



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
HUMAN SERVICES REGISTER

I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

LACK OF FUNDING

III. PROGRAMS AFFECTED

FOOD STAMP PROGRAM

IV. ACTION

REPEAL REGULATION

V. BACKGROUND

The New Mexico Human Services Department is repealing regulation at 8.139.502 NMAC, State Food Stamp Supplement. This action is based on lack of funding and is effective July 1, 2011.

VI. REPEALED REGULATION

~~TITLE 8 — SOCIAL SERVICES
CHAPTER 139 — FOOD STAMP PROGRAM
PART 502 — STATE FOOD STAMP SUPPLEMENT~~

~~8.139.502.1 — ISSUING AGENCY: New Mexico Human Services Department
[8.139.502.1 NMAC — N, 8/30/07]~~

~~8.139.502.2 — SCOPE: General public
[8.139.502.2 NMAC — N, 08/30/07]~~

~~8.139.502.3 — STATUTORY AUTHORITY: The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp 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).
[8.139.502.3 NMAC - N, 8/30/07]

~~8.139.502.4 — DURATION: Permanent~~
[8.139.502.4 NMAC - N, 08/30/07]

~~8.139.502.5 — EFFECTIVE DATE: August 30, 2007, unless a later date is cited at the end of a section.~~
[8.139.502.5 NMAC - N, 08/30/07]

~~8.139.502.6 — OBJECTIVE: The objective of the state food stamp supplement benefit is to reduce hunger and improve nutrition among the elderly or disabled by increasing their ability to purchase food and meet their dietary needs.~~
[8.139.502.6 NMAC - N, 08/30/07]

~~8.139.502.7 — DEFINITIONS: [RESERVED]~~

~~8.139.502.8 — STATE FOOD STAMP SUPPLEMENT BENEFITS~~

~~—— A. — Purpose: The state food stamp supplement program is aimed at providing the elderly and disabled with increased food purchasing power resulting in better nutrition.~~

~~—— B. — Maximum benefit amount: The benefit amount shall be established by the HSD secretary based on available state funds.~~

~~—— C. — Eligibility process: The state food stamp supplement shall be determined only for households that meet all eligibility requirements identified in Subsection D of 8.139.502.8 NMAC.~~

~~—— D. — Eligibility requirements: The state food stamp supplement benefits shall be subject to all federal food stamp application, eligibility, certification and reporting requirements. The state food stamp supplement benefits shall be extended only to a household with a federal allotment amount less than \$25.00 federal food stamp benefits and meeting the program requirements. State food stamp supplement benefits shall be provided to a household under the following qualifications and eligibility requirements:~~

~~—— (1) all household members qualify and receive federal food stamp program benefits;~~

~~—— (2) all household members are elderly or disabled as defined in Subsection A of 8.139.100.7 NMAC;~~

~~—— (3) the household does not receive any earned income; and~~

~~—— (4) the household receives a federal food stamp program allotment amount, prior to any claim recoupment, of less than \$25.00.~~

[8.139.502.8 NMAC - N, 08/30/07; A, 04/15/09; A, 01/01/11]

~~8.139.502.9 — DETERMINING THE BENEFIT~~

~~—— A. — Application: A household shall not be required to submit an application in addition to the application for federal food stamp benefits to qualify or be determined eligible for the state food stamp supplement amount.~~

~~—— B. — Eligibility determination: Eligibility shall be determined for a household meeting all eligibility requirements at:~~

- ~~_____ (1) the time of application approval;~~
 - ~~_____ (2) the time of recertification;~~
 - ~~_____ (3) the month following a reported change which qualifies the household;~~
- or

- ~~_____ (4) the month following a change that becomes known to the agency in which the change qualifies the household; or~~
- ~~_____ (5) at time of implementation of this program.~~

~~_____ C. **Calculating the state food stamp supplement amount:** A household qualified and eligible for the state food stamp supplement shall receive a state supplement to the federal food stamp allotment amount to a maximum of \$25.00 per month before any recoupments and overpayments have been applied to the benefit amount.~~

~~_____ (1) **Application month:** The state food stamp supplement shall be determined by subtracting the federal FSP benefit amount, after the federal FSP benefit is prorated and prior to any recoupment, from \$25.00. The state food stamp supplement shall not be prorated.~~

~~_____ (2) **Ongoing month:** The state food stamp supplement shall be determined by subtracting the federal FSP benefit amount, prior to any recoupment, from \$25.00.~~

~~_____ (3) **Eligibility for a prior month:**~~

~~_____ (a) The state food stamp supplement shall not be provided to a household for a benefit month prior to July, 2007.~~

~~_____ (b) A household in which the federal benefit amount is adjusted for a prior month may be eligible for the state food stamp supplement provided the household qualifies and is eligible for the supplement.~~

~~_____ (4) **Current FSP households:** Households which meet the qualifications and eligibility requirements for the state food stamp supplement shall be eligible for the supplement without any action required by the household. The household shall be eligible for a supplement for any month beginning July 2007 and after upon implementation of the program for which the household qualifies.~~

~~_____ D. **Ineligibility:** A household shall become ineligible for the state food stamp supplement if the household does not meet the eligibility requirements specified in 8.139.502.8 NMAC the month following the month the notice of adverse action expires. The household's eligibility for the state food stamp supplement shall be made at the time of:~~

- ~~_____ (1) application approval;~~
- ~~_____ (2) recertification;~~
- ~~_____ (3) a reported change;~~
- ~~_____ (4) a change becomes known to the agency; or~~
- ~~_____ (5) at the time of a mass change.~~

~~_____ E. **Notice:** A household that qualifies and is eligible for food stamp benefits shall be issued notice in accordance with 8.139.110.14 NMAC. A notice of adverse action shall not be considered if the household federal food stamp and state food stamp supplement does not decrease below \$25.00. A household that qualifies and is eligible for the state food stamp supplement shall be issued a notice for the following circumstances:~~

~~_____ (1) **Approval:** A household shall be issued an approval notice at the time the household is determined eligible for the state food stamp supplement. The approval~~

notice shall identify the amount of the state food stamp supplement.

~~(2) **Benefit change:** A household shall be issued a notice at the time the state food stamp supplement is increased or decreased. The amount of benefit is subject to change when the federal food stamp benefit is increased or decreased.~~

~~(3) **Ineligibility:** A household shall be issued a notice when the household no longer qualifies or is eligible for the state food stamp supplement as indicated in Subsection D of 8.139.502.8 NMAC.~~

~~[8.139.502.9 NMAC - N, 08/30/07; A, 04/15/09; A, 01/01/11]~~

~~8.139.502.10 - BENEFIT ISSUANCE AND DELIVERY~~

~~A. **Benefit issuance:** The state food stamp supplement benefits are issued at the same time as the federal food stamp benefits, through issuance into a household's electronic benefit transfer (EBT) food stamp account as defined in 8.139.610 NMAC.~~

~~B. **Expungement:** The state food stamp supplement shall be subject to expungement in accordance with 8.139.610.8 NMAC.~~

~~C. **Issuance and replacement of EBT card:** To access and use the state food stamp supplement benefit, the household may use the same EBT card issued for the federal food stamp benefits.~~

~~D. **Approval notification:** Upon approval of the state food stamp supplement benefit, the household shall be notified of the new food stamp benefit amount and the notice shall be mailed to the applicant as per 8.139.110.14 NMAC.~~

~~E. **Household use of state food stamp supplement benefits:** The household shall only be allowed to use the state food stamp supplement for food purchases in accordance with 8.139.610.11 NMAC.~~

~~[8.139.502.10 NMAC - N, 08/30/07]~~

~~8.139.502.11 - OVERPAYMENT AND RECOUPMENT~~

~~A. **Overpayment:** A household that has received the state food stamp supplement benefit and has been determined ineligible or does not qualify for some or all of the state food stamp supplement benefit shall not have a claim established against the household for the state food stamp supplement benefit amount.~~

~~B. **Recoupment:**~~

~~(1) The household shall not be required to repay any amount of the state food stamp supplement benefit due to an established claim or overpayment of the federal food stamp benefit.~~

~~(2) The household shall remain subject to claim establishment and recoupment for the federal portion of the food stamp benefit in accordance with 8.139.640 NMAC.~~

~~(3) The human services department may not recoup any portion of the state food stamp supplement without the household agreeing to the collection.~~

~~[8.139.502.11 NMAC - N, 08/30/07]~~

~~HISTORY OF 8.139.502 NMAC: [RESERVED]~~

VII. PUBLICATION DATE

April 29, 2011

VIII. PUBLIC HEARING

A public hearing to receive testimony on this regulation will be held on May 31, 2011 from 10:00 am to 11:00 am. The hearing will be held at the Income Support Division Conference Room at Pollon Plaza, 2009 S. Pacheco St., Santa Fe, NM 87505. The Conference room is located in room 120 on the lower level. Individuals wishing to testify may contact the Income Support Division, P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling toll free 1-800-432-6217.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the New Mexico Human Services Department toll free at 1-800-432-6217, in Santa Fe at 827-9454, or through the New Mexico Relay system, toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

IX. ADDRESS

Interested persons may address written or recorded comments to:

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

Interested persons may also address comments via electronic mail to:

Vida.Tapia-Sanchez@state.nm.us

X. PUBLICATION

Publication of these proposed regulations approved on 4/13/11
by:



SIDONIE SQUIER, SECRETARY
HUMAN SERVICES DEPARTMENT