



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.139.410.14 NMAC-SOCIAL SERVICES-FOOD STAMP PROGRAM-GENERAL
RECIPIENT REQUIREMENTS-NONFINANCIAL ELIGIBILITY CRITERIA

III. PROGRAM AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM-(SNAP)

IV. ACTION

PROPOSED RULE

V. BACKGROUND SUMMARY

The Human Services Department (HSD) through the Income Support Division (ISD) is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.139.410.14 NMAC ,SOCIAL SERVICES-FOOD STAMP PROGRAM-GENERAL RECIPIENT REQUIREMENTS-NONFINANCIAL ELIGIBILITY CRITERIA. These amendments are a result of the Fiscal Responsibility Act of 2023 which was signed into law by President Biden on June 3, 2023. Changes to the rule include adding and changing language.

Specifically, the changes include:

- Subsection A of 8.139.410.14 NMAC: The age limit standards for individuals who are subject to the ABAWD work requirement.

<u>Age Limit</u>	<u>Date ends</u>
18-49	September 5 th 2023
18-50	September 30 th 2023
18-52	September 30 th 2024
18-54	September 30 th 2025

- Subsection B through G of 8.139.410 NMAC: Letter sequences (B)-(G).
- Subsection F of 8.139.410.14 NMAC adding the following language:
 - (3) Individuals who are homeless as outlined at Subsection A of 8.139.100.7 NMAC.
 - (4) Individuals who are Veterans.
 - (5) Individuals 24 years of age or younger who were in foster care under the responsibility of the state through the maximum age permitted by the state.
- Subsection G of 8.139.410.14 changed “twelve” to “eight.”

Concise Explanatory Statement:

The Department is promulgating these rules in compliance with the regulations that are outlined in the Fiscal Responsibility Act of 2023 for Able Bodied Adults without Dependents. The rule will be amended, repealed/replaced under the statutory authority of the food stamp program as authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011- 2036). Regulations issued pursuant to the act are contained in 7 CFR 270-282. State Authority for administering the food stamp and TANF programs are contained in Chapter 27 NMSA, 1978. Administration of the Human Services Department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

VI. RULES

These rules will be contained in 8.139.410 This register and the proposed changes are available on the HSD website at [Income Support Division Registers | New Mexico Human Services Department \(state.nm.us\)](https://www.state.nm.us/human-services/income-support-division-registers). If you do not have internet access, a copy of the proposed rules may be requested by contacting the Income Support Department P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling (505) 396-0313.

VII. PUBLICATION DATE

August 15, 2023

VIII. EFFECTIVE DATE

November 1, 2023

IX. PUBLIC HEARING

A hybrid public hearing to receive testimony on this proposed rule pursuant to Section 14-4-5.6 NMSA 1978, which will be held on September 15, 2023, 11:00 a.m-12:00 p.m.

You may join in person:

HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505

You may join virtually:

Please join my meeting from your computer, tablet or smartphone

<https://meet.goto.com/487111949>

You can also dial in using your phone.

United States: [+1 \(224\) 501-3412](tel:+12245013412)

Access Code: 487-111-949

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All Written comment may be dropped off during the scheduled hearing time at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505.

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 Office-505-709-5468, Fax-505-827-6286 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.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-629-8725.


Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, September 15, 2023. Please send comments to:

Human Services Department
P.O. Box 2348
Santa Fe, NM 87504-2348

Recorded comments may be left at (505) 629-8725. You may send comments electronically to: HSD-isdrules@hds.nm.gov. Written and recorded comments will be posted to the agency's website within 3 days of receipt. All comments will be given the same consideration as oral testimony made at the public hearing.

XI. PUBLICATIONS

Publication of final regulations approved on by:

DocuSigned by:
 7/25/2023
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KARI ARMIJO, ACTING SECRETARY
HUMAN SERVICES DEPARTMENT

This is an amendment to 8.139.410 NMAC, Section 14 effective 11/1/2023.

8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS: 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, and every subsequent fixed three year period.

~~_____ **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. 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(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 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 twelve percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g).]~~

A. The age limit standards for individuals who are subject to the ABAWD work requirement.

Age Limit	Date ends
18-49	September 5 th 2023
18-50	September 30 th 2023
18-52	September 30 th 2024
18-54	September 30 th 2025

B. 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.

C. 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. 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.

D. 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.

E. 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).

F. 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.

(3) Individuals who are homeless as outlined at Subsection A of 8.139.100.7 NMAC.

(4) Individuals who are Veterans.

(5) Individuals 24 years of age or younger who were in foster care under the responsibility of the state through the maximum age permitted by the state.

G. ISD will administer the twelve 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, 09/01/2017; A, 07/01/2021; A, 11/1/2023]