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act apply; or a member of an Indian tribe as defined at section 4(e) of 25 U.S.C. 450b(e) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians; or

(3) victims of human trafficking and their derivative beneficiaries.

~~[**B. Qualified and eligible alien:** An individual who is in a qualified immigration status for SNAP eligibility as defined in Subsection B below:~~

~~(1) **Qualified Eligible Status:** An alien may qualify for participation in SNAP if the alien meets at least one of the criteria from Paragraph (1) below and one definition of "eligible alien" as defined in Paragraph (2) below:~~

~~(2) **Qualified alien:** A "qualified alien" means:~~

~~(a) an alien who is lawfully admitted for permanent residence under the INA;~~

~~(b) an alien who is granted asylum under section 208 of the INA;~~

~~(c) a refugee who is admitted to the United States under section 207 of the INA;~~

~~(d) an alien who is paroled into the U.S. under section 212(d)(5) of the INA for a period of at least one year;~~

~~(e) an alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA;~~

~~(f) an alien who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;~~

~~(g) an alien, an alien child's parents or an alien child who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of the abuse;~~

~~(h) an alien who is a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980.~~

~~(3) Eligible aliens not subject to the five year bar: A qualified alien, as defined in Paragraph (1) of this Subsection, is eligible to receive SNAP and is not subject to the requirement to be in a qualified status for five years as set forth in Subparagraph (b) of Paragraph (2) of this section, if the individual meets at least one of the criteria of Paragraph (2):~~

~~(a) an alien age 18 or older lawfully admitted for permanent residence under INA who has 40 qualifying quarters as determined under Title II of the SSA, including qualifying quarters of work not covered by Title II of the SSA, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.~~

~~(b) an alien admitted as a refugee under section 207 of the INA;~~

~~(c) an alien granted asylum under section 208 of the INA;~~

~~(d) an alien whose deportation is withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA;~~

~~(e) an alien granted status as a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980);~~

~~(f) an Amerasian admitted pursuant to section 584 of Public Law 100-202, as amended by Public Law 100-461;~~

~~(g) an alien with one of the following military connections:~~

~~(i) a veteran who was honorably discharged for reasons other than alien status, who fulfills the minimum active duty service requirements of 38 U.S.C 5303A(d), including an individual who died in active military, naval or air service;~~

~~(ii) an individual on active duty in the armed forces of the U.S. (other than for training);~~

~~(iii) the spouse or surviving spouse of a veteran or active duty military alien described above provided the spouse has not remarried;~~

~~(iv) a child or surviving child of a deceased veteran (provided such child was dependent upon the veteran at the time of the veteran's death) who is under the age of 18 (if a full time student, under the age of 22); or an unmarried disabled child age 18 or older if the child was disabled and dependent on the veteran prior to the child's 18th birthday;~~

~~(h) a qualified alien who is lawfully residing in the U.S. and is receiving benefits or assistance for blindness or disability as defined in Paragraph (23) of Subsection A of 8.139.100.7 NMAC;~~

~~(i) an individual who on August 22, 1996, was lawfully residing in the U.S., and was born on or before August 22, 1931; or~~

~~(j) an individual who is lawfully residing in the U.S. and is~~

under 18 years of age.

~~(4) Eligible aliens subject to the five year bar: The following qualified aliens, as defined in Paragraph (1) above, must be in a qualified status for five years before being eligible to receive SNAP. The five years in qualified status may be either consecutive or non-consecutive. Temporary absences of less than six months from the United States with no intention of abandoning U.S. residency do not terminate or interrupt the individual's period of U.S. residency. If the resident is absent for more than six months, ISD shall presume that U.S. residency was interrupted unless the alien presents evidence of their intent to resume U.S. residency. In determining whether an alien with an interrupted period of U.S. residency has resided in the U.S. for five years, the agency shall consider all months of residency in the U.S., including any months of residency before interruption:~~

~~(a) an alien 18 or older lawfully admitted for permanent residence under the INA;~~

~~(b) an alien who is paroled into the U.S. under section 212(d)(5) of the INA for a period of at least one year;~~

~~(c) an alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of abuse, an alien whose child has been battered or subjected to cruelty, or an alien child whose parent has been battered;~~

~~(d) an alien who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980.~~

~~(5) Quarters of coverage:~~

~~(a) SSA reports quarters of coverage through the quarters of coverage history system (QCHS).~~

~~(b) An alien lawfully admitted for permanent residence under the INA who has 40 qualifying quarters as determined under Title II of the Social Security Act, including qualifying quarters of work not covered by Title II of the Social Security Act, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.~~

~~(i) A spouse may not get credit for quarters of a spouse when the couple divorces prior to a determination of SNAP eligibility.~~

~~(ii) If eligibility of an alien is based on the quarters of coverage of the spouse, and then the couple divorces, the alien's eligibility continues until the next recertification. At that time, ISD shall determine the alien's eligibility without crediting the alien with the former spouse's quarters of coverage.~~

~~(c) Disputing quarters: If an applicant disputes the SSA determination of quarters of coverage reported by QCHS, the individual may participate for up to six (6) months pending the results of an SSA investigation. The individual or HSD must have requested an investigation from SSA in order to participate. The household is responsible for repayment of any SNAP benefits issued for such individual during the investigation if SSA determines that the individual cannot be credited with 40 quarters of coverage under Title II of the Social Security Act.~~

~~(6) Federal means tested benefit: After December 31, 1996, a quarter in which an alien received any federal means tested public benefit, as defined by~~

~~the agency providing the benefit, or actually received SNAP benefits is not creditable toward the 40-quarter total. A parent's or spouse's quarter is not creditable if the parent or spouse actually received any federal means-tested public benefit or actually received SNAP in that quarter. If the alien earns the 40th quarter of coverage prior to applying for SNAP benefits or any other federal means-tested public benefit in that same quarter, ISD shall allow that quarter toward the 40-qualifying quarters total.~~

~~(a) Federal means-tested benefits include, but may not be limited to, benefits from:~~

- ~~(i) SNAP;~~
- ~~(ii) the food assistance block grant programs in Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands;~~
- ~~(iii) supplemental security income (SSI);~~
- ~~(iv) TANF block grant under Title IV of the Social Security Act.~~

~~(b) For purposes of determining whether an alien has or has not received a federal means-tested benefit during a quarter, the definition of federal means-tested benefit shall not include:~~

- ~~(i) medical assistance under Title XIX of the Social Security Act (medicaid) for emergency treatment of an alien, not related to an organ transplant procedure, if the alien otherwise meets eligibility for medical assistance under the state plan;~~
- ~~(ii) short-term, non-cash, in-kind emergency disaster relief;~~
- ~~(iii) assistance or benefits under the National School Lunch Act;~~
- ~~(iv) assistance or benefits under the Child Nutrition Act of 1966;~~
- ~~(v) public health assistance (not including any assistance under Title XIX medicaid) for immunizations, and testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by communicable diseases;~~
- ~~(vi) payments for foster care and adoption assistance under Part B and E of Title IV of the Social Security Act for a parent or child who would, in the absence of the restriction of eligibility for aliens contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, be eligible for such payments made on the child's behalf, but only if the foster or adoptive parent (or parents) of such child is a qualified alien;~~
- ~~(vii) programs, services, or assistance, delivering in-kind services at the community level and necessary for the protection of life or safety, that do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided, on the individual recipient's income or resources;~~
- ~~(viii) programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act;~~
- ~~(ix) means-tested programs under the Elementary and Secondary Education Act of 1965;~~
- ~~(x) benefits under the Head Start Act;~~
- ~~(xi) benefits under the Workforce Investment Act.~~

~~(7) Adjustments in status: Each category of eligible alien status stands alone for purposes of determining eligibility.~~

~~(a) When a qualified alien determined to be an eligible alien not required to meet the five year bar adjusts to an eligible alien status that must meet the five year bar they will not lose SNAP eligibility.~~

~~(b) Upon expiration of one eligibility status, ISD must determine if eligibility exists under another status.~~

~~C. Verification of citizenship/eligible alien status: U.S. citizenship verification is required only when client statement of citizenship is inconsistent with statements made by the applicant or with other information on the application, previous applications, or other documented information known to HSD.~~

~~(1) U.S. citizenship: Any member whose U.S. citizenship is questionable is ineligible to participate until proof of U.S. citizenship is obtained. The member whose citizenship is questionable shall have all of his resources and a pro rata share of income considered available to any remaining household members.~~

~~(2) Eligible alien status: Verification of eligible alien status is mandatory at initial certification. Only those household members identified as aliens with qualified and eligible alien status are eligible to participate in SNAP.~~

~~(3) Ineligible or questionable alien status: Any household member identified as an ineligible alien, or whose alien status is in question cannot participate in SNAP. ISD is responsible for offering to contact the immigration and naturalization service if the alien has a document that does not clearly indicate eligible or ineligible alien status.~~

~~D. Need for documentation:~~

~~(1) Household members identified as aliens must present information or documentation, such as but not limited to, an A number, an I 94 number, a letter, notice of eligibility, or identification card which allows ISD to establish that the alien is in an eligible immigration status.~~

~~(2) ISD shall allow aliens a reasonable opportunity to submit acceptable information or documentation of eligible alien status. Any individual missing necessary verification of citizenship, national status or eligible immigration status is allowed a reasonable opportunity period in accordance with 8.200.410.10 NMAC~~

~~(3) If verification of an applying individual's eligible status is not provided by the deadline, the eligibility of the remaining household members shall be determined. Verification of eligible immigration status provided at a later date shall be treated as a reported change in household membership.~~

~~(4) During the application process, if an individual has been determined to be a qualified alien and either the individual or HSD submits a request to a federal agency for documentation to verify eligible alien status, HSD must certify the individual for up to six months pending the results of the inquiry. The six month time limit begins in the month the original request for verification is made.~~

~~(5) Inability to obtain verification: If a household indicates an inability to provide attestation of an eligible immigration status for any applying member of the household, that member shall be considered an ineligible alien.~~

~~E. Failure to cooperate: If a household, or household member, indicates an unwillingness to provide attestation, information or documentation of an eligible immigration status for any applying member, that member shall be considered an ineligible alien. ISD shall not continue efforts to get the necessary information.~~

~~_____~~ **F. Reporting illegal aliens:**

~~_____~~ (1) ~~HSD shall inform the local DHS office only when an official determination is made that any member of a household who is applying for or receives benefits is present in the US in violation of the INA. An official determination that an illegal alien is in the US in violation of the INA is only made when:~~

~~_____~~ (a) ~~the alien's unlawful presence is a finding of fact or conclusion of law that is made by HSD as part of a formal determination about the individual's eligibility; and~~

~~_____~~ (b) ~~HSD's finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.~~

~~_____~~ (2) ~~A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.~~

~~_____~~ (3) ~~Illegal alien status is considered reported when ISD enters the information about the non-citizen on the household's computer file.~~

~~_____~~ **G. Income and resources of ineligible aliens:** ~~All the resources and a prorated share of income of an ineligible alien, or of an alien whose alien status is unverified, shall be considered in determining eligibility and SNAP benefit amount for the remaining eligible household members.]~~

~~[02/01/95, 07/01/98, 02/01/99; 8.139.410.9 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.412, 05/15/2001; A, 02/14/2002; A, 10/01/2002; A, 04/01/2003; A, 10/01/2003; A, 06/01/2011; A, 03/01/2017; A, 06/01/2017]~~

8.139.410.12 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) GENERAL WORK [PROVISIONS AND EMPLOYMENT AND TRAINING PROGRAM (E&T)] REQUIREMENTS:

Any SNAP recipient may be subject to general work requirements. SNAP recipients who do not meet a federal exemption must meet the general work requirements in accordance with Subsection [B] C of this section. Federal exemptions from general work requirements are found at 7 Code of Federal Regulation (CFR) 273.7(a)(6) and (b). ~~[SNAP recipients may be subject to E&T program participation requirements. SNAP recipients who do not meet a state or federal exemption for E&T work program participation are general participants (participants). The state and federal exemptions are listed in Paragraphs (1) and (2) of Subsection C of this section. A participant will follow all program requirements per 7 CFR 273.7 and as contained in this rule. Participants are voluntary until March 1, 2018, when they become mandatory, unless exempted, at the time of initial application or at recertification, whichever occurs first.]~~

A. General Work requirements: ISD will administer the general work requirements in accordance with 7 CFR 273.7. As a condition of eligibility for participation in SNAP, every household member who does not qualify for a federal exemption, must meet general work requirements as outlined in Subsection [B] C of this section. ~~[Federal exemptions from work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be:]~~

B. General work requirement exemptions: Federal exemptions from

general work requirements are found at 7 CFR 273.7(a)(6) and 273.7(b). Physical and mental unfitness for the federal exemption is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be:

- (1) obvious to ISD and documented in the case file; or
- (2) not obvious to ISD, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

[B.] C. Compliance with general work requirements [~~and consequences of noncompliance~~]: An individual who is not temporarily waived or exempt in accordance with 7 CFR 273.7(a)(6) and (b) must:

- (1) register for work at the time of application and every 12 months thereafter; all SNAP participants are considered registered for work with the head of household's signature on an application or recertification form for SNAP participation;
- (2) participate in an E&T program to the extent required by law;
- (3) participate in a workfare program if assigned by the department;
- (4) provide ISD or E&T program service provider with information regarding employment status, participation in E&T program status, or availability for work;
- (5) report to an employer referred to by ISD or its designee if the potential employment meets the suitability requirements in accordance with 7 CFR 273.7(h);
- (6) accept a bona fide offer of suitable employment at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the federal or state minimum wage or eighty percent of the wage that would have governed had the minimum hourly rate of the Fair Labor Standards Act been applicable to the offer of employment; and
- (7) not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week within the 30 day period prior to the household's application date, or any time after filing an application, or any time during the household's certification period in accordance with 7 CFR 273.7(a)(vii).

D. [(7)] Failure to comply with SNAP general work requirements: An individual who is not exempt who refuses or fails without good cause, to comply with the SNAP general work requirements is ineligible to participate in SNAP, and will be considered an ineligible household member, in accordance with 7 CFR 273.1(b)(7). Prior to placing a disqualification for noncompliance with the work requirements, good cause will be determined in accordance with 7 CFR 273.7(i). When determining whether or not good cause applies to voluntary quit, voluntary quit will be evaluated up to the 30 day period prior to applying for SNAP benefits and at any time thereafter. **Within 10 calendar days of establishing that the noncompliance was without good cause, ISD must provide the individual with a notice of adverse action, as specified in §273.13.**

[(8)] (1) Consequences of non-compliance with work requirements, other than voluntary quit or a reduction in work, will be in accordance with 7 ~~[C.F.R.]~~ **CFR 273.7(f).**

(a) For the first occurrence of noncompliance, the individual will be disqualified for ~~[3]~~ **three** months or until compliance, whichever occurs later;

(b) For the second occurrence of noncompliance, the individual will be disqualified for ~~[6]~~ six months or until compliance, whichever occurs later; and

(c) For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months or until compliance, whichever occurs later.

~~[(9)]~~ (2) Consequences of voluntary quit or reduction in work effort without good cause, will be in accordance with 7 ~~[C.F.R.]~~ CFR 273.7(f) and 7 CFR 273.7~~[(4)]~~ (j).

(a) For the first occurrence of noncompliance, the individual will be disqualified for ~~[3]~~ three months;

(b) For the second occurrence of noncompliance, the individual will be disqualified for ~~[6]~~ six months; and

(c) For the third or subsequent occurrence of noncompliance, the individual will be disqualified for 12 months.

(3) Treatment of income and resources: All the income and resources of an individual disqualified for non-compliance with general work requirements will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520 NMAC.

(4) Households shall not be considered categorically eligible if any benefit group member is disqualified for failure to comply with general work requirements in accordance with 8.139.420.8 NMAC.

E. Fair hearings: Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status or a state agency determination of failure to comply with SNAP work requirements, in accordance with 7 CFR 273.7(f)(6).

~~[— C. — E&T program participation exemptions: ISD will screen each work registrant in accordance with 7 CFR 273.7(c). SNAP recipients not otherwise exempted as determined by ISD are subject to the E&T program participation requirements beginning on March 1, 2018. Failure to comply with the requirements, without good cause, will result in disqualification in accordance with Subsection L of 8.139.410.12 NMAC.~~

~~(1) Federal exemptions: Individuals who are temporarily waived or exempt from work requirements are therefore also temporarily waived or exempt from the E&T program participation in accordance with 7 CFR 273.7(a)(6), (b)(1), and (d)(4)(v).~~

~~(2) State exemptions: The following individuals are exempt from E&T program participation:~~

~~(a) a parent or other household member who is responsible for the care of a dependent child under age 13; if the child has their thirteenth birthday during the certification period, the individual responsible for the care of the child is required to participate in the E&T program as part of the next scheduled recertification, unless the individual qualifies for another exemption;~~

~~(b) a pregnant woman;~~

~~(c) 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;~~

~~_____ (d) any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by ISD, will not be required to participate in the E&T program;~~

~~_____ (e) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD; or~~

~~_____ (f) any individual determined to be an able bodied adult and subject to the time limit, in accordance with 8.139.410.14 NMAC.~~

~~_____ (3) Interim changes in status: Anyone losing exempt status because of changes required to be reported in accordance with 8.139.120.9 NMAC through 8.139.120.12 NMAC, will have their E&T status determined at recertification. Anyone gaining exempt status because of changes reported will have their E&T status updated when it is reported.~~

~~_____ (4) Relocation changes: Participants who relocate within the state retain their E&T participation status at their new location unless their circumstances change or their new location falls under a waiver as defined by the department.~~

~~**D. General E&T program procedures:**~~

~~_____ (1) Good cause for non-compliance with E&T participation: ISD will address good cause in accordance with 7 CFR 273.7(i).~~

~~_____ (a) Good cause is determined by considering the facts and circumstances involved, including information submitted by the individual, the individual's representative, the work experience service site or community service site.~~

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

~~_____ (i) participant illness;~~

~~_____ (ii) illness of another household member requiring the presence of the participating member;~~

~~_____ (iii) an individual or family crisis or a family circumstance that may preclude participation;~~

~~_____ (iv) lack of transportation and the distance to walk to the activity site exceeds five miles roundtrip;~~

~~_____ (v) participant whose physical residence is more than 30 miles away from an income support field office, workforce solutions office or E&T program service provider;~~

~~_____ (vi) court appearance of participant or household member;~~

~~_____ (vii) farmworkers who are away from their permanent residence or home base who travel to work in agriculture or a related industry during part of the year;~~

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

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

~~_____ (x) participant is a victim of family violence; or~~

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

~~(2) **E&T program service provider responsibilities:** The E&T program service provider is responsible for providing participants referred to the E&T program with an assessment, orientation, development of individual responsibility plan (IRP), a work participation agreement (WPA) and an explanation of good cause. ISD and the E&T program service provider will provide language access services and any necessary reasonable accommodations to SNAP participants, in accordance with 7 CFR 15.~~

~~(a) **Scheduling and conducting assessment and orientation sessions:** The E&T program service provider will inform each participant of:~~

~~(i) **E&T program requirements and opportunities, including rights, responsibilities, good cause and exemptions;**~~

~~(ii) **services; and**~~

~~(iii) **benefits.**~~

~~(b) **Placing a participant in an activity component:** A participant may be placed in any component deemed appropriate in accordance with 7 CFR 273.7(c) by the E&T program service provider;~~

~~(c) **Authorizing reimbursements:** ISD will authorize allowable reimbursements up to the monthly limit established by the department in accordance with 7 CFR 273.7(d)(4).~~

~~(d) **Reporting changes to ISD:** The following changes, if reported by the participant to the E&T program service provider, will be shared with ISD:~~

~~(i) **participants who become exempt;**~~

~~(ii) **potential good cause;**~~

~~(iii) **participants who request closure of SNAP benefits;**~~

~~(iv) **participants who relocate;**~~

~~(v) **participants who fail or refuse to comply; or**~~

~~(vi) **voluntary work participants who no longer wish to volunteer.**~~

~~**E. Assessment:** An assessment must be completed by a participant and the E&T program service provider no later than 15 calendar days after an application or recertification form for SNAP participation is approved. Assessment tools and forms will be used to address the participant's education, skills, prior work experience, employability, and barriers. The assessment will be utilized to identify exemptions, potential good cause, and to determine appropriate activity placement.~~

~~**F. Orientation:** Participants will be provided a program orientation that explains the program and its objectives. The orientation will 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. Individual responsibility plan (IRP):** Participants may complete an IRP with the assistance of the E&T program service provider. The IRP shall include a specific achievable goal or goals and a plan for securing and maintaining employment.~~

~~**H. Work participation agreement (WPA):**~~

~~(1) **Requirements:** The WPA is an agreement between the participant and ISD. Participants must complete the WPA with the E&T program service provider:~~

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

~~_____ (b) no later than five calendar days after the expiration of an existing WPA; and~~

~~_____ (c) the WPA will be reevaluated by the parties at recertification and for changes in circumstances as reported.~~

~~_____ (2) WPA Elements: The WPA will:~~

~~_____ (a) list the participant's approved E&T allowable component(s);~~

~~_____ (b) list the level of effort for each activity;~~

~~_____ (c) list the support services available and to be provided by ISD;~~

~~_____ (d) list the reasonable accommodations that may be necessary to ensure meaningful engagement;~~

~~_____ (e) be explained to the participant; and~~

~~_____ (f) be approved and signed by the E&T program service provider.~~

~~_____ I. E&T allowable components: ISD will administer E&T components in accordance with 7 CFR 273.7(e).~~

~~_____ (1) Determination of required hours: At initial eligibility and recertification, participants will be required to participate in any combination of the components as provided by ISD and, as assigned by the E&T program service provider, for a minimum requirement of up to 12 or 24 activity hours within the initial consecutive three-month period during the 12-month certification period from the date of SNAP benefit approval.~~

~~_____ (a) Individuals in a rural area will be required to complete up to 12 activity hours. Rural area is defined as a county containing a core urban area of 50,000 or fewer people as defined by office of management and budget (OMB) metropolitan statistical area designation. An individual residing on a tribe, pueblo, or nation that is also within such a county, will be defined as living in a rural area. Individuals residing in an area that is determined to be non-rural, as defined by OMB, will be required to complete up to 24 activity hours.~~

~~_____ (b) The collective hours a household must complete will be determined in accordance with 7 CFR 273.7(e)(3)(ii).~~

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

~~_____ (a) General: The purpose of the job search component is to provide the participant a reasonable opportunity to find suitable employment.~~

~~_____ (b) Component activities: All participants are required to register as a "job-seeker" through the New Mexico department of workforce solutions (DWS), "New Mexico workforce connection". ISD will verify registration in accordance with 8.100.130.9 NMAC. All participants in this component are required to complete the individual or group job search training with employer contacts. One job search activity is equal to one hour of activity. Job search activity examples can be found at 7 CFR 273(e).~~

~~_____ (3) Work experience:~~

~~_____ (a) General: The purpose of the work experience component is to improve the employability of participants.~~

~~_____ (b) Component activities:~~

~~_____ (i) on the job skills training;~~

~~_____ (ii) work experience related to their occupational interests.~~

~~_____ (e) The number of hours necessary for compliance in this component are calculated in accordance with 7 CFR 273.7(e)(1).~~

~~_____ (4) Community service:~~

~~_____ (a) General: The purpose of the community service component is to provide on the job skills training and to assist the communities of participants.~~

~~_____ (b) Component activities:~~

~~_____ (i) on the job skills training;~~

~~_____ (ii) work-like experience.~~

~~_____ J. Federal financial participation: Federal financial participation will be in accordance with 7 CFR 273.7(d).~~

~~_____ K. Reimbursement: Participants who incur expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by ISD, in accordance with 7 CFR 273.7(d)(4).~~

~~_____ L. Disqualification for non-compliance: Participants who fail to:~~

~~_____ (1) timely complete the assessment;~~

~~_____ (2) timely complete a WPA; and~~

~~_____ (3) comply with assigned component requirements and their required hours of participation as outlined in their WPA will be disqualified in accordance with 7 CFR 273.7(f).~~

~~_____ (4) Individual disqualification: A participant who fails or refuses to comply with the E&T program participation will be considered an ineligible household member in accordance with 7 CFR 273.7(f). Any participant who fails or refuses to comply with the E&T participation, without good cause will be disqualified as follows:~~

~~_____ (a) first occurrence: for three months or until compliance, whichever occurs later;~~

~~_____ (b) second occurrence: for six months or until compliance, whichever occurs later;~~

~~_____ (c) third occurrence: for one year or until compliance, whichever occurs later.~~

~~_____ (5) Individual that is voluntarily participating: Any individual that is voluntarily participating in the E&T program is not subject to disqualification.~~

~~_____ (6) Treatment of income and resources: All the income and resources of an individual disqualified for non-compliance with work requirements or work participation will be counted to determine the household's income and resource maximum levels and benefit amount in accordance with 8.139.520 NMAC.~~

~~_____ (7) Notice of adverse action: Within 10 days of determining that a participant has failed to meet an E&T requirement, ISD shall issue a notice of adverse action in accordance with 7 CFR 273.7(c)(3).~~

~~_____ (8) Determining the SNAP ineligibility period: ISD will determine, track and notify participants of disqualification periods in accordance with 7 CFR 273.7(f) and 273.13.~~

~~_____ M. Head of household provisions:~~

~~_____ (1) Designation: The household may designate a head of household in accordance with 7 CFR 273.1(d).~~

~~(2) E&T requirements: For purposes of determining compliance with the E&T program, the head of household will be considered as an individual household member. If the head of household fails to comply, the head of household will be disqualified in accordance with the disqualification penalties in 8.139.410.12 NMAC.~~

~~N. Fair hearings: Each individual or household has the right to request a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status, or a state agency determination of failure to comply with SNAP work requirements or E&T program requirements, in accordance with 7 CFR 273.7(f)(6).]~~

[02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.SNAP PROGRAM.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013; A, 10/01/2014; A, 01/01/2016; A, 01/01/2016; A, 03/01/2017; A, 06/01/2017]

8.139.410.13 [RESERVED] SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) EMPLOYMENT AND TRAINING PROGRAM (E&T): ISD will administer the E&T program requirements in accordance with 7 CFR 273.7(e). SNAP participants may choose to voluntarily participate in any of the E&T services available. Volunteers can participate to the extent that they wish and will not be subject to any E&T disqualification. Volunteers who incur transportation expenses that are reasonably necessary and directly related to participation in the E&T program will be reimbursed up to the monthly limit as determined by ISD, in accordance with 7 CFR 273.7(d)(4).

[8.139.410.13 NMAC - N, 04/01/2010; Repealed, 03/01/2017; A, 06/01/2017]

8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS: ~~[The department will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This rule becomes effective as of January 1, 2016. The department will use a fixed 36-month period for measurement and tracking purposes. The first fixed period will be in effect from January 1, 2016 through December 31, 2018.~~

~~A. Able bodied adults can comply by:~~

~~(1) working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:~~

- ~~(a) work in exchange for money;~~
- ~~(b) work in exchange for goods or services ("in kind" work); or~~
- ~~(c) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person's job skills, or involves volunteer time and effort to a not-for-profit organization.~~

~~(2) Participating, for an average of 80 hours a month, in a combination of the E&T work program components found at Subsection I of 8.139.410.12 NMAC as long as the job search component is less than fifty percent of the total activities; or~~

~~(3) Participating for an average of 80 hours a month, in a combination of Paragraphs (1) and (2) of this subsection.~~

~~B. Good cause: As determined by the department, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains their job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another~~

household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

~~C. Waived from the time limit requirements: The department will waive the three month time limit requirement for the following in accordance with 7 CFR 273.24(f):~~

~~(1) any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by the department;~~

~~(2) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by the department.~~

~~D. Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR. 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).~~

~~E. Exceptions to the three month time limit:~~

~~(1) Exceptions to the three month time limit required participation are found at 7 CFR 273.24(e).~~

~~(2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.~~

~~(a) unfitness can be obvious to the department and documented in the case file; or~~

~~(b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.~~

~~F. The department will administer the fifteen percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by the department, in accordance with 7 CFR 273.24(g).] ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents ("ABAWD") program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36 month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020.~~

~~A. Able bodied adults can comply by: working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:~~

~~(1) work in exchange for money;~~

~~(2) work in exchange for goods or services ("in kind" work); or~~

~~(3) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person's job skills, or involves~~

volunteer time and effort to a not-for-profit organization.

B. Good cause: As determined by ISD, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains their job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

C. Waived from the time limit requirements: ISD will waive the three month time limit requirement for the following individuals in accordance with 7 CFR 273.24(f):

(1) any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by ISD;

(2) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD.

D. Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR. 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

E. Exceptions to the three month time limit:

(1) Exceptions to the three month time limit required participation are found at 7 CFR 273.24(c).

(2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.

(a) unfitness can be obvious to ISD and documented in the case file; or

(b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

F. ISD will administer the fifteen percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g).

[8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014; A, 2/13/2015; A, 01/01/2016; A, 01/01/2016; A, 06/01/2017]

These are the PROPOSED amendments to 8.139.500 NMAC, Sections 5, 10 and 12.

8.139.500.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[02/01/95; 8.139.500.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 06/01/2017]

8.139.500.10 DETERMINING INCOME:

A. Anticipating income: In determining a household's eligibility and food

stamp benefit amount the caseworker shall use income already received by the household during the certification period and any income the household and the caseworker are reasonably certain shall be received during the remainder of the certification period.

(1) If the amount of income or date of receipt is uncertain, that portion of the household's income that is uncertain shall not be counted.

(2) If the exact amount of the income is not known, that portion of the income which can be anticipated with reasonable certainty shall be considered income.

(3) In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, a household may choose to average its income.

B. Income received during any past 30-day consecutive period that includes 30 days prior to the date of application through the date of timely disposition shall be used as an indicator of the income that is and shall be available to the household during the certification period.

(1) Past income is not used as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated during the certification period.

(2) If income fluctuates to the extent that a single four-week period does not provide an accurate indication of anticipated income, a longer period of past time can be used if it gives a more accurate indication of anticipated fluctuations in income.

(3) Income already received is not used and verification is obtained from the income source, if the household and the caseworker decide that income already received by the household is not indicative of income expected to be received in future months.

C. **[Semiannual] Simplified reporting:** ~~[A household filing a semiannual report is subject to the income methodology specified at Subsection H of 8.139.120.9 NMAC.]~~ A household filing an interim report form is subject to the income methodology specified at 8.139.500.9 NMAC.

D. Income anticipated during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

E. Use of conversion factors: Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(1) income received on a weekly basis is averaged and multiplied by 4.0;

(2) income received on a biweekly basis is averaged and multiplied by 2.0;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

F. Held wages:

(1) Wages withheld at the request of an employee shall be considered income to a household in the month the wages would otherwise have been paid by the employer.

(2) Wages withheld by the employer as a general practice, even in violation of the law, shall not be counted as income to a household, unless the household anticipates that it will ask for and receive an advance.

(3) If a household anticipates asking for and receiving income from

wages that were previously withheld by the employer as a general practice, the income shall be counted to determine eligibility.

G. Earned income:

(1) Earned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification period; and

(b) the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

H. Unearned income:

(1) Unearned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and the caseworker are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and the caseworker determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and the caseworker are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

(4) Households receiving state or federal assistance payments, such as Title IV-A, GA, SSI or social security payments on a recurring monthly basis are not considered to have varied monthly income from these sources simply because mailing cycles may cause two payments to be received in one month.

I. Income received more frequently than weekly: The amount of monthly gross income paid more frequently than weekly (i.e., daily) is determined by adding all the income received during the past four weeks. The gross income amount is used to anticipate income in the application month and the remainder of the certification period. Conversion factors shall not be applied to this income.

J. Income received less frequently than monthly: The amount of monthly gross income paid less frequently than monthly is determined by dividing the total income by the number of months it is intended to cover. The caseworker shall carefully explain to the household how the monthly income was computed and what changes might result in a reportable change. Documentation shall be filed in the case record to establish

clearly how the anticipated income was computed.

K. Use of conversion factors: Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

- (1) income received on a weekly basis is averaged and multiplied by 4.0;
- (2) income received on a biweekly basis is averaged and multiplied by 2.0;
- (3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

L. Known changes in income for future months at application:

- (1) At application or recertification, it shall be determined if any factors affecting income will change in future months. Such factors include a new income source, termination of income, or increases or decreases in income.
- (2) Income is considered only when the amount of the income and the date it will be received are reasonably certain.
- (3) In the event that a change is known for future months, benefits are computed by taking into account the change in income.

M. Averaging income over the certification period:

- (1) All households may choose to have their income averaged. Income is usually not averaged for destitute households because averaging would result in assigning to the month of application income from future periods which is not available for its current food needs.
- (2) To average income, the caseworker uses a household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period.
- (3) **Contract income:** Households which, by contract, derive their annual income in a period of less than one year shall have that income averaged over a 12-month period, provided that the income is not received on an hourly or piecework basis.
 - (a) Contract income includes income for school employees, farmers, self-employed households, and individuals who receive annual payments from the sale of real estate.
 - (b) These procedures do not include migrant or seasonal farm worker households.
- (4) **Educational monies:** Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it is provided. All months which the income is intended to cover shall be used to average income, even if the income is received during the certification period. If the period has elapsed completely, the educational monies shall not be considered income.

N. Using exact income: Exact income, rather than averaged income, shall be used if:

- (1) the household has chosen not to average income;
- (2) income is from a source terminated in the application month;
- (3) employment has just begun in the application month and the

income represents only a partial month;

(4) in the month of application, the household qualifies for expedited service or is considered a destitute, migrant or seasonal farm worker household; or

(5) income is received more frequently than weekly, (i.e., daily).

[02/01/95, 11/01/95, 07/01/97, 06/01/99; 8.139.500.10 NMAC - Rn, 8 NMAC

3.FSP.502.7, 05/15/2001; A, 02/14/2002; A, 01/01/2004; A, 08/30/2007; A, 04/01/2010; A, 06/01/2017]

8.139.500.12 ESTABLISHING CERTIFICATION PERIODS:

A. The caseworker shall establish a definite period of time within which a household is eligible to receive benefits.

B. Entitlement to food stamp benefits ends at the expiration of the household's certification period. Continued eligibility is determined only when an application has been filed, an interview held, and all verification provided.

C. Under no circumstances shall benefits be continued beyond the end of a certification period without a redetermination of eligibility.

D. A household shall be provided with an expiration notice before or at the beginning of the last month of a certification period.

E. If a household is determined eligible for the initial month but ineligible the following month, it shall be certified for one month only. Conversely, a household may be ineligible for the month of application but eligible for the following month(s). If the household is denied for the month of application, it does not need to file a new application for the following month.

F. **Conformity with calendar month:** Certification periods shall conform to calendar months. At the initial application, the first month in the certification period is the month of application, even if the household's eligibility is not determined until a later month.

G. **Length of certification period:** All households will be assigned to simplified reporting and shall be assigned a certification period in accordance with Subsection A of 8.139.120 NMAC. Households shall be assigned the longest certification period possible based on the stability of the household's circumstances. A certification period cannot exceed 12 months, except for households in which all adult members in the household are elderly or disabled. Households in which all members are elderly or disabled will be assigned a 24-month certification period. At least one contact with each certified household shall be made every 12 months.

~~{(1) — **Three months or less:** A certification period of three months or less may be assigned if there is a substantial likelihood of frequent [and/or] or significant changes in household circumstances, including but not limited to, income and household status.~~

~~————— (2) — **More than three months:** A certification period of more than three months may be assigned if it is determined that household circumstances will remain stable throughout the certification period. A stable household is one which does not anticipate major changes in income, deductions, or household composition.~~

~~————— (3) — **Cash assistance households:** A household in which all members are contained in a single cash assistance grant shall have a food stamp certification period which coincides with the cash assistance certification period.~~

~~————— (4) — **Up to twelve months:**~~

~~————— (a) — A household whose primary source of income is from self-~~

employment (including self-employed farmers), or from regular farm employment with the same employer, shall be certified for twelve months.

~~(b) A twelve month certification period shall be assigned to a household which is paid an annual salary on a scheduled monthly basis.~~

~~(c) [Semiannual reporting households: A household assigned to semiannual simplified reporting shall be assigned a twelve month certification period.~~

~~(5) Aliens: To the degree possible, aliens shall be assigned a certification which shall at some point coincide with the expiration date of the alien's legal alien status.~~

~~(6) Elderly/disabled households: A household in which all adult household members are elderly or disabled may be certified for up to 24 months. At least one contact with the household shall be made every 12 months.~~

~~(7) To the degree possible, households in which all members are homeless shall be assigned a three month certification period, including but not limited to, homeless households that have no income and live on the street or in a shelter.]~~

H. Shortening the certification period:

(1) The caseworker may not end a household's certification period earlier than its assigned termination date, unless the caseworker receives information that the household has become ineligible, or the household has not taken action to clarify or provide verification of a change in household circumstances for which the caseworker has requested verification.

(2) Loss of cash assistance or a change in employment status is not sufficient to meet the criteria necessary for shortening a certification period.

I. Lengthening the certification period: The caseworker may lengthen a household's current certification period once it is established, as long as the total months of the certification period do not exceed 24 months for households in which all adult members are elderly or disabled, or 12 months for other households. If the caseworker extends the household's certification period, the caseworker shall issue written notice advising the household of the new certification end date.

[02/01/95, 01/01/97, 07/01/98; 8.139.500.12 NMAC - Rn, 8 NMAC 3.FSP.502.9, 05/15/2001; A, 02/14/2002; A, 01/01/2004; A, 06/01/2017]

These are the PROPOSED amendments to 8.139.501 NMAC, Sections 5, 11 and 12.

8.139.501.5 EFFECTIVE DATE: September 1, 2003, unless a later date is cited at the end of a section.

[8.139.501.5 NMAC - N, 09/01/2003; A, 06/01/2017]

8.139.501.11 REPORTING REQUIREMENTS DURING THE TRANSITIONAL BENEFIT PERIOD:

A. Suspending reporting requirements for TFS households: ISD will suspend all reporting requirements during the TFS household's transitional benefit period.

~~[(1) Regular reporting households: A food stamp household that is subject to the regular ten-day reporting requirement at the time the household becomes~~

eligible for TFS benefits shall be advised that the household is not required to report any changes during the transitional benefit period.

~~(2) **Semiannual households:** A food stamp household subject to semiannual reporting at the time the household becomes eligible for TFS benefits shall be advised that the household is not required to submit a semiannual report during the transitional benefit period. The department shall suspend the semiannual reporting requirement during the TFS household's transitional benefit period.]~~

B. Requirement to provide the TFS household with change reporting information during the transitional benefit period:

(1) A ~~[food stamp]~~ SNAP household that becomes eligible for TFS benefits shall be advised that a change in address should be reported in order to ensure that the household continues to receive notices or other mail from the department during the transitional benefit period.

(2) A ~~[food stamp]~~ SNAP household that becomes eligible for TFS benefits shall be advised that the household is not required to report any changes in the household's circumstances during the transitional benefit period.

(3) A TFS household shall be advised that the household may file an application for recertification during the transitional benefit period if a change has occurred that will most likely increase the household's ~~[food stamp]~~ SNAP benefit amount, such as, but not limited to the addition of a new household member with no income of his own or the loss of income for a household member.

C. Action on reported changes: Action shall be taken to adjust the TFS benefit amount during the transitional benefit period without requiring an application for recertification only under the following conditions:

(1) a member of the TFS household files an application for ~~[food stamp]~~ SNAP benefits on his or her own behalf; or

(2) a newborn child is added to the TFS household.

D. Requirement to file an application for recertification: A TFS household that reports a change, other than an address change or those in Subsection C above, during the transitional benefit period shall be required to file an application for recertification of eligibility.

[8.139.501.11 NMAC - N, 09/01/2003; A/E, 10/15/2008; A, 06/01/2017]

8.139.501.12 CONTINUING ~~[FOOD STAMP BENEFITS]~~ SNAP AFTER THE TRANSITIONAL BENEFIT PERIOD:

A. A household receiving TFS shall be recertified using the recertification requirements at 7 CFR 273.14(B) to determine if they can continue receiving a SNAP benefit after the transitional period ~~[sent an expiration notice in the fourth month of the transitional benefit period]~~. The ~~[expiration notice]~~ recertification requirements shall inform the TFS household of the expiration of the transitional benefit period and the need to reapply in the fifth month of the transitional benefit period in order to determine the household's eligibility to continue participation in the ~~[food stamp]~~ SNAP program.

B. A ~~[food stamp]~~ TFS household shall be required to file an application for recertification and to complete the recertification process in the fifth month of the transitional benefit period to determine continued eligibility to participate in ~~[the food stamp program]~~ SNAP.

(1) If otherwise eligible, the [~~food-stamp~~] SNAP household shall be assigned a new certification period beginning the month following the expiration of the transitional benefit period.

(2) A household that fails to file an application or to complete the application process in the fifth month of the transitional benefit period shall lose eligibility to continue participation in [~~the food-stamp program~~] SNAP.
[8.139.501.12 NMAC - N, 09/01/2003; A, 06/01/2017]