



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.102.501 NMAC – CASH ASSISTANCE PROGRAMS – TRANSITION BONUS PROGRAM

III. PROGRAM AFFECTED

CASH ASSISTANCE PROGRAM

IV. ACTION

FINAL RULE

V. BACKGROUND SUMMARY

New Mexico Human Services Register Vol. 45, No. 20 dated November 15, 2022, issued the proposed 8.102.501 Transition Bonus Program.

A public hearing was held on April 27, 2023, to receive public comments on this proposed rule. There was no attendees and one submitted written comments cosigned anonymous.

Submitted Written Comment:

WRITTEN COMMENT #1: I am submitting a comment in regards to 8.102.501.9 B (1) Continued Eligibility at six-month reporting: “for at least four of the last six months” this language should be removed as it is a contradicting statement.

Response:

NMHS D appreciates the comment and will remove the requested language “for at least four of the last six months”.

CONCISE EXPLANATORY STATEMENT:

Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299. State authority for administering the cash program is 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 8.102.501. This final register and rules are available on the HSD website at <https://www.hsd.state.nm.us/lookingforinformation/income-support-division-registers-2/>. If you do not have internet access, a copy of the final register and rules may be requested by contacting the Income Support Division at (505) 819-8118.

VII. PUBLICATION DATE


June 13, 2023

VIII. EFFECTIVE DATE

July 1, 2023

IX. PUBLICATIONS

Publication of final regulations approved on 5/30/2023 by:

DocuSigned by:

1BA9EB5EAD00499...
KARI ARMIJO, ACTING SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 102 CASH ASSISTANCE PROGRAMS
PART 501 TRANSITION BONUS PROGRAM

8.102.501.1 ISSUING AGENCY: New Mexico Human Services Department.
[8.102.501.1 NMAC - N, 7/1/2008]

8.102.501.2 SCOPE: The rule applies to the general public.
[8.102.501.2 NMAC - N, 7/1/2008]

8.102.501.3 STATUTORY AUTHORITY:

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

B. Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998 (NMW), the New Mexico works program was created to replace the aid to families with dependent children program.

C. Under authority granted to the governor by the federal Social Security Act, the human services department is designated as the state agency responsible for the TANF program in New Mexico.

D. Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its financial assistance programs.

E. Effective July 1, 2008, in accordance with the requirements of the New Mexico Works Act, the department is creating the Transition Bonus Program (TBP) as one of its financial assistance programs.

F. In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at title 7, code of federal regulations.

[8.102.501.3 NMAC - N, 7/1/2008; A, 8/14/2009]

8.102.501.4 DURATION: Permanent.
[8.102.501.4 NMAC - N, 7/1/2008]

8.102.501.5 EFFECTIVE DATE: July 1, 2008 unless a later date is cited at the end of a section.
[8.102.501.5 NMAC - N, 7/1/2008]

8.102.501.6 OBJECTIVE:

A. The purpose NMW program is to improve the quality of life for parents and children by increasing family income, resources and support. The further purpose of the program is to increase family income through family employment, child support and by utilizing cash assistance as a support service to enable and assist parents to participate in employment.

B. The objective of the education works program (EWP) is to provide cash assistance to a benefit group where at least one individual is enrolled in a post-secondary, graduate or post-graduate institution. Education and training are essential to long-term career development. The applicant or participant benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.

C. The objective of the TBP is to provide for a limited duration and a fixed monthly cash assistance bonus incentive to encourage NMW families to leave NMW cash assistance and participate in the TBP by maintaining a certain number of hours in paid employment and leave the TBP due to increased earnings.

[8.102.501.6 NMAC - N, 7/01/2008; A, 8/14/2009]

8.102.501.7 DEFINITIONS: Limited state or federal funds as discussed in this part means that available funds would warrant a fixed benefit amount of less than \$200 per month.
[8.102.501.7 NMAC - N, 11/15/2010]

8.102.501.8 TRANSITION BONUS PROGRAM:

A. Purpose: The TBP provides a limited duration and fixed month cash assistance bonus incentive to encourage NMW families to leave NMW cash assistance, participate in the TBP by maintaining a certain number of hours in paid employment and leave the TBP due to increased earnings. This program also provides supportive services on an ongoing basis, provided that the participant is eligible to receive the services during the months provided.

B. Method of payment: TBP payments are paid by issuing funds into an electronic benefits transfer (EBT) account accessible to the participant. In some circumstances benefits may be issued by warrant.

C. Fixed benefit amount: A non-prorated, benefit amount of \$200.00 will be given to all TBP participants under one-hundred fifty-percent of federal poverty guidelines. The benefit can be reduced to recoup an existing cash assistance overpayment in accordance with 8.100.640 NMAC. The benefit will be countable for the benefit group's eligibility for SNAP and Medicaid benefits unless otherwise excluded.

D. Lifetime limits:

(1) The TBP benefit shall not be provided to an adult, minor head of household or the spouse of a minor head of household for more than 18 months during the individual's lifetime. A benefit group as defined at 8.102.400 NMAC shall be ineligible if the benefit group contains at least one adult, minor head of household or spouse of the minor head of household who has received 18 or more months of the TBP benefit.

(2) Any month in which an adult, a minor head of household, or the spouse of a minor head of household, has received full or partial TBP benefit shall be considered a month of receipt and shall be counted towards the 18 month lifetime limit for any benefit group in which that individual is a member.

(3) Participants who receive state funded TBP shall not have any month received count towards their 60-month lifetime limit for NMW eligibility.

(4) Participants who receive federally funded TBP shall have each month received count toward the 60-month lifetime limit for NMW eligibility.

(5) When state and federal funds are appropriated, the lifetime limit will be applied as follows:

- (a) any participant who has received 31 months or more of TANF will receive state funds;
- (b) any participant who has received 30 months or less of TANF will receive federal funds;

E. Initial eligibility:

(1) The TBP program shall be subject to all federal and state NMW cash assistance application, eligibility, certification and reporting requirements, except where specified within the TBP regulations. Resources of the budget group are excluded in determining eligibility for the TBP.

(2) **Application requirements:** Active NMW benefit groups that meet the qualifications and eligibility requirements for the TBP shall be eligible without an application. An application will be required if the NMW case is closed.

(3) The TBP shall be available only to a benefit group that meets all of the following criteria:
(a) does not simultaneously participate in the NMW program;
(b) has left the NMW cash assistance program;
(c) meets all TBP requirements and voluntarily chooses to participate in the program;

(d) is currently engaged in paid unsubsidized or subsidized employment, except for subsidized employment funded with TANF, for a minimum of 30 hours per week, and earnings paid at federal minimum wage, or if self-employed, working a minimum of 30 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

(e) has gross income that does not exceed one-hundred fifty percent of federal poverty guidelines;

(f) has received NMW funded cash assistance for at least three months and one of the last three months; and

(g) does not include an adult, minor head of household or spouse of the minor head of household that participated in the TBP for 18 months in their lifetime or 60 months of TANF.

(4) Eligibility for the TBP shall be prospective for a six month period up to a lifetime limit of 18 months.

F. In accordance with Subsection B of 8.102.500.8 NMAC, income eligibility limits for the TBP will be revised and adjusted each year in October.

[8.102.501.8 NMAC - N, 7/1/2008; A, 8/14/2009; A, 7/1/2023]

8.102.501.9 CONTINUED ELIGIBILITY:

A. Six month reporting requirement: All benefit groups participating in the TBP shall be assigned to a six month reporting requirement. A benefit group assigned to a six month reporting shall be required to file a six month report no later than the tenth day of the sixth month or in conjunction with the interim report or SNAP recertification, whichever is appropriate. The benefit group must include the following information along with verification:

- (1) any change in benefit group composition, whether a member has moved in or out of the home along with the date, the change took place;
- (2) the amount of money received from employment by each benefit group member;
- (3) the amount of unearned income received by each benefit group member;
- (4) verification for residence, only if, there has been a change in residence since the last certification;
- (5) changes in child support receipt; and
- (6) changes in alien status for a benefit group member.

B. Continued eligibility at the six month reporting: For continued TBP eligibility, the benefit group must meet all of the following criteria:

- (1) engaged in paid unsubsidized employment for at least 30 hours per week, averaged over a month;
- (2) have earnings from paid unsubsidized employment that do not exceed one-hundred fifty percent of the federal poverty guidelines; and
- (3) have not reached the benefit group's 18 month TBP lifetime limit or 60-month lifetime limit as an adult, minor head of household or spouse of a minor head of household.

C. Action on changes reported between reporting periods for benefit groups assigned to six month 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 benefit group reports income in excess of one-hundred fifty percent of federal poverty guidelines for size of the benefit group;
 - (b) a benefit group report loss of paid unsubsidized employment;
 - (c) a benefit group reports, or the department receives documented evidence that the benefit group has moved from the state or intends to move from the state on a specific date;
 - (d) a benefit group requests closure;
 - (e) the department receives documented evidence that the head the of benefit group has died; or
 - (f) at the time of a mass change.
- (2) A newborn shall be added to the benefit group effective the month following the month the report is received, if the addition is reported to the agency by the benefit group or by the hospital for medicaid purposes.

D. Notice: An eligible benefit group that qualifies and is eligible for the bonus shall be issued notice in accordance with policy at 8.102.110.13 NMAC and for the following circumstances:

- (1) **Approval:** An approval notice shall be issued at the time the benefit group is determined eligible. The approval notice shall identify the amount of approval and recertification date.
- (2) **Benefit change:** A benefit group shall be issued a notice at the time the benefit group is increased or decreased. The amount of benefit is subject to change due to the availability of state or federal funds.
- (3) **Ineligibility:** A benefit group shall be issued a notice when the benefit group no longer qualifies or is not eligible for the TBP due to a reportable change or at time of interim reporting.

[8.102.501.9 NMAC - N, 7/1/2008; A, 8/14/2009; A, 7/1/2023]

8.102.501.10 BENEFIT ISSUANCE AND DELIVERY:

A. Benefit issuance: The TBP benefits are issued and placed into a benefit group's electronic benefit transfer (EBT) cash assistance account as defined in 8.102.610.8 NMAC.

B. Supportive services: Participants of the TBP shall be eligible to receive NMW case management and supportive services in accordance with 8.102.620.14, 8.102.620.15, and 8.102.620.16 NMAC.

C. Special allowances: A special clothing allowance for school age children and layette payment shall be issued pursuant to 8.102.500.8 NMAC.

D. Expungement: The TBP benefit shall be subject to expungement in accordance with 8.102.610.9 NMAC.

E. Issuance and replacement of EBT card: To access and use the TBP benefit, the benefit group may use the same EBT card issued for the cash assistance benefits.

F. Approval notification: Upon approval of the transition bonus program benefit, the household shall be notified of the new benefit amount and the notice shall be mailed to the applicant per 8.102.110.13 NMAC. [8.102.501.10 NMAC - N, 7/1/2008; A, 8/14/2009; A, 7/1/2023]

8.102.501.11 NMW PARTICIPATION REQUIREMENTS: A TBP recipient will be encouraged to participate in work program activities and shall be expected to attend and complete all required activities, such as the assessment, individual responsibility plan (IRP), work participation agreement (WPA) and monthly participation requirements in accordance with 8.102.460 NMAC if not otherwise meeting. Participation requirements apply to each benefit group member whether the benefit group is considered to be a two-parent or single-parent benefit group. No TBP participant shall be sanctioned for NMW non-cooperation.

A. Work Participation Agreement activity will include:

(1) 30 hours a week engaged in paid employment at federal minimum wage, or if self-employed, working a minimum of 30 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

(2) Career development that will lead towards meaningful employment.

B. Failure to comply with Subsection A of 8.102.501.11 NMAC will result in closure of TBP and return to regular TANF.

C. Regain eligibility: A participant can regain eligibility by showing they are complying with the TBP NMW participation requirements.

[8.102.501.11 NMAC - N, 7/1/2008; A, 8/14/2009; A, 04/01/2012; A, 7/1/2023]

8.102.501.12 SUSPENSION OF PROGRAM: The TBP payment for all benefit groups may be denied for a designated time period based on limited state or federal funds. During program suspension disposition of applications shall be made pursuant to 8.106.110.16 NMAC.

A. Application disposition: All applications for TBP shall be denied under this provision without consideration of eligibility.

(1) **Interview:** TBP applications denied on the basis of suspension shall not require an interview to meet the requirements specific to TBP, other categories of assistance requested by the applicant may require an interview to determine eligibility.

(2) **Payment of assistance:** There shall be no payment to the TBP recipient during the designated suspension period and any right to the payment is lost. Retroactive payments for pending applicants shall be authorized for months prior to a designated suspension period.

B. Notice to recipient and applicant: No later than 60 days prior to the effective change the department shall provide transition bonus recipients appropriate notice regarding suspension or restoration of the grant based on the availability of state or federal funds. The notice shall include the citation to the state statute and regulation and fair hearing rights.

C. Public notice: The department shall issue a public notice 60 days prior to the changes made based on the availability of state or federal funds. Public notice shall include effective date of change and right to fair hearing consistent with mass change requirements at 8.100.180.15 NMAC.

D. Claims: Claims for overpayments shall be established in accordance with regulations outlined at 8.100.640.11 NMAC.

E. Expungement: Cash assistance benefits will be expunged in accordance with regulations outlined in Subsection B of 8.102.610.9 NMAC.

[8.102.501.12 NMAC - N, 11/15/2010; A, 7/1/2023]

HISTORY OF 8.102.501 NMAC: [RESERVED]