



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.102.100.7 & 8.102.100.8 NMAC- SOCIAL SERVICES-CASH ASSISTANCE PROGRAMS-
RECIPIENT POLICIES-DEFINITIONS AND ACRONYMS

8.102.520.9 NMAC-SOCIAL SERVICES-CASH ASSISTANCE PROGRAMS-ELIGIBILITY
POLICY-INCOME

8.106.100.7 & 8.106.100.8 NMAC-SOCIAL SERVICES-STATE FUNDED ASSISTANCE
PROGRAMS

RECIPIENT POLICIES - DEFINITIONS AND ACRONYMS

8.106.520.9 NMAC SOCIAL SERVICES STATE FUNDED ASSISTANCE PROGRAMS
ELIGIBILITY POLICY- INCOME

8.139.100.7 & 8.139.100.8 NMAC-SOCIAL SERVICES-FOOD STAMP PROGRAM-
GENERAL PROVISIONS FOR THE FOOD STAMP PROGRAM

8.139.520 NMAC-SOCIAL SERVICES FOOD STAMP PROGRAM ELIGIBILITY POLICY /
INCOME AND DEDUCTIONS

8.139.527 NMAC-SOCIAL SERVICES FOOD STAMP PROGRAM FOOD STAMP
PROGRAM / INCOME AND RESOURCES EXCLUDED BY
FEDERAL LAW

III. PROGRAM AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM-(SNAP)
CASH ASSISTANCE PROGRAMS
STATE FUNDED ASSISTANCE PROGRAMS

IV. ACTION

PROPOSED RULE

V. BACKGROUND SUMMARY

The Human Services Department through Income Support Division (ISD) is proposing amendments to rules 8.102.100 NMAC Definitions and Acronyms, 8.102.520.9 NMAC Eligibility Policy-Income, 8.106.100 NMAC Definitions and Acronyms, 8.106.520 NMAC Eligibility Policy-Income, 8.139.100 NMAC General Provisions for the Food Stamp Program, 8.139.520 NMAC Eligibility Policy/Income and Deductions, 8.139.527 NMAC Income and Resources Excluded by Federal Law. Changes in the rule are to update language, incorporate standardized rule language, correcting citation format.

Specifically, the changes include:

8.102.100 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements. (Specifically, section 7 & 8).

8.102.520 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements. (Specifically, section 9).

8.106.100 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements. (Specifically, section 7 & 8).

8.106.520 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements. (Specifically, section 9).

8.139.100 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements. (Specifically, section 7 & 8).

8.139.520 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements.

8.139.527 NMAC

Repeal/replace to comply with federal regulations as well as NMAC rule requirements.

Concise Explanatory Statement:

The Department is promulgating these rules to be in compliance with the Code of Federal Regulation (CFR). 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. Provisions that fall under General Temporary Assistance for Needy Families (TANF) Provisions in 45 CFR Parts 200-

299. 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 8.102.100.7, 8.102.100.7, 8.102.520.9, 8.106.100.7, 8.106.100.8, 8.106.520.9, 8.139.100.7, 8.139.100.8, 8.139.520, 8.139.527. This register and the proposed changes are available on the HSD website at [Income Support Division Registers | New Mexico Human Services Department \(state.nm.us\)](#). 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

May 16, 2023

VIII. EFFECTIVE DATE

The Department proposed to implement these rules effective August 1, 2023

IX. PUBLIC HEARING

A public hearing to receive testimony on this proposed rule will be held virtually, pursuant to Section 14-4-5.6 NMSA 1978, will be held on June 20, 2023 11:00 a.m-12:00 p.m.

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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.

All Written comment may be dropped off during the scheduled hearing time at the HSD Sandoval County Field Office, 4363 Jager Dr., Rio Rancho, NM 87144.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-396-0313.

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, June 20, 2023. Please send comments to:

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

Recorded comments may be left at (505) 396-0313. You may send comments electronically to: HSD-isdrules@hsd.nm.gov. Written and recorded 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:
 3/28/2023
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KARI ARMIJO, ACTING SECRETARY
HUMAN SERVICES DEPARTMENT

This is an amendment to 8.102.100 NMAC, Section 7 & 8 effective 08/1/2023.

8.102.100.7 DEFINITIONS:

~~[A. Definitions A-L:~~

- ~~(1) **Applicant:** means person applying for cash assistance on behalf of a benefit group.~~
- ~~(2) **Application:** means a written or electronic request, on the appropriate ISD form, with the signature of the applicant or on the applicant's behalf by an authorized representative, for assistance.~~
- ~~(3) **Attendant:** means an individual needed in the home for medical, housekeeping, or child care reasons.~~
- ~~(4) **Authorized representative:** means an adult, who is designated in writing by the applicant, who is sufficiently knowledgeable about the applicant/ benefit group's circumstances to complete the application form correctly and can represent the benefit group.~~
- ~~(5) **Basic needs:** include food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.~~
- ~~(6) **Beginning month:** means the first month for which a benefit group is certified after a lapse in certification of at least one calendar month; beginning month and initial month are used interchangeably. A benefit group is budgeted prospectively in a beginning month.~~
- ~~(7) **Benefit group:** means a group of people, either mandatory or optional, to be included in determining the monthly benefit amount.~~
- ~~(8) **Benefit month:** means the month for which cash assistance benefits have been issued. This term is synonymous with issuance month defined below.~~
- ~~(9) **Budget month:** means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.~~
- ~~(10) **Capital gains:** means proceeds from the sale of capital goods or equipment.~~
- ~~(11) **Cash assistance:** means cash payments funded by the temporary assistance for needy families (TANF) block grant pursuant to the federal act and by state funds; or state funded cash assistance in the general assistance program.~~
- ~~(12) **Caretaker relative:** means an individual who assumes parental control over a child living in the home.~~
- ~~(13) **Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements.
 - ~~(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 one hundred sixty five percent FPG.~~~~
- ~~(14) **Certification:** means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.~~
- ~~(15) **Certification period:** means the time period assigned to a benefit group that is approved to receive cash assistance benefits. The certification period shall conform to calendar months and include an interim report to be completed mid certification.~~
- ~~(16) **Collateral contact:** means an individual or agency designated by the benefit group to provide information concerning eligibility.~~
- ~~(17) **Conciliation process:** means a 30-day process prior to imposing a sanction during which the department and the individual have the opportunity to address barriers to compliance or to correct whatever failure has generated the noncompliance determination.~~
- ~~(18) **Conversion factor:** means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.~~
- ~~(19) **Date of application:** means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. The date the application and forms received by ISD will be documented on the form. Applications that are dropped off or submitted electronically after regularly scheduled business hours, holidays and weekends will be considered received as of the next business day.~~
- ~~(20) **Date of admission:** means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.~~

- _____ (21) **Date of entry:** means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.
- _____ (22) **Department:** means the human services department.
- _____ (23) **Dependent child:** means a natural child, adopted child, stepchild or ward that is:
- _____ (a) 17 years of age or younger; or
- _____ (b) 18 years of age and is enrolled in high school; or
- _____ (c) between 18 and 22 years of age and is receiving special education services regulated by the public education department.
- _____ (24) **Director:** means the director of the income support division.
- _____ (25) **Diversion payment:** means a lump sum payment, which will enable the applicant to keep a job or to accept a bona fide offer of employment.
- _____ (26) **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) **Earned income:** means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services.
- _____ (28) **Education works program (EWP):** provides state-funded cash assistance to a benefit group where at least one individual is enrolled in a post-secondary institution. The applicant or recipient benefit group must be otherwise eligible for NMW cash assistance, but chooses to participate in the education works cash assistance program.
- _____ (29) **Emancipated:** means an individual under the age of 18 years who is legally recognized as no longer under parental control due to marriage or by a decision of a court.
- _____ (30) **Encumbrance:** means debt owed on property.
- _____ (31) **Equity value:** means the fair market value of property, less any encumbrances owed on the property.
- _____ (32) **Expedited services:** means the process by which benefit groups reporting little or no income or resources will be provided an opportunity to participate in the SNAP program.
- _____ (33) **Expungement:** means the permanent deletion of cash benefits from an EBT account that is state.
- _____ (34) **Fair hearing:** means an administrative proceeding which a claimant or claimant's representative may request if:
- _____ (a) an application is not acted on within a reasonable time after the filing of the application;
- _____ (b) an application is denied in whole or in part; or
- _____ (c) the cash assistance or services are modified, terminated or not provided.
- _____ (35) **Fair market value (FMV):** means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or offer as a trade-in. It is not the amount the dealer would sell the vehicle for at retail.
- _____ (36) **Federal act:** means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.
- _____ (37) **Federal fiscal year:** October 1 through September 30 of the calendar year.
- _____ (38) **Federal means-tested public benefit:** means benefits from the SNAP program; the food assistance block grant programs in Puerto Rico, American Samoa and the commonwealth of the Northern Mariana islands, supplemental security income (SSI), and the TANF block grant program under Title IV of the Social Security Act; medicaid and SCHIP.
- _____ (39) **Federal poverty guidelines:** means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services.
- _____ (40) **Five year bar:** means the federally imposed prohibition on receiving federal means-tested public benefits for certain qualified aliens who entered the United States (U.S.) on or after August 22, 1996, until they continuously lived in the U.S. for five years. The count for the five year bar begins on the date the non-citizen attains qualified alien status.
- _____ (41) **Food Stamp Act:** the Food Stamp Act of 1977 (P.L. 95-113), the Food and Nutrition Act of 2008 (P.L. 110-246), and subsequent amendments.
- _____ (42) **General assistance (GA) benefit group:** means a benefit group in which all members receive cash assistance financed by state or local funds.
- _____ (43) **Government entity:** includes any federal, state, tribal or local unit of government as

well as any non-government entity which receives public funds for the purpose of meeting the housing needs of its clientele.

_____ (44) — **Gross income:** means the total amount of income that a benefit group 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 benefit group, 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.

_____ (45) — **Gross income test (eighty-five percent test):** for the benefit group to be eligible, the gross earned income of the benefit group must be less than eighty-five percent of the federal poverty guidelines as determined in 8.102.500.8 NMAC.

_____ (46) — **Hardship extension:** means an extension of the TANF/NMW 60-month lifetime limit due to specific conditions enumerated at 8.102.410.17 NMAC.

_____ (47) — **Head of household:** means the payee who is the responsible case head for the benefit group. The payee may be the parent, guardian, sole adult member, specified relative, pregnant woman, a GA recipient, or caretaker relative.

_____ (48) — **Immigrant:** means a non-citizen or an alien within the meaning found in Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

_____ (49) — **Immigration and naturalization service (INS):** a division of the U.S. department of justice dealing with U.S. citizenship and immigration services.

_____ (50) — **Impairment:** means a condition resulting from anatomical, physiological, or psychological abnormalities evidenced by medically acceptable clinical and laboratory diagnostic techniques. Impairment has to do only with the medical, psychiatric, or both processes. To evaluate both physical and mental impairment, medical evidence consisting of signs, symptoms and objective findings must be obtained.

_____ (51) — **Incapacity review unit:** means a special unit in the department that determines the status of participants for the family violence option and limited work participation status. This is also known as the IRU.

_____ (52) — **Individual development account program:** means an account created for eligible individuals which is established and maintained by an authorized financial institution to be used for individual development.

_____ (53) — **Individual development program:** means a program that establishes and administers individual development accounts and reserve accounts in order to provide financial training required by the division for account owners.

_____ (54) — **Ineligible alien:** means an individual who does not meet the eligible alien requirements.

_____ (55) — **Initial month:** means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.

_____ (56) — **Inquiry:** means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application.

_____ (57) — **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.

_____ (58) — **Institution of post-secondary education:** means an institution of post-secondary education, 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 a program of training to prepare students for gainful employment.

_____ (59) — **Irrevocable trust funds:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

_____ (60) — **Issuance month:** means the calendar month for which cash assistance is issued. In prospective budgeting, the budget and issuance months are the same.

_____ (61) — **Legal guardian:** means a legally created relationship between a child and appointed adult wherein the appointed adult acquires legal decision-making authority for a child.

_____ (62) — **Limited work participation hours:** means the reduced work requirement hours approved by the IRU or the NMW service provider, as appropriate, after a participant has been approved for a limited work participation status.

_____ (63) — **Limited work participation status:** means a NMW participant has a verified condition

or barrier as outlined at Subsection A of 8.102.420.11 NMAC that precludes the ability to meet the standard work requirement hours and has been approved for such status by the IRU or NMW service provider, as appropriate.

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

(3) **Minor unmarried parent:** means an unmarried parent under the age of 18 years or is age 18 and enrolled in high school.

(4) **Month of approval:** means the month the action to approve a benefit group for cash assistance is taken.

(5) **Net income tests:** means for the benefit group to be eligible, the benefit group's net earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.

(6) **Net monthly income:** means gross non-exempt income minus the allowable deductions. It is the income figure used to determine eligibility and cash assistance benefit amount.

(7) **Non-benefit group members:** means persons residing with a benefit group who are specifically excluded by regulation from being included in the benefit group certification.

(8) **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.

(9) **Non-citizen U.S. national:** means a person who is not an U.S. citizen but was born in an outlying possession of the U.S. on or after the date the U.S. acquired the possession, or a person whose parents are non-citizen U.S. nationals. A person who resides on one of the following U.S. island territories is a non-citizen U.S. national: American Samoa, Swains island or the Northern Mariana islands.

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

(11) **Notice of adverse action (NOAA):** means a written or electronic notice that includes a statement of the action the department has taken or intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any over-issuance received if the hearing decision is adverse to the benefit group. This 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. Recipients have 13 days from the mailing date or the date of electronic transmittal of the notice to request a fair hearing and to have benefits restored to their previous level.

(12) **NMW compliance requirements:** means the various work program activities a TANF/NMW participant is expected to attend and complete in order to avoid conciliation or sanction.

(13) **Over-issuance:** means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.

(14) **Parent:** means natural parent, adoptive parent, or stepparent.

(15) **Participant:** means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority.

(16) **Payment standard:** means the amount of the cash assistance payment, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and prior to reduction by sanction, recoupment or both.

(17) **Permanent total disability:** means an individual must have a physical or mental impairment, expected to last at least 12 months, that prevents gainful employment in any employment position within the individual's current employment capacity.

(18) **Person:** means an individual.

(19) **Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on a reasonable estimate of income and circumstances that will exist in the current month and future months.

(20) **Qualified alien status:** means a person lawfully admitted into the United States under

INA guidelines as defined in PROWRA of 1996.

_____ (21) **Real property:** means land, affixed improvements, and structures which include mobile homes. Grazing permits are also considered real property.

_____ (22) **Recertification:** means a complete review of all conditions of eligibility which are subject to change and a redetermination of the amount of assistance payment for an additional period of time.

_____ (23) **Recipient:** means a person receiving cash assistance benefits.

_____ (24) **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.

_____ (25) **Regular reporting:** means a reporting requirement that requires a participating household to report a change within ten days of the date a 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 a change in 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.

_____ (26) **Resource standard:** means the financial standard with respect to resources and property, \$2,000 for non-liquid resources and \$1,500 for liquid resources.

_____ (27) **Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.

_____ (28) **Resource planning session:** means a planning session to ascertain the applicant's immediate needs and to assess the applicant's financial and non-financial options.

_____ (29) **School age:** means any dependent child who turns six years prior to September first and is under 18 years of age.

_____ (30) **Secretary:** means the secretary of the department.

_____ (31) **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.

_____ (32) **Services:** means child-care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment.

_____ (33) **Shelter for battered persons:** means a public or private nonprofit residential facility that serves battered persons. 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 persons.

_____ (34) **Simplified reporting:** a change reporting requirement for households that receive TANF benefits.

_____ (35) **Single-parent benefit group:** means any benefit group which does not include both parents of a child included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

_____ (36) **Sponsor:** means a person who executed an affidavit 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.

_____ (37) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.

_____ (38) **Stale:** means EBT accounts which have not been accessed, no withdrawal activity, by the household in the last 90 days from the most recent date of withdrawal.

_____ (39) **Standard of need:** means an amount which is based on the number of individuals included in the benefit group and allows for financial standard and basic needs.

_____ (40) **Standard work requirement hours:** means the minimum number of hours in applicable core and non-core total work activities a participant must complete.

_____ (41) **State-funded alien eligible:** means an alien who entered the United States on or after August 22, 1996, as one of the classes of aliens described in Subsection B of 8.102.410.10 NMAC, is eligible with respect to citizenship requirements for state-funded assistance under NMW and GA without regard to how long the alien has been residing in the United States.

_____ (42) **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.

~~(43) 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;~~

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

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

~~(44) Temporary total disability: means a physical or mental impairment, expected to last at least 30 days from date of determination, but less than one year from the date of application, that prevents gainful employment in any employment position within the individual's current employment capacity.~~

~~(45) Two-parent benefit group: means a benefit group which is considered to exist when both parents of any child included in the benefit group live in the home with the child and are included in the benefit group.~~

~~(46) Term limits: means NMW assistance (cash benefits and supportive services) is not provided to or for an adult or a minor head of household for more than 60 months during the individual's lifetime.~~

~~(47) Unearned income: means old age, survivors, and disability insurance payments (social security), railroad retirement benefits, veterans administration compensation or pension payments, military retirement and allotments, pensions, annuities and retirement benefits; lodge or fraternal benefits, any other public or private disability or retirement benefit or pension, shared shelter payments, individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.~~

~~(48) Vehicle: means a conveyance used for the transportation of individuals to or from employment, for the activities of daily living or for the transportation of goods; vehicle does not include any boat, trailer or mobile home used as the principal place of residence.~~

~~(49) Verification: means the use of third party information or documentation to establish the accuracy of statements on the application, interim report and recertification.~~

~~(50) Vocational education: means an organized education program that is directly related to the preparation of a person for employment in a current or emerging occupation requiring training other than a baccalaureate or advance degree. Vocational education must be provided by an educational or training organization, such as a vocational technical school, community college, or post secondary institution or proprietary school.~~

~~(51) Wage subsidy program: means a subsidized employment training opportunity through which a TANF cash assistance recipient is hired into full time employment.]~~

A. Definitions beginning with "A":

~~(1) Applicant: means person applying for cash assistance on behalf of a benefit group.~~

~~(2) Application: means a written or electronic request, on the appropriate ISD form, with the signature of the applicant or on the applicant's behalf by an authorized representative, for assistance.~~

~~(3) Attendant: means an individual needed in the home for medical, housekeeping, or child care reasons.~~

~~(4) Authorized representative: means an adult, who is designated in writing by the applicant, who is sufficiently knowledgeable about the applicant/ benefit group's circumstances to complete the application form correctly and can represent the benefit group.~~

B. Definitions beginning with "B":

~~(1) Basic needs: include food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.~~

~~(2) Beginning month: means the first month for which a benefit group is certified after a lapse in certification of at least one calendar month; beginning month and initial month are used interchangeably. A benefit group is budgeted prospectively in a beginning month.~~

~~(3) Benefit group: means a group of people, either mandatory or optional, to be included in determining the monthly benefit amount.~~

~~(5) Benefit month: means the month for which cash assistance benefits have been issued. This term is synonymous with issuance month defined below.~~

~~(6) Budget month: means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.~~

C. Definitions beginning with "C":

~~(1) Capital gains: means proceeds from the sale of capital goods or equipment.~~

~~(2) Cash assistance: means cash payments funded by the temporary assistance for needy~~

families (TANF) block grant pursuant to the federal act and by state funds; or state funded cash assistance in the general assistance program.

(3) Caretaker relative: means an individual who assumes parental control over a child living in the home.

(4) Categorical eligibility (CE): means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements.

(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 one hundred sixty five percent FPG.

(5) Certification: means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.

(6) Certification period: means the time period assigned to a benefit group that is approved to receive cash assistance benefits. The certification period shall conform to calendar months and include an interim report to be completed mid certification.

(7) Collateral contact: means an individual or agency designated by the benefit group to provide information concerning eligibility.

(8) Conciliation process: means a 30-day process prior to imposing a sanction during which the department and the individual have the opportunity to address barriers to compliance or to correct whatever failure has generated the noncompliance determination.

(9) Conversion factor: means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.

D. Definitions beginning with “D”:

(1) Date of application: means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. The date the application and forms received by ISD will be documented on the form. Applications that are dropped off or submitted electronically after regularly scheduled business hours, holidays and weekends will be considered received as of the next business day.

(2) Date of admission: means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.

(3) Date of entry: means the date established by the immigration and naturalization service (INS) as the date an alien (or sponsored alien) was admitted for permanent residence.

(4) Department: means the human services department.

(5) Dependent child: means a natural child, adopted child, stepchild or ward that is:

(a) 17 years of age or younger; or

(b) 18 years of age and is enrolled in high school; or

(c) between 18 and 22 years of age and is receiving special education services regulated by the public education department.

(6) Director: means the director of the income support division.

(7) Diversion payment: means a lump sum payment, which will enable the applicant to keep a job or to accept a bona fide offer of employment.

(8) 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.

E. Definitions beginning with “E”:

(1) Earned income: means cash or payment in-kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services.

(2) Education works program (EWP): provides state-funded cash assistance to a benefit group where at least one individual is enrolled in a post-secondary institution. The applicant or recipient benefit group must be otherwise eligible for NMW cash assistance, but chooses to participate in the education works cash assistance program.

(3) Emancipated: means an individual under the age of 18 years who is legally recognized as no longer under parental control due to marriage or by a decision of a court.

(4) Encumbrance: means debt owed on property.

(5) **Equity value:** means the fair market value of property, less any encumbrances owed on the property.

(6) **Expedited services:** means the process by which benefit groups reporting little or no income or resources will be provided an opportunity to participate in the SNAP program.

(7) **Expungement:** means the permanent deletion of cash benefits from an EBT account that is stale.

F. Definitions beginning with “F”:

(1) **Fair hearing:** means an administrative proceeding which a claimant or claimant’s representative may request if:

(a) an application is not acted on within a reasonable time after the filing of the application;

(b) an application is denied in whole or in part; or

(c) the cash assistance or services are modified, terminated or not provided.

(2) **Fair market value (FMV):** means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or offer as a trade-in. It is not the amount the dealer would sell the vehicle for at retail.

(3) **Federal act:** means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.

(4) **Federal fiscal year:** October 1 through September 30 of the calendar year.

(5) **Federal means-tested public benefit:** means benefits from the SNAP program; the food assistance block grant programs in Puerto Rico, American Samoa and the commonwealth of the Northern Mariana islands, supplemental security income (SSI), and the TANF block grant program under Title IV of the Social Security Act; medicaid and SCHIP.

(6) **Federal poverty guidelines:** means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services.

(7) **Five-year bar:** means the federally imposed prohibition on receiving federal means-tested public benefits for certain qualified aliens who entered the United States (U.S.) on or after August 22, 1996, until they continuously lived in the U.S. for five years. The count for the five year bar begins on the date the non-citizen attains qualified alien status.

(8) **Food Stamp Act:** the Food Stamp Act of 1977 (P.L. 95-113), the Food and Nutrition Act of 2008 (P.L. 110-246), and subsequent amendments.

G. Definitions beginning with “G”:

(1) **General assistance (GA) benefit group:** means a benefit group in which all members receive cash assistance financed by state or local funds.

(2) **Government entity:** includes any federal, state, tribal or local unit of government as well as any non-government entity which receives public funds for the purpose of meeting the housing needs of its clientele.

(3) **Gross income:** means the total amount of income that a benefit group 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 benefit group, 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.

(4) **Gross income test (eighty-five percent test):** for the benefit group to be eligible, the gross earned income of the benefit group must be less than eighty-five percent of the federal poverty guidelines as determined in 8.102.500.8 NMAC.

(5) **Guaranteed based income:** Guaranteed basic income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

H. Definitions beginning with “H”:

(1) **Hardship extension:** means an extension of the TANF/NMW 60-month lifetime limit due to specific conditions enumerated at 8.102.410.17 NMAC.

(2) **Head of household:** means the payee who is the responsible case head for the benefit group. The payee may be the parent, guardian, sole adult member, specified relative, pregnant woman, a GA recipient, or caretaker relative.

I. Definitions beginning with “I”:

(1) **Immigrant:** means a non-citizen or an alien within the meaning found in Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) **Immigration and naturalization service (INS):** a division of the U.S. department of justice dealing with U.S. citizenship and immigration services.

(3) **Impairment:** means a condition resulting from anatomical, physiological, or psychological abnormalities evidenced by medically acceptable clinical and laboratory diagnostic techniques. Impairment has to do only with the medical, psychiatric, or both processes. To evaluate both physical and mental impairment, medical evidence consisting of signs, symptoms and objective findings must be obtained.

(4) **Incapacity review unit:** means a special unit in the department that determines the status of participants for the family violence option and limited work participation status. This is also known as the IRU.

(5) **Individual development account program:** means an account created for eligible individuals which is established and maintained by an authorized financial institution to be used for individual development.

(6) **Individual development program:** means a program that establishes and administers individual development accounts and reserve accounts in order to provide financial training required by the division for account owners.

(7) **Ineligible alien:** means an individual who does not meet the eligible alien requirements.

(8) **Initial month:** means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.

(9) **Inquiry:** means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application.

(10) **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.

(11) **Institution of post-secondary education:** means an institution of post-secondary education, 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 a program of training to prepare students for gainful employment.

(12) **Irrevocable trust funds:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

(13) **Issuance month:** means the calendar month for which cash assistance is issued. In prospective budgeting, the budget and issuance months are the same.

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) **Legal guardian:** means a legally created relationship between a child and appointed adult wherein the appointed adult acquires legal decision making authority for a child.

(2) **Limited work participation hours:** means the reduced work requirement hours approved by the IRU or the NMW service provider, as appropriate, after a participant has been approved for a limited work participation status.

(3) **Limited work participation status:** means a NMW participant has a verified condition or barrier as outlined at Subsection A of 8.102.420.11 NMAC that precludes the ability to meet the standard work requirement hours and has been approved for such status by the IRU or NMW service provider, as appropriate.

M. Definitions beginning with "M":

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

(3) **Minor unmarried parent:** means an unmarried parent under the age of 18 years or is age 18 and enrolled in high school.

(4) **Month of approval:** means the month the action to approve a benefit group for cash assistance is taken.

N. Definitions beginning with "N":

(1) **Net income tests:** means for the benefit group to be eligible, the benefit group's net

earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.

(2) **Net monthly income:** means gross non-exempt income minus the allowable deductions. It is the income figure used to determine eligibility and cash assistance benefit amount.

(3) **Non-benefit group members:** means persons residing with a benefit group who are specifically excluded by regulation from being included in the benefit group certification.

(4) **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.

(5) **Non-citizen U.S. national:** means a person who is not an U.S. citizen but was born in an outlying possession of the U.S. on or after the date the U.S. acquired the possession, or a person whose parents are non-citizen U.S. nationals. A person who resides on one of the following U.S. island territories is a non-citizen U.S. national: American Samoa, Swains island or the Northern Mariana islands.

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

(7) **Notice of adverse action (NOAA):** means a written or electronic notice that includes a statement of the action the department has taken or intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any over-issuance received if the hearing decision is adverse to the benefit group. This 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. Recipients have 13 days from the mailing date or the date of electronic transmittal of the notice to request a fair hearing and to have benefits restored to their previous level.

(8) **NMW compliance requirements:** means the various work program activities a TANF/NMW participant is expected to attend and complete in order to avoid conciliation or sanction.

O. Definitions beginning with "O": Over-issuance means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.

P. Definitions beginning with "P":

(1) **Parent:** means natural parent, adoptive parent, or stepparent.

(2) **Participant:** means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority.

(3) **Payment standard:** means the amount of the cash assistance payment, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and prior to reduction by sanction, recoupment or both.

(4) **Permanent total disability:** means an individual must have a physical or mental impairment, expected to last at least 12 months, that prevents gainful employment in any employment position within the individual's current employment capacity.

(5) **Person:** means an individual.

(6) **Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on a reasonable estimate of income and circumstances that will exist in the current month and future months.

Q. Definitions beginning with "Q": Qualified alien status means a person lawfully admitted into the United States under INA guidelines as defined in PROWRA of 1996.

R. Definitions beginning with "R":

(1) **Real property:** means land, affixed improvements, and structures which include mobile homes. Grazing permits are also considered real property.

(2) **Recertification:** means a complete review of all conditions of eligibility which are subject to change and a redetermination of the amount of assistance payment for an additional period of time.

(3) **Recipient:** means a person receiving cash assistance benefits.

(4) **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.

(5) **Regular reporting:** means a reporting requirement that requires a participating household to report a change within ten days of the date a 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 a change in 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.

(6) **Resource standard:** means the financial standard with respect to resources and property, \$2,000 for non-liquid resources and \$1,500 for liquid resources.

(7) **Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.

(8) **Resource planning session:** means a planning session to ascertain the applicant's immediate needs and to assess the applicant's financial and non-financial options.

S. Definitions beginning with "S":

(1) **School age:** means any dependent child who turns six years prior to September first and is under 18 years of age.

(2) **Secretary:** means the secretary of the department.

(3) **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.

(4) **Services:** means child-care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment; education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment.

(5) **Shelter for battered persons:** means a public or private nonprofit residential facility that serves battered persons. 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 persons.

(6) **Simplified reporting:** a change reporting requirement for households that receive TANF benefits.

(7) **Single-parent benefit group:** means any benefit group which does not include both parents of a child included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

(8) **Sponsor:** means a person who executed an affidavit 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.

(9) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.

(10) **Stale:** means EBT accounts which have not been accessed, no withdrawal activity, by the household in the last 90 days from the most recent date of withdrawal.

(11) **Standard of need:** means an amount which is based on the number of individuals included in the benefit group and allows for financial standard and basic needs.

(12) **Standard work requirement hours:** means the minimum number of hours in applicable core and non-core total work activities a participant must complete.

(13) **State-funded alien eligible:** means an alien who entered the United States on or after August 22, 1996, as one of the classes of aliens described in Subsection B of 8.102.410.10 NMAC, is eligible with respect to citizenship requirements for state-funded assistance under NMW and GA without regard to how long the alien has been residing in the United States.

(14) **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.

(15) **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;

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

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

T. Definitions beginning with "T":

(1) **Temporary total disability:** means a physical or mental impairment, expected to last at least 30 days from date of determination, but less than one year from the date of application, that prevents gainful employment in any employment position within the individual's current employment capacity.

(2) Two-parent benefit group: means a benefit group which is considered to exist when both parents of any child included in the benefit group live in the home with the child and are included in the benefit group.

(3) Term limits: means NMW assistance (cash benefits and supportive services) is not provided to or for an adult or a minor head of household for more than 60 months during the individual's lifetime.

U. Definitions beginning with "U":

(1) Unearned income: means old age, survivors, and disability insurance payments (social security), railroad retirement benefits, veterans administration compensation or pension payments, military retirement and allotments, pensions, annuities and retirement benefits; lodge or fraternal benefits, any other public or private disability or retirement benefit or pension, shared shelter payments, individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.

(2) Universal Basic Income: Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

V. Definitions beginning with "V":

(1) Vehicle: means a conveyance used for the transportation of individuals to or from employment, for the activities of daily living or for the transportation of goods; vehicle does not include any boat, trailer or mobile home used as the principal place of residence.

(2) Verification: means the use of third-party information or documentation to establish the accuracy of statements on the application, interim report and recertification.

(3) Vocational education: means an organized education program that is directly related to the preparation of a person for employment in a current or emerging occupation requiring training other than a baccalaureate or advance degree. Vocational education must be provided by an educational or training organization, such as a vocational-technical school, community college, or post-secondary institution or proprietary school.

W. Definitions beginning with "W": **Wage subsidy program** means a subsidized employment training opportunity through which a TANF cash assistance recipient is hired into full-time employment.

X. Definitions beginning with "X":

Y. Definitions beginning with "Y":

Z. Definitions beginning with "Z":

[8.102.100.7 NMAC - N, 07/01/2001; A, 02/14/2002, A, 05/15/2003; A, 01/01/2004; A, 02/28/2007; A/E, 07/16/2007; A, 10/31/2007; A, 08/01/2009; A, 04/01/2010; A, 04/01/2012; A, 07/01/2013; A, 09/01/2017; A, 8/1/2023]

8.102.100.8 ABBREVIATIONS AND ACRONYMS:

A. Abbreviations and acronyms:

(1) AFDC: aid to families with dependent children (replaced by TANF effective July 1, 1997);

(2) BG: benefit group;

(3) BIA: bureau of Indian affairs;

(4) BIA-GA: bureau of Indian affairs-general assistance;

(5) CA: cash assistance;

(6) CE: categorical eligibility or categorically eligible;

(7) CFR: code of federal regulations;

(8) CS: child support;

(9) CSED: (HSD) child support enforcement division;

(10) CYFD: (New Mexico) children youth & families department;

(11) DOH: (New Mexico) department of health;

(12) DOL: department of labor;

(13) DOT: dictionary of occupational titles;

(14) E&T: employment and training (food stamp work program);

(15) EBT: electronic benefit transfer;

(16) EI: earned income;

(17) EW: eligibility worker (now caseworker);

(18) EWP: education works program;

(19) FAP: financial assistance program;

- (20) **FAA:** family assistance analyst (formally ISS);
- (21) **FFY:** federal fiscal year;
- (22) **FMV:** fair market value;
- (23) **FNS:** food and nutrition service (previously FCS);
- (24) **FPL:** federal poverty level;
- (25) **GBI:** guaranteed based income;

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- ~~[(25)]~~ (26) **GED:** general equivalency degree;
 - ~~[(26)]~~ (27) **HHS:** (U.S.) health and human services;
 - ~~[(27)]~~ (28) **HSE:** high school equivalency formerly known as GED;
 - ~~[(28)]~~ (29) **HSD:** (New Mexico) human services department;
 - ~~[(29)]~~ (30) **HUD:** (U.S.) housing and urban development;
 - ~~[(30)]~~ (31) **IDA:** individual development account;
 - ~~[(31)]~~ (32) **INS:** (U.S.) immigration and naturalization service;
 - ~~[(32)]~~ (33) **IPV:** intentional program violation;
 - ~~[(33)]~~ (34) **IRP:** individual responsibility plan;
 - ~~[(34)]~~ (35) **IRU:** incapacity review unit;
 - ~~[(35)]~~ (36) **ISD:** (HSD) income support division;
 - ~~[(36)]~~ (37) **ISD2:** integrated services delivery for ISD;
 - ~~[(37)]~~ (38) **ISS:** income support specialist (now caseworker);
 - ~~[(38)]~~ (39) **JTPA:** Job Training Partnership Act (now WIA);
 - ~~[(39)]~~ (40) **LIHEAP:** low income home energy assistance program;
 - ~~[(40)]~~ (41) **LITAP:** low income telephone assistance program;
 - ~~[(41)]~~ (42) **MAD:** (HSD) medical assistance division;
 - ~~[(42)]~~ (43) **MVD:** (New Mexico) motor vehicle division;
 - ~~[(43)]~~ (44) **NADA:** national automobile dealers association;
 - ~~[(44)]~~ (45) **NMAC:** New Mexico administrative code;
 - ~~[(45)]~~ (46) **NMW:** New Mexico works;
 - ~~[(46)]~~ (47) **NOAA:** notice of adverse action;
 - ~~[(47)]~~ (48) **POS:** point of sale;
 - ~~[(48)]~~ (49) **QC:** quality control;
 - ~~[(49)]~~ (50) **RR:** regular reporting or regular reporters;
 - ~~[(50)]~~ (51) **RRP:** refugee resettlement program;
 - ~~[(51)]~~ (52) **SAVE:** systematic alien verification for entitlements;
 - ~~[(52)]~~ (53) **SE:** self-employment;
 - ~~[(53)]~~ (54) **SR:** simplified reporting;
 - ~~[(54)]~~ (55) **SNAP:** supplemental nutrition assistance program formerly known as food

stamps;

- ~~[(55)]~~ (56) **SSA:** social security administration;
- ~~[(56)]~~ (57) **SSI:** supplemental security income;
- ~~[(57)]~~ (58) **SSN:** social security number;
- ~~[(58)]~~ (59) **TANF:** temporary assistance to needy families (block grant program under

Title IV-A of the Social Security Act);

(60) **UBI:** Universal based income;

- ~~[(59)]~~ (61) **UCB:** unemployment compensation benefits;
- ~~[(60)]~~ (62) **UEI:** unearned income;
- ~~[(61)]~~ (63) **USDA:** United States department of agriculture;
- ~~[(62)]~~ (64) **VA:** Veterans administration;
- ~~[(63)]~~ (65) **WIA:** Workforce Investment Act;
- ~~[(64)]~~ (66) **WID:** work incentive deduction;
- ~~[(65)]~~ (67) **WPA:** work participation agreement;

B. [RESERVED]

[8.102.100.8 NMAC - N, 07/01/2001; A, 02/14/2002; A, 01/01/2004; A, 02/28/2007; A/E, 07/16/2007; A, 10/31/2007; A, 09/01/2017; A, 8/1/2023]

This is an amendment to 8.102.520 NMAC, Section 9 effective 08/1/2023

8.102.520.9 EXEMPT INCOME: The following income sources are not considered available for the gross income test, the net income test, and the cash payment calculation:

- A. medicaid;
- B. food stamp benefits;
- C. government-subsidized foster care, if the child for whom the payment is received is not included in the benefit group;
- D. SSI;
- E. government-subsidized housing or a housing payment; government includes any federal, state, local or tribal government or a private non-profit or for profit entity operating housing programs or using governmental funds to provide subsidized housing or to make housing payments;
- F. income excluded by federal law (described in 8.139.527 NMAC);
- G. educational payments made directly to an educational institution;
- H. government-subsidized child care;
- I. earned income that belongs to a child 17 years of age or younger who is not the head of household; only earned income paid directly to the child is considered as belonging to the child;
- J. up to \$50.00 child support disregard and \$100.00 for one child and \$200 for two or more children per month, child support pass-through distributed to the benefit group by the CSED;
- K. an emergency one-time only payment made by other agencies or programs;
- L. reimbursements for past or future identified expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the benefit group, such as expenses for job or job training related activities, travel, per diem, uniforms, transportation costs to and from the job or training site, and medical or dependent care reimbursements and any reimbursement for expenses incurred while participating in NMW work program activities; reimbursements for normal living expenses, such as rent, mortgage, clothing or food eaten at home are not excluded;
- M. utility assistance payments such as from low-income home energy assistance program (LIHEAP), low-income assistance program (LITAP), or similar assistance programs.
- N. **Guaranteed Based Income:** Guaranteed Basic Income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

Exempt: When any funding comes from a private source

O. Universal Basic Income: Universal Basic Income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

Exempt: When any funding comes from a private source

[8.102.520.9 NMAC - Rp 8.102.520.8.I NMAC, 07/01/2001; A, 11/15/2007; A, 07/15/2010; A, 1/1/2023; A, 8/1/2023]

HISTORY OF 8.102.520 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD FA 430, Income, 2/11/88.

History of Repealed Material: 8 NMAC 3.FAP, Financial Assistance Program - Repealed, 07/01/97.
8.102.520 Eligibility Policy - Income, - Repealed, 07/01/01.

This is an amendment to 8.106.100 NMAC, Section 7 & 8 effective 08/1/2023.**8.106.100.7 DEFINITIONS:**~~[A. Definitions A-L:~~

- ~~(1) **Adult residential shelter care home (ARSCH):** means a shelter care home for adults that is licensed by the department of health.~~
- ~~(2) **Alien:** means an individual who is not a United States citizen.~~
- ~~(3) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.~~
- ~~(4) **Attendant:** means an individual needed in the home for medical, housekeeping or child-care reasons.~~
- ~~(5) **Authorized beneficiary:** means the surviving spouse of a disabled adult or the caretaker of an unrelated child, who has the ability to use a deceased recipient's issued payment.~~
- ~~(6) **Authorized representative:** means an adult who is designated in writing by the applicant and is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and represent the benefit group.~~
- ~~(7) **Basic needs:** means food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.~~
- ~~(8) **Benefit group:** means an individual or group of individuals authorized to receive cash assistance financed by state or local funds.~~
- ~~(9) **Benefit month:** means the month for which cash assistance benefits are issued.~~
- ~~(10) **Budget month:** means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.~~
- ~~(11) **Capacity to work:** means the effects of impairment(s), work-related factors, functionality on the ability for an individual to engage in gainful employment.~~
- ~~(12) **Capital gains:** means the proceeds from the sale of capital goods or equipment.~~
- ~~(13) **Cash assistance:** means state funded cash assistance in the general assistance program, the adult residential shelter care home program (ARSCH), or the burial assistance program for the indigent.~~
- ~~(14) **Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements:~~
- ~~(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 one hundred sixty five percent FPG.~~
- ~~(15) **Certification:** means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.~~
- ~~(16) **Certification period:** means the time period in calendar months that is assigned to a benefit group that is approved to receive cash assistance benefits.~~
- ~~(17) **Collateral contact:** means an individual or agency designated to provide information concerning eligibility.~~
- ~~(18) **Contingency:** means requirement(s) an individual must accept as a condition of eligibility such as, treatment available outside the GA program, unless a determination is made that good cause exists for the individual's inability to comply.~~
- ~~(19) **Conversion factor:** means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.~~
- ~~(20) **Date of admission:** means the date established by the immigration and naturalization service as the date an alien (or sponsored alien) was admitted for permanent residence.~~
- ~~(21) **Date of application:** means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. Applications that are dropped off or submitted electronically after regularly scheduled business hours, holidays and weekends will be considered received as of the next business day.~~
- ~~(22) **Date of authorization:** means the date when action is taken to approve a cash payment for a benefit group.~~
- ~~(23) **Date of entry:** means the date established by the immigration and naturalization service~~

as the date an alien (or sponsored alien) was admitted for permanent residence.

_____ (24) **Day(s):** means working days, unless otherwise defined in this chapter.

_____ (25) **Department:** means the human services department.

_____ (26) **Dependent child:** means an individual who is seventeen years of age or younger; eighteen years of age and enrolled in high school; or between eighteen and twenty two years of age and is receiving special education services regulated by the state public education department.

_____ (27) **Director:** means the director of the income support division.

_____ (28) **Disability:** means the definitions of disability related to the general assistance program and the disability determination process found at 8.106.420.7 NMAC.

_____ (29) **Earned income:** means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services.

_____ (30) **Emancipated:** means an individual under the age of 18 who is legally recognized as no longer under parental control due to the individual's marriage, active duty in the armed forces or by the order of a court.

_____ (31) **Encumbrance:** means debt owed on property.

_____ (32) **Equity value:** means the fair market value of property, less any encumbrances owed on the property.

_____ (33) **Essential person:** means an individual responsible for the care of a disabled general assistance recipient to the extent that placement into institutional care would be required were it not for care provided by this individual.

_____ (34) **Expungement:** means the permanent deletion of cash benefits from an EBT account that is stale.

_____ (35) **Fair hearing:** means an administrative proceeding that a claimant or the claimant's representative may request if:

_____ (a) an application is not acted on within the application time limits at 8.106.110.12 NMAC; or

_____ (b) an application is denied in whole or in part; or

_____ (c) cash assistance or services are modified, terminated or not provided.

_____ (36) **Fair market value (FMV):** means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or as a trade in, not the amount the dealer would sell the vehicle for at retail.

_____ (37) **Federal act:** means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.

_____ (38) **Federal fiscal year:** means the time period beginning on October 1 and ending on September 30 of the calendar year.

_____ (39) **Federal poverty guidelines:** means the level of income defining poverty by family size, published annually in the federal register by the United States department of health and human services.

_____ (40) **Gainful employment:** means any job or class of jobs in the state that would provide an income equaling or exceeding eighty five percent of the federal poverty guidelines to the benefit group.

_____ (41) **Government entity:** means any federal, state, tribal or local unit of government as well as any non government entity that receives public funds for the purpose of meeting the needs of its clientele.

_____ (42) **Gross income:** means the total amount of earned or unearned income 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 benefit group 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) **Gross income test:** means the income test applied to the maximum income eligibility limit for participation in a particular cash assistance program based on the size of the household or benefit group.

_____ (44) **Head of household:** means an individual who is the responsible case head for the benefit group. The head of household may be the parent, guardian, sole adult member, specified relative, pregnant woman, a recipient of general assistance, or caretaker.

_____ (45) **Immigrant:** means an individual who is an alien as defined in title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PROWRA) and within the technical meaning at 8 U.S.C. 1101(a)(15).

_____ (46) **Ineligible alien:** means an individual who does not meet the eligible alien requirements

or has not been admitted for permanent residence.

~~(47) **Initial month:** means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.~~

~~(48) **Inquiry:** means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application for that program.~~

~~(49) **Interim assistance reimbursement:** means the program within the social security administration that will reimburse the state through the department for payments made to an individual receiving GA disability during the period the individual's application for SSI was pending.~~

~~(50) **Institution of higher education:** means any education institution which normally requires a high school diploma or equivalency certificate for enrollment, including, but not limited to, colleges, universities, and vocational or technical schools at the post-high school level.~~

~~(51) **Institutionalized:** Living in a facility licensed as an adult residential shelter care home (ARSC) by the New Mexico department of health.~~

~~(52) **Irrevocable trust funds:** means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.~~

~~(53) **Issuance month:** means the calendar month in which cash assistance is issued.~~

~~(54) **Limited state funds:** means that the standard of need for a one person benefit group is calculated at \$150.00 per month or less.~~

B. Definitions M-Z:

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

~~(2) **Mandatory benefit group member:** The income and resources of mandatory members will always be considered to determine need, but not payment. In order to be included in the assistance group, members must individually meet eligibility requirements. Members mandatory for inclusion are: spouses residing in the home with the applicant, a caretaker of the applicant, and the father of an unborn child residing in the home with the applicant.~~

~~(3) **Medicaid:** means medical assistance under title XIX of the Social Security Act, as amended.~~

~~(4) **Minor unmarried parent:** means an unmarried parent who is under the age of 18 years or is age 18 and enrolled in high school.~~

~~(5) **Month of approval:** means the first month in which a benefit group is eligible for cash assistance.~~

~~(6) **Net income test:** means the income test applied to eligibility for a particular program, after all allowable deductions are taken from the gross income for the household or benefit group. To be eligible, the benefit group's net earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.~~

~~(7) **Net monthly income:** means gross non-exempt income minus the allowable deductions. Net monthly income is the figure used to determine eligibility and cash assistance benefit amount.~~

~~(8) **New Mexico works:** means the federally funded temporary cash assistance program for needy families that carries a sixty-month term limit for adults in the state.~~

~~(9) **Non-benefit group members:** means persons residing with a benefit group but who are specifically excluded by regulation from being included in the benefit group certification.~~

~~(10) **Non-cash TANF/MOE benefit or service:** means a non-cash TANF/MOE benefit or services including 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.~~

~~(11) **Notice:** means written correspondence that is generated by any method including handwritten, typed or electronic, delivered to the client or their authorized representative by hand, U.S. mail, professional delivery or by any electronic means. The term "written notice" and "notice" are used interchangeably.~~

~~(12) **Notice of adverse action (NOAA):** means a written or electronic notice sent 13 days in advance of an action to reduce, suspend or terminate benefits that includes a statement of the action the department intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any overpayment received if~~

the hearing decision is adverse to the benefit group.

~~(13) **Overpayment/over-issuance:** means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.~~

~~(14) **Parent:** means a natural parent, adoptive parent, or stepparent.~~

~~(15) **Payment:** means the amount of the cash assistance benefit, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and before any reduction by sanction or recoupment.~~

~~(16) **Permanently residing under color of law (PRUCOL):** means aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law as follows.~~

~~(a) The individual may be eligible for medicaid if the individual is an alien residing in the United States with the knowledge and permission of the immigration and naturalization services (INS) and the INS does not contemplate enforcing the alien's departure. The INS does not contemplate enforcing an alien's departure if it is the policy or practice of INS not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in a particular case it appears that INS is otherwise permitting the alien to reside in the United States indefinitely, as determined by verifying the aliens status with INS.~~

~~(b) Aliens who are permanently residing in the United States under color of law are listed below. None of the categories include applicants for an immigration and naturalization service status other than those applicants listed in Item (vi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC or those covered under Item (xvi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC. None of the categories allow medicaid eligibility for non immigrants; for example, students or visitors. Also listed are the most commonly used documents that the INS provides to aliens in these categories:~~

~~(i) aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7)(Section 203(a)(7) of the Immigration and Nationality Act); ask for a copy of INS Form I 94 endorsed "refugee conditional entry";~~

~~(ii) aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5)(Section 212(d)(5)) of the Immigration and Nationality Act; for Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981; (although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act);~~

~~(iii) aliens residing in the United States pursuant to an indefinite stay of deportation; ask for an immigration and naturalization service's letter with this information or INS Form I 94 clearly stated that voluntary departure has been granted for an indefinite period of time;~~

~~(iv) aliens residing in the United States pursuant to an indefinite voluntary departure; ask for an immigration and naturalization service's letter or INS Form I 94 showing that voluntary departure has been granted for an indefinite time period;~~

~~(v) aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I 94 or Form I 210 or a letter clearly stating that status;~~

~~(vi) aliens who have filed applications for adjustment of status pursuant to Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the immigration and naturalization services has accepted as properly filed (within the meaning of 8 CFR 245.2(a)(1) or (2) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I 94 or I 181 or a passport appropriately stamped;~~

~~(vii) aliens granted stays of deportation by court order, statute, or regulation, or by individual determination of the immigration and naturalization service pursuant to Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105 a) or relevant immigration and naturalization service's instructions, whose departure that agency does not contemplate enforcing; ask for a copy of INS Form I 94 or a letter from the immigration and naturalization service, or a copy of a court order establishing the alien's status;~~

~~(viii) aliens granted asylum pursuant to Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158); ask for a copy of INS Form I 94 and a letter establishing this status;~~

~~(ix) aliens admitted as refugees pursuant to Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or Section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)); ask for a copy of INS Form I 94 properly endorsed;~~

~~(x) aliens granted voluntary departure pursuant to Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing; ask for a Form I 94 or Form I 210 bearing a departure date;~~

~~(xi) — aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later; ask for a copy for INS Form I 210 or a letter showing that departure has been deferred;~~

~~(xii) — aliens residing in the United States under orders of supervision pursuant to Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)); ask for a copy of Form I 220 B;~~

~~(xiii) — aliens who have entered and continuously resided in the United States since before January 1, 1972, (or any date established by Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259); ask for any proof establishing this entry and continuous residence;~~

~~(xiv) — aliens granted suspension for deportation pursuant to Section 244 of the Immigration and Naturalization Act (8 U.S.C. 1254) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for an order from an immigration judge showing that deportation has been withheld;~~

~~(xv) — aliens whose deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); ask for an order from an immigration judge showing that deportation has been withheld;~~

~~(xvi) — any other aliens living in the United States with the knowledge and permission of the immigration and naturalization service and whose departure the agency does not contemplate enforcing (including permanent non-immigrants as established by Public Law 99-239, and persons granted extended voluntary departure due to conditions in the alien's home country based on a determination by the secretary of state);~~

~~(17) — **Person:** means an individual.~~

~~(18) — **Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on an estimate of income and circumstances that will exist in the current month and future months.~~

~~(19) — **Qualified alien:** includes any of the classes of immigrant status granted by USCIS below:~~

~~(a) — an alien who is lawfully admitted for permanent residence (LPR) under the Immigration and Nationality Act (INA);~~

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

~~(c) — an alien admitted into the United States as a refugee under section 207 of the INA;~~

~~(d) — an alien paroled into the United States for a period of at least one year under section 212(d)(5) of the INA;~~

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

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

~~(g) — an alien who was a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980;~~

~~(h) — an alien, an alien parent or alien child, who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same home as the alien at the time of the abuse and there is a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA, as long as the alien has begun the process of becoming a lawful permanent resident under the Violence Against Women Act;~~

~~(i) — an alien who is a victim of a severe form of trafficking, regardless of immigration status, under the Trafficking Victims Protection Act of 2000.~~

~~(20) — **Real property:** means land and affixed improvements and structures, which include mobile homes. Grazing permits are also considered real property.~~

~~(21) — **Recertification:** means a complete review of all conditions of eligibility and a redetermination of the amount of the cash assistance benefits for an additional period of time.~~

~~(22) — **Recipient:** means a person receiving cash assistance benefits.~~

~~(23) — **Reconsideration:** means a re-evaluation of disability based on additional medical evidence provided by the client.~~

~~(24) — **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.~~

~~(25) — **Resource standard:** means the financial standard with respect to an applicant's/recipient's resources and property, which is set at \$2,000 for non-liquid resources and \$1,500 for liquid~~

resources:

- _____ (26) **Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.
- _____ (27) **Secretary:** means the secretary of the human services department.
- _____ (28) **Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income.
- _____ (29) **Set term GA:** The certification period shall be for a set length of time dependent upon conditions, beginning from the month of approval and is not subject to review.
- _____ (30) **Shelter for battered persons:** means a public or private nonprofit residential facility that serves battered persons. 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 persons.
- _____ (31) **Simplified reporting:** a reporting requirement for households that receive GA benefits in accordance with 8.106.431 NMAC.
- _____ (32) **Single-parent benefit group:** means a benefit group that does not include both parents of a child who is included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.
- _____ (33) **Sponsor:** means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.
- _____ (34) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.
- _____ (35) **Spouse:** means an individual legally bound by marriage.
- _____ (36) **Stale:** means EBT accounts which have not been accessed (no withdrawal activity) by the household in the last 90 days from the most recent date of withdrawal.
- _____ (37) **Standard of need:** means the amount provided to each GA cash assistance benefit group on a monthly basis and is based on legislative funding, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR case number and expenditures, and number of pending applications.
- _____ (38) **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) **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;
- _____ (b) Section 1616(a) of the Social Security Act; or
- _____ (c) Section 1382 of the Social Security Act.
- _____ (40) **Unavailable state funds:** means the funds are not sufficient to provide all GA benefit groups with a one dollar monthly cash payment.
- _____ (41) **Unearned income:** Means old age, survivors and disability insurance payments (social security); railroad retirement benefits; veterans administration compensation or pension payments; military retirement and allotments; pensions, annuities and retirement benefits; lodge or fraternal benefits; other public or private disability or retirement benefits or pension; shared shelter payments; individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.
- _____ (42) **Unrelated caretaker:** means an individual who is not a specified relative within the fifth degree of relationship of a dependent child and has assumed responsibility for care, support and supervision of an unrelated child and for meeting the child's physical and emotional needs.
- _____ (43) **Unrelated child:** means a minor, under 18 years of age, residing with a caretaker who is not a specified relative within the fifth degree of relationship.
- _____ (44) **Variable term GA:** The certification period shall be set for a length of time, not to exceed 12 months, beginning from the month of approval and is subject to review.
- _____ (45) **Verification:** means the use of third party information or documentation to establish the accuracy of statements on the application or recertification.
- _____ (46) **Work-related factors:** means factors taken into account in the disability determination

process such as age, education, training, work experience, language ability, appearance, marital status, living situation, as well as relevant social history and minimal employment and activities that would be required in a work setting such as sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating and understanding and following directions.]

A. Definitions beginning with "A":

(1) **Adult residential shelter care home (ARSCH):** means a shelter care home for adults that is licensed by the department of health.

(2) **Alien:** means an individual who is not a United States citizen.

(3) **Application:** means a written request for assistance, on the appropriate ISD form, signed by or on behalf of an individual or family.

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

(5) **Authorized beneficiary:** means the surviving spouse of a disabled adult or the caretaker of an unrelated child, who has the ability to use a deceased recipient's issued payment.

(6) **Authorized representative:** means an adult who is designated in writing by the applicant and is sufficiently knowledgeable about the applicant/benefit group's circumstances to complete the application form correctly and represent the benefit group.

B. Definitions beginning with "B":

(1) **Basic needs:** means food, clothing, shelter, utilities, personal requirements and the individual's share of household supplies.

(2) **Benefit group:** means an individual or group of individuals authorized to receive cash assistance financed by state or local funds.

(3) **Benefit month:** means the month for which cash assistance benefits are issued.

(4) **Budget month:** means the calendar month for which income and other circumstances of the benefit group shall be determined in order to calculate the cash assistance amount.

C. Definitions beginning with "C":

(1) **Capacity to work:** means the effects of impairment(s), work-related factors, functionality on the ability for an individual to engage in gainful employment.

(2) **Capital gains:** means the proceeds from the sale of capital goods or equipment.

(3) **Cash assistance:** means state-funded cash assistance in the general assistance program, the adult residential shelter care home program (ARSCH), or the burial assistance program for the indigent.

(4) **Categorical eligibility (CE):** means a SNAP household that meets one of the following conditions is considered to be CE and have limited eligibility requirements.

(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 one hundred sixty-five percent FPG.

(5) **Certification:** means the authorization of eligibility of a benefit group for the issuance of cash assistance benefits.

(6) **Certification period:** means the time period in calendar months that is assigned to a benefit group that is approved to receive cash assistance benefits.

(7) **Collateral contact:** means an individual or agency designated to provide information concerning eligibility.

(8) **Contingency:** means requirement(s) an individual must accept as a condition of eligibility such as, treatment available outside the GA program, unless a determination is made that good cause exists for the individual's inability to comply.

(9) **Conversion factor:** means anticipated monthly income received on a weekly or bi-weekly basis shall be converted to a monthly amount.

D. Definitions beginning with "D":

(1) **Date of admission:** means the date established by the immigration and naturalization service as the date an alien (or sponsored alien) was admitted for permanent residence.

(2) **Date of application:** means the date the application is received by the income support division offices during regular business hours, this includes applications that are dropped off, submitted in person and electronically. Applications that are dropped off or submitted electronically after regularly scheduled business

hours, holidays and weekends will be considered received as of the next business day.

(3) Date of authorization: means the date when action is taken to approve a cash payment for a benefit group.

(4) Date of entry: means the date established by the immigration and naturalization service as the date an alien (or sponsored alien) was admitted for permanent residence.

(5) Day(s): means working days, unless otherwise defined in this chapter.

(6) Department: means the human services department.

(7) Dependent child: means an individual who is seventeen years of age or younger; eighteen years of age and enrolled in high school; or between eighteen and twenty-two years of age and is receiving special education services regulated by the state public education department.

(8) Director: means the director of the income support division.

(9) Disability: means the definitions of disability related to the general assistance program and the disability determination process found at 8.106.420.7 NMAC.

E. Definitions beginning with “E”:

(1) Earned income: means cash or payment in-kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services.

(2) Emancipated: means an individual under the age of 18 who is legally recognized as no longer under parental control due to the individual’s marriage, active duty in the armed forces or by the order of a court.

(3) Encumbrance: means debt owed on property.

(4) Equity value: means the fair market value of property, less any encumbrances owed on the property.

(5) Essential person: means an individual responsible for the care of a disabled general assistance recipient to the extent that placement into institutional care would be required were it not for care provided by this individual.

(6) Expungement: means the permanent deletion of cash benefits from an EBT account that is stale.

F. Definitions beginning with “F”:

(1) Fair hearing: means an administrative proceeding that a claimant or the claimant’s representative may request if:

(a) an application is not acted on within the application time limits at 8.106.110.12 NMAC; or

(b) an application is denied in whole or in part; or

(c) cash assistance or services are modified, terminated or not provided.

(2) Fair market value (FMV): means the amount an item can be expected to sell for on the open market at the prevailing rate of return. For vehicles, the term FMV means the amount a dealer would buy a vehicle for wholesale or as a trade-in, not the amount the dealer would sell the vehicle for at retail.

(3) Federal act: means the federal Social Security Act and rules promulgated pursuant to the Social Security Act.

(4) Federal fiscal year: means the time period beginning on October 1 and ending on September 30 of the calendar year.

(5) Federal poverty guidelines: means the level of income defining poverty by family size, published annually in the federal register by the United States department of health and human services.

G. Definitions beginning with “G”:

(1) Gainful employment: means any job or class of jobs in the state that would provide an income equaling or exceeding eighty-five percent of the federal poverty guidelines to the benefit group.

(2) Government entity: means any federal, state, tribal or local unit of government as well as any non-government entity that receives public funds for the purpose of meeting the needs of its clientele.

(3) Gross income: means the total amount of earned or unearned income 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 benefit group 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.

(4) Gross income test: means the income test applied to the maximum income eligibility limit for participation in a particular cash assistance program based on the size of the household or benefit group.

(5) Guaranteed based income: Guaranteed basic income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

H. Definitions beginning with "H": Head of household means an individual who is the responsible case head for the benefit group. The head of household may be the parent, guardian, sole adult member, specified relative, pregnant woman, a recipient of general assistance, or caretaker.

I. Definitions beginning with "I":

(1) Immigrant: means an individual who is an alien as defined in title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PROWRA) and within the technical meaning at 8 U.S.C. 1101(a)(15).

(2) Ineligible alien: means an individual who does not meet the eligible alien requirements or has not been admitted for permanent residence.

(3) Initial month: means the first month for which a benefit group is certified for participation in the cash assistance program. An initial month is also a month in which a benefit group is certified following a break in participation of one calendar month or longer.

(4) Inquiry: means a request for information about eligibility requirements for a financial, medical, or food assistance program that is not an application for that program.

(5) Interim assistance reimbursement: means the program within the social security administration that will reimburse the state through the department for payments made to an individual receiving GA disability during the period the individual's application for SSI was pending.

(6) Institution of higher education: means any education institution which normally requires a high school diploma or equivalency certificate for enrollment, including, but not limited to, colleges, universities, and vocational or technical schools at the post-high school level.

(7) Institutionalized: Living in a facility licensed as an adult residential shelter care home (ARSCH) by the New Mexico department of health.

(8) Irrevocable trust funds: means an arrangement to have monies held by one person for the benefit of another that cannot be revoked.

(9) Issuance month: means the calendar month in which cash assistance is issued.

J. Definitions beginning with "J": **[RESERVED]**

K. Definitions beginning with "K": **[RESERVED]**

L. Definitions beginning with "L": Limited state funds means that the standard of need for a one person benefit group is calculated at \$150.00 per month or less.

M. Definitions beginning with "M":

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

(2) Mandatory benefit group member: The income and resources of mandatory members will always be considered to determine need, but not payment. In order to be included in the assistance group, members must individually meet eligibility requirements. Members mandatory for inclusion are: spouses residing in the home with the applicant, a caretaker of the applicant, and the father of an unborn child residing in the home with the applicant.

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

(4) Minor unmarried parent: means an unmarried parent who is under the age of 18 years or is age 18 and enrolled in high school.

(5) Month of approval: means the first month in which a benefit group is eligible for cash assistance.

N. Definitions beginning with "N":

(1) Net income test: means the income test applied to eligibility for a particular program, after all allowable deductions are taken from the gross income for the household or benefit group. To be eligible, the benefit group's net earned income must be less than the standard of need applicable to the benefit group after allowable deductions have been made to the earned and unearned income.

(2) Net monthly income: means gross non-exempt income minus the allowable deductions. Net monthly income is the figure used to determine eligibility and cash assistance benefit amount.

(3) New Mexico works: means the federally funded temporary cash assistance program for needy families that carries a sixty-month term limit for adults in the state.

(4) Non-benefit group members: means persons residing with a benefit group but who are specifically excluded by regulation from being included in the benefit group certification.

(5) Non-cash TANF/MOE benefit or service: means a non-cash TANF/MOE benefit or services including 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.

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

(7) Notice of adverse action (NOAA): means a written or electronic notice sent 13 days in advance of an action to reduce, suspend or terminate benefits that includes a statement of the action the department intends to take, the reason for the action, the benefit group's right to a fair hearing, who to contact for additional information, the availability of continued benefits, and liability of the benefit group for any overpayment received if the hearing decision is adverse to the benefit group.

O. Definitions beginning with "O": Overpayment/over-issuance means the amount by which cash assistance benefits issued to a benefit group exceed the amount the benefit group was eligible to receive.

P. Definitions beginning with "P":

(1) Parent: means a natural parent, adoptive parent, or stepparent.

(2) Payment: means the amount of the cash assistance benefit, after the countable net earned and unearned income of the benefit group has been subtracted from the benefit group's standard of need, and before any reduction by sanction or recoupment.

(3) Permanently residing under color of law (PRUCOL): means aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law as follows.

(a) The individual may be eligible for medicaid if the individual is an alien residing in the United States with the knowledge and permission of the immigration and naturalization services (INS) and the INS does not contemplate enforcing the alien's departure. The INS does not contemplate enforcing an alien's departure if it is the policy or practice of INS not to enforce the departure of aliens in the same category, or if from all the facts and circumstances in a particular case it appears that INS is otherwise permitting the alien to reside in the United States indefinitely, as determined by verifying the aliens status with INS.

(b) Aliens who are permanently residing in the United States under color of law are listed below. None of the categories include applicants for an immigration and naturalization service status other than those applicants listed in Item (vi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC or those covered under Item (xvi) of Subparagraph (b) of Paragraph (2) of Subsection A of 8.200.410.11 NMAC. None of the categories allow medicaid eligibility for non-immigrants; for example, students or visitors. Also listed are the most commonly used documents that the INS provides to aliens in these categories:

(i) aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7)(Section 203(a)(7) of the Immigration and Nationality Act); ask for a copy of INS Form I-94 endorsed "refugee-conditional entry";

(ii) aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5)(Section 212(d)(5) of the Immigration and Nationality Act; for Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981; (although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act);

(iii) aliens residing in the United States pursuant to an indefinite stay of deportation; ask for an immigration and naturalization service's letter with this information or INS Form I-94 clearly stated that voluntary departure has been granted for an indefinite period of time;

(iv) aliens residing in the United States pursuant to an indefinite voluntary departure; ask for an immigration and naturalization service's letter or INS Form I-94 showing that voluntary departure has been granted for an indefinite time period;

(v) aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I-94 or Form I-210 or a letter clearly stating that status;

(vi) aliens who have filed applications for adjustment of status pursuant to Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the immigration and naturalization services has accepted as properly filed (within the meaning of 8 CFR 245.2(a)(1) or (2) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for a copy of INS Form I-94 or I-181 or a passport

appropriately stamped:

(vii) aliens granted stays of deportation by court order, statute, or regulation, or by individual determination of the immigration and naturalization service pursuant to Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105 a) or relevant immigration and naturalization service's instructions, whose departure that agency does not contemplate enforcing; ask for a copy of INS Form I-94 or a letter from the immigration and naturalization service, or a copy of a court order establishing the alien's status;

(viii) aliens granted asylum pursuant to Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158); ask for a copy of INS Form I-94 and a letter establishing this status;

(ix) aliens admitted as refugees pursuant to Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or Section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)); ask for a copy of INS Form I-94 properly endorsed;

(x) aliens granted voluntary departure pursuant to Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing; ask for a Form I-94 or Form I-210 bearing a departure date;

(xi) aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later; ask for a copy for INS Form I-210 or a letter showing that departure has been deferred;

(xii) aliens residing in the United States under orders of supervision pursuant to Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)); ask for a copy of Form I-220B;

(xiii) aliens who have entered and continuously resided in the United States since before January 1, 1972, (or any date established by Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259); ask for any proof establishing this entry and continuous residence;

(xiv) aliens granted suspension for deportation pursuant to Section 244 of the Immigration and Naturalization Act (8 U.S.C. 1254) and whose departure the immigration and naturalization service does not contemplate enforcing; ask for an order from an immigration judge showing that deportation has been withheld;

(xv) aliens whose deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); ask for an order from an immigration judge showing that deportation has been withheld;

(xvi) any other aliens living in the United States with the knowledge and permission of the immigration and naturalization service and whose departure the agency does not contemplate enforcing (including permanent non-immigrants as established by Public Law 99-239, and persons granted extended voluntary departure due to conditions in the alien's home country based on a determination by the secretary of state).

(4) **Person:** means an individual.

(5) **Prospective budgeting:** means the computation of a benefit group's eligibility and benefit amount based on an estimate of income and circumstances that will exist in the current month and future months.

Q. Definitions beginning with "Q": Qualified alien includes any of the classes of immigrant status granted by USCIS below:

(1) an alien who is lawfully-admitted for permanent residence (LPR) under the Immigration and Nationality Act (INA);

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

(3) an alien admitted into the United States as a refugee under section 207 of the INA;

(4) an alien paroled into the United States for a period of at least one year under section 212(d)(5) of the INA;

(5) an alien whose deportation has been withheld under section 243(h) of the INA as in effect prior to April 1, 1997, who whose removal has been withheld under section 241(b)(3) of the INA;

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

(7) an alien who was a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

(8) an alien, an alien parent or alien child, who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same home as the alien at the time of the abuse and there is a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of the INA, as long as the alien has begun the process of becoming a lawful permanent resident under the Violence Against Women Act;

(9) an alien who is a victim of a severe form of trafficking, regardless of immigration status, under the Trafficking Victims Protection Act of 2000.

R. Definitions beginning with "R":

(1) **Real property:** means land and affixed improvements and structures, which include mobile homes. Grazing permits are also considered real property.

(2) **Recertification:** means a complete review of all conditions of eligibility and a redetermination of the amount of the cash assistance benefits for an additional period of time.

(3) **Recipient:** means a person receiving cash assistance benefits.

(4) **Reconsideration:** means a re-evaluation of disability based on additional medical evidence provided by the client.

(5) **Refugee:** means a lawfully admitted individual granted conditional entry into the United States.

(6) **Resource standard:** means the financial standard with respect to an applicant's/recipient's resources and property, which is set at \$2,000 for non-liquid resources and \$1,500 for liquid resources.

(7) **Retrospective budgeting:** means the computation of a benefit group's benefits for an issuance month based on actual income and circumstances that existed in the previous month.

S. Definitions beginning with "S":

(1) **Secretary:** means the secretary of the human services department.

(2) **Self-employed:** means an individual who engages in a self-managed enterprise for the purpose of providing support and income.

(3) **Set term GA:** The certification period shall be for a set length of time dependent upon conditions, beginning from the month of approval and is not subject to review.

(4) **Shelter for battered persons:** means a public or private nonprofit residential facility that serves battered persons. 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 persons.

(5) **Simplified reporting:** a reporting requirement for households that receive GA benefits in accordance with 8.106.431 NMAC.

(6) **Single-parent benefit group:** means a benefit group that does not include both parents of a child who is included in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

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

(8) **Sponsored alien:** means an alien lawfully admitted for permanent residence in the United States as an immigrant, as defined in Sections 101(a)(15) and 101(a)(2) of the Immigration and Nationality Act.

(9) **Spouse:** means an individual legally bound by marriage.

(10) **Stale:** means EBT accounts which have not been accessed (no withdrawal activity) by the household in the last 90 days from the most recent date of withdrawal.

(11) **Standard of need:** means the amount provided to each GA cash assistance benefit group on a monthly basis and is based on legislative funding, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR case number and expenditures, and number of pending applications.

(12) **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.

(13) **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;

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

(c) Section 1382 of the Social Security Act.

T. Definitions beginning with "T":

U. Definitions beginning with "U":

(1) **Unavailable state funds:** means the funds are not sufficient to provide all GA benefit groups with a one dollar monthly cash payment.

(2) Unearned income: Means old age, survivors and disability insurance payments (social security); railroad retirement benefits; veterans administration compensation or pension payments; military retirement and allotments; pensions, annuities and retirement benefits; lodge or fraternal benefits; other public or private disability or retirement benefits or pension; shared shelter payments; individual Indian money (IIM); royalty or lease payments for land or property owned by a benefit group member; settlement payments resulting from insurance or litigation; worker's compensation benefits; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income.

(3) Universal basic income: Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

(4) Unrelated caretaker: means an individual who is not a specified relative within the fifth degree of relationship of a dependent child and has assumed responsibility for care, support and supervision of an unrelated child and for meeting the child's physical and emotional needs.

(5) Unrelated child: means a minor, under 18 years of age, residing with a caretaker who is not a specified relative within the fifth degree of relationship.

V. Definitions beginning with "V":

(1) Variable term GA: The certification period shall be set for a length of time, not to exceed 12 months, beginning from the month of approval and is subject to review.

(2) Verification: means the use of third-party information or documentation to establish the accuracy of statements on the application or recertification.

W. Definitions beginning with "W": **Work related factors** means factors taken into account in the disability determination process such as age, education, training, work experience, language ability, appearance, marital status, living situation, as well as relevant social history and minimal employment and activities that would be required in a work setting such as sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating and understanding and following directions.

X. Definitions beginning with "X":

Y. Definitions beginning with "Y":

Z. Definitions beginning with "Z":

[8.106.100.7 NMAC - Rp, 8.106.100.7 NMAC, 12/01/2009; A, 04/01/2010; A, 07/01/2013; A, 09/01/2017; A, 8/1/2023]

8.106.100.8 ABBREVIATIONS AND ACRONYMS:

A. Abbreviations and acronyms:

- (1) **ARSCH:** adult residential shelter care home;
- (2) **BG:** benefit group;
- (3) **BIA:** bureau of Indian affairs;
- (4) **BIA-GA:** bureau of Indian affairs-general assistance;
- (5) **CA:** cash assistance;
- (6) **CE:** categorical eligibility or categorically eligible;
- (7) **CFR:** code of federal regulations;
- (8) **CS:** child support;
- (9) **CSED:** (HSD) child support enforcement division;
- (10) **CYFD:** (New Mexico) children, youth & families department;
- (11) **DOH:** (New Mexico) department of health;
- (12) **DVR:** division of vocational rehabilitation;
- (13) **DOT:** dictionary of occupational titles;
- (14) **E&T:** employment and training (food stamp work program);
- (15) **EBT:** electronic benefit transfer;
- (16) **EI:** earned income;
- (17) **EWP:** education works program;
- (18) **FAP:** financial assistance program;
- (19) **FFY:** federal fiscal year;
- (20) **FMV:** fair market value;
- (21) **FPL:** federal poverty level;
- (22) **GA:** general assistance;
- (23) **GBI:** guaranteed based income;

~~(23)~~ **(24) GED:** general equivalency degree;

[(24)] <u>(25)</u>	HHS: (U.S.) health and human services;
[(25)] <u>(26)</u>	HSD: (New Mexico) human services department;
[(26)] <u>(27)</u>	HUD: (U.S.) housing and urban development;
[(27)] <u>(28)</u>	IDA: individual development account;
[(28)] <u>(29)</u>	IPV: intentional program violation;
[(29)] <u>(30)</u>	IRP: individual responsibility plan;
[(30)] <u>(31)</u>	IRU: incapacity review unit;
[(31)] <u>(32)</u>	ISD: (HSD) income support division;
[(32)] <u>(33)</u>	ISD2: integrated services delivery for income support division (ISD);
[(33)] <u>(34)</u>	MAD: (HSD) medical assistance division;
[(34)] <u>(35)</u>	MVD: (New Mexico) motor vehicle division;
[(35)] <u>(36)</u>	NADA: national automobile dealers association;
[(36)] <u>(37)</u>	NMAC: New Mexico administrative code;
[(37)] <u>(38)</u>	NMDWS: New Mexico department of workforce solutions;
[(38)] <u>(39)</u>	NMW: New Mexico works;
[(39)] <u>(40)</u>	NOAA: notice of adverse action;
[(40)] <u>(41)</u>	POS: point of sale;
[(41)] <u>(42)</u>	PED: (New Mexico) public education department;
[(42)] <u>(43)</u>	QC: quality control;
[(43)] <u>(44)</u>	RR: regular reporting;
[(44)] <u>(45)</u>	RRP: refugee resettlement program;
[(45)] <u>(46)</u>	SAVE: systematic alien verification for entitlements;
[(46)] <u>(47)</u>	SE: self-employment;
[(47)] <u>(48)</u>	SR: simplified reporting;
[(48)] <u>(49)</u>	SSA: social security administration;
[(49)] <u>(50)</u>	SSI: supplemental security income;
[(50)] <u>(51)</u>	SSN: social security number;
[(51)] <u>(52)</u>	TANF: temporary assistance to needy families (block grant program under title

IV-A of the Social Security Act);

~~(53)~~ (53) **UBI:** Universal basic income;

~~[(52)]~~ (54) **UCB:** unemployment compensation benefits;

~~[(53)]~~ (55) **UEI:** unearned income;

~~[(54)]~~ (56) **USCIS:** United States immigration and naturalization services;

~~[(55)]~~ (57) **USDA:** United States department of agriculture;

~~[(56)]~~ (58) **VA:** veterans administration;

~~[(57)]~~ (59) **WIA:** Workforce Investment Act;

~~[(58)]~~ (60) **WID:** work incentive deduction;

~~[(59)]~~ (61) **WPA:** work participation agreement.

B. Medical abbreviations and acronyms:

(1) **CNP:** certified nurse practitioner;

(2) **MD:** medical doctor;

(3) **NP:** nurse practitioner;

(4) **PA:** physician assistant;

(5) **PN:** practical nurse.

[8.106.100.8 NMAC - Rp, 8.106.100.8 NMAC, 12/01/2009; A, 09/01/2017; A, 8/1/2023]

This is an amendment to 8.106.520 NMAC, Section 9 effective 08/1/2023.

8.106.520.9 EXEMPT INCOME: The following income sources or assistance types are not considered available for the gross income test, the net income test and the cash payment calculation:

- A. medicaid;
- B. food stamp benefits;
- C. government-subsidized foster care, if the child for whom the payment is received is not included in the benefit group;
- D. SSI;
- E. government-subsidized housing or housing payment; government includes any federal, state, local or tribal government, or a private non-profit or for-profit entity operating housing programs or using government funds to provide subsidized housing or to make housing payments.
- F. income excluded by federal law (described in 8.139.527 NMAC);
- G. educational payments made directly to an educational institution;
- H. government-subsidized child care;
- I. earned income that belongs to a child 17 years of age or younger who is not the head of household; only earned income paid directly to the child is considered as belonging to the child;
- J. up to \$50.00 child support disregard and up to \$100.00 for one child and \$200 for two or more children per month, child support pass-through distributed to the benefit group by the CSED;
- K. an emergency one-time only payment made by other agencies or programs;
- L. reimbursements for past or future identified expenses, to the extent they do not exceed actual expenses and do not represent a gain or benefit to the benefit group, such as expenses for job or job training-related activities, travel, per diem, uniforms, transportation costs to and from the job or training site, medical or dependent care reimbursements and any reimbursement for expenses incurred while participating in NMW work program activities; reimbursements for normal living expenses, such as rent, mortgage, clothing or food eaten at home are not excluded;
- M. utility assistance payments, such as from LIHEAP, LITAP or similar assistance programs.
- N. all exempt income identified in 8.102.520.9 NMAC.

[8.106.520.9 NMAC - N, 07/01/2004; A, 07/15/2010; A, 8/1/2023]

This is an amendment to 8.139.100 NMAC, Section 7 & 8 effective 08/1/2023.

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) **Attendant:** means an individual needed in the home for medical, housekeeping, or child care reasons.

~~_____~~ (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.

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

~~_____~~ (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.

~~_____~~ (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.

~~_____~~ (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.

~~_____~~ (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.

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

~~_____~~ (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 one hundred sixty five percent FPG.

~~_____~~ (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.

- _____ (14) **Certification:** means the authorization of eligibility of a household and issuance of SNAP benefits.
- _____ (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 B of 8.139.120.9 NMAC.
- _____ (16) **Collateral contact:** means an individual or agency designated by the household to provide information concerning eligibility.
- _____ (17) **Communal diner:** means an individual 60 years of age or older 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.
- _____ (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.
- _____ (19) **Conversion factor:** means the calculation used to convert income that is received on a weekly or biweekly basis to an anticipated monthly amount.
- _____ (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.
- _____ (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.
- _____ (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.
- _____ (23) **Disability:** means the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment.
- _____ (24) **Disabled member:** see elderly or disabled member.
- _____ (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.
- _____ (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.)
- _____ (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).

_____ (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.

_____ (29) **Encumbrance:** means debt owed on property.

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

_____ (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.

_____ (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.

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

_____ (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.

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

_____ (36) **FNS:** means the food and nutrition service of the United States department of agriculture

(USDA).

_____ (37) — **Food Stamp Act:** the Food and Nutrition Act of 2008, and subsequent amendments.

_____ (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.

_____ (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.

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

_____ (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.

_____ (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 Items (i) through (x) of Subparagraph (b) of Paragraph (25) of Subsection A of 8.139.100.7 NMAC.

_____ (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).

_____ (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).

_____ (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.

_____ (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.

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

_____ (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.

_____ (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.

_____ (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.

_____ (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).

_____ (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.

_____ (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.

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

_____ (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.

_____ (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 applies to 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) 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.

_____ **(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.

_____ **(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.

_____ (26) **Shelter for battered persons:** means a public or private nonprofit residential facility that serves battered persons. 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 persons.

_____ (27) **Simplified reporting:** is the reporting requirement for households that receive SNAP benefits.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

_____ (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.

~~(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.~~

~~(41) **Thrifty food plan (TFP):** see maximum SNAP allotment.~~

~~(42) **Transitional food stamps:** an extension of SNAP benefits up to five months to certain households whose cash assistance benefits have been terminated.~~

~~(43) **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.~~

~~(44) **Unclear information:** Unclear information is information that is not verified, or information that is verified but ISD needs additional information to act on the change.~~

~~(45) **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) **Verification:** means the use of third party information or documentation to establish the accuracy of statements on the application.]~~

A. Definitions beginning with "A":

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

(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.

B. Definitions beginning with "B":

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

(2) **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.

(3) **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.

(4) **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.

(5) **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.

C. Definitions beginning with “C”:

(1) **Capital gains:** means proceeds from the sale of capital goods or equipment.

(2) **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 one hundred sixty-five percent FPG.

(3) **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.

(4) **Certification:** means the authorization of eligibility of a household and issuance of SNAP benefits.

(5) **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 B of 8.139.120.9 NMAC.

(6) **Collateral contact:** means an individual or agency designated by the household to provide information concerning eligibility.

(7) **Communal diner:** means an individual 60 years of age or older 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.

(8) **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.

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

D. Definitions beginning with “D”:

(1) **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.

(2) **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.

(3) **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.

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

(5) **Disabled member:** see elderly or disabled member.

(6) **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.

(7) **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.)

E. Definitions beginning with “E”:

(1) 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).

(2) 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.

(3) Encumbrance: means debt owed on property.

(4) Equity value: means the fair market value of property, less any encumbrances owed on the property.

(5) 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.

(6) 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.

(7) Expungement: means the permanent deletion of SNAP benefits from an EBT account that is stale.

F. Definitions beginning with “F”:

(1) 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.

(2) Fair market value (FMV): means the amount an item can be expected to sell for on the open market.

(3) FNS: means the food and nutrition service of the United States department of agriculture (USDA).

(4) Food Stamp Act: the Food and Nutrition Act of 2008, and subsequent amendments.

(5) 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.

(6) Full time employment: means working 30 hours or more per week, or earning income equivalent to the federal minimum wage multiplied by 30 hours.

G. Definitions beginning with “G”:

(1) General assistance (GA) households: means a household in which all members receive cash assistance financed by state or local funds.

(2) 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.

(3) 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 Items (i) through (x) of Subparagraph (b) of Paragraph (25) of Subsection A of 8.139.100.7 NMAC.

(4) Guaranteed Based Income: Guaranteed basic income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

H. Definitions beginning with “H”:

(1) 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).

(2) 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).

(3) **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.

I. Definitions beginning with “I”:

(1) **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.

(2) **Ineligible alien:** means an individual who does not meet the eligible alien requirements or who is not admitted for permanent residence.

(3) **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.

(4) **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.

(5) **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.

(6) **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).

(7) **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.

(8) **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.

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

(10) **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.

J. Definitions beginning with “J”:

K. Definitions beginning with “K”:

L. **Definitions beginning with “L”:** **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.

M. Definitions beginning with “M”:

(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.

N. Definitions beginning with “N”:

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

(2) **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 applies to non-financial households (NFA).

(3) **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.

(4) **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).

(5) **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.

(6) **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.

(7) **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.

O. Definitions beginning with “O”: **Over-issuance** means the amount by which SNAP benefits issued to a household exceed the amount the household was eligible to receive.

P. Definitions beginning with “P”:

(1) **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.

(2) **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.

(3) **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.

Q. Definitions beginning with "Q": 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.

R. Definitions beginning with "R":

(1) **Real property:** means land, buildings, and whatever is built on or affixed to the land.

(2) **Recipient:** means a person receiving SNAP benefits. Recipient is the same as participant.

(3) **Refugee:** means a lawfully admitted individual granted conditional entry into the U.S.

(4) **Reasonable compensation:** means a boarder payment amount that equals or exceeds the MFSA for the number of boarders.

(5) **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.

(6) **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.

S. Definitions beginning with "S":

(1) **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.

(2) **Shelter for battered persons:** means a public or private nonprofit residential facility that serves battered persons. 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 persons.

(3) **Simplified reporting:** is the reporting requirement for households that receive SNAP benefits.

(4) **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.

(5) **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.

(6) **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.

(7) **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.

(8) **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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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.

(16) 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.

T. Definitions beginning with “T”:

(1) Thrifty food plan (TFP): see maximum SNAP allotment.

(2) Transitional food stamps: an extension of SNAP benefits up to five months to certain households whose cash assistance benefits have been terminated.

(3) 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.

U. Definitions beginning with “U”:

(1) Unclear information: Unclear information is information that is not verified, or information that is verified but ISD needs additional information to act on the change.

(2) Universal basic income: Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

V. Definitions beginning with “V”:

(1) 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.

(2) Verification: means the use of third-party information or documentation to establish the accuracy of statements on the application.

W. Definitions beginning with “W”:

X. Definitions beginning with “X”:

Y. Definitions beginning with “Y”:

Z. Definitions beginning with “Z”:

[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, 09/01/2017; A, 8/1/2023]

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) **BIA-GA:** bureau of Indian affairs-general assistance;
(4) **CA:** cash assistance (same as financial assistance);
(5) **CE:** categorical eligibility or categorically eligible;
(6) **CFR:** code of federal regulations;
(7) **CPI-U:** consumer price index for urban consumers;
(8) **CS:** child support;
(9) **CSED:** (HSD) child support enforcement division;
(10) **CYFD:** (New Mexico) children youth & families department;
(11) **DOH:** (New Mexico) department of health;
(12) **DOJ:** (United States) department of justice;
(13) **DOL:** (New Mexico) department of labor;
(14) **DOT:** dictionary of occupational titles;
(15) **DRIPS:** disqualified recipient information processing system;
(16) **E&T:** employment and training;
(17) **EBT:** electronic benefit transfer;
(18) **EC:** employment counselor;
(19) **EI:** earned income;
(20) **EW:** eligibility worker (now FAA or caseworker);
(21) **FA:** financial assistance (same as cash assistance);
(22) **FAA:** family assistance analyst (caseworker);
(23) **FCS:** food and consumer services of the USDA, now FNS;
(24) **FFY:** federal fiscal year;
(25) **FMV:** fair market value;
(26) **FNS:** food and nutrition service;
(27) **FSP:** food stamp program;
(28) **GA:** general assistance;
(29) **GBI:** guaranteed based income;

- ~~(29)~~ **(30) GED:** general equivalency degree;
~~(30)~~ **(31) HHS:** (U.S.) health and human services;
~~(31)~~ **(32) HSD:** (New Mexico) human services department;
~~(32)~~ **(33) HUD:** (U.S.) housing and urban development;
~~(33)~~ **(34) IEVS:** income and eligibility verification system;
~~(34)~~ **(35) IPV:** intentional program violation;
~~(35)~~ **(36) ISD:** (HSD) income support division;
~~(36)~~ **(37) ISD2:** integrated services delivery for ISD;
~~(37)~~ **(38) ISS:** income support specialist (now FAA or caseworker);
~~(38)~~ **(39) JOBS:** jobs opportunities and basic skills (a work program under AFDC);
~~(39)~~ **(40) JTPA:** Job Training Partnership Act (now WIA);
~~(40)~~ **(41) LIHEAP:** low income home energy assistance program;
~~(41)~~ **(42) LITAP:** low income telephone assistance program;
~~(42)~~ **(43) MFSA:** maximum food stamp allotment (benefit amount);

- [(43)] (44) **MRRB:** monthly reporting and retrospective budgeting;
- [(44)] (45) **MVD:** (New Mexico) motor vehicle division;
- [(45)] (46) **NADA:** national automobile dealers association;
- [(46)] (47) **NFA:** nonfinancial assistance (same as non-cash assistance (NCA));
- [(47)] (48) **NMW:** New Mexico works;
- [(48)] (49) **QC:** quality control;
- [(49)] (50) **RR:** regular reporting or regular reporters;
- [(50)] (51) **RSVP:** retired seniors volunteer program;
- [(51)] (52) **SAVE:** systematic alien verification for entitlements;
- [(52)] (53) **SNAP:** supplemental nutrition assistance program;
- [(53)] (54) **SR:** simplified reporting;
- [(54)] (55) **SSA:** social security administration;
- [(55)] (56) **SSI:** supplemental security income;
- [(56)] (57) **SSN:** social security number;
- [(57)] (58) **SUA:** standard utility allowance;
- [(58)] (59) **SWICA:** state wage information collection agency;
- [(59)] (60) **TANF:** temporary assistance to needy families (block grant program under

Title IV-A of the Social Security Act);

- [(60)] (61) **TAPP:** tribal assistance project program (Navajo);
- [(61)] (62) **TFP:** thrifty food plan (now the maximum SNAP allotment);
- [(62)] (63) **TFS:** transitional food stamp (benefit amount);
- (64) **UBI:** Universal basic income;
- [(63)] (65) **UCB:** unemployment compensation benefits;
- [(64)] (66) **USCIS:** United States citizenship and immigration services;
- [(65)] (67) **USDA:** U. S. department of agriculture;
- [(66)] (68) **VA:** veterans administration;
- [(67)] (69) **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, 09/01/2017; A, 8/1/2023]

TITLE 8 SOCIAL SERVICES
CHAPTER 139 FOOD STAMP PROGRAM
PART 520 ELIGIBILITY POLICY / INCOME AND DEDUCTIONS

8.139.520.1 ISSUING AGENCY: New Mexico Human Services Department
[02/01/1995; 8.139.520.1 NMAC / Rn, 8 NMAC 3.FSP.000.1, 05/15/2001; Rp, 08/01/2023]

8.139.520.2 SCOPE: General public
[02/01/1995; 8.139.520.2 NMAC / Rn, 8 NMAC 3.FSP.000.2, 05/15/2001; Rp, 08/01/2023]

8.139.520.3 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).
[02/01/1995; 8.139.520.3 NMAC / Rn, 8 NMAC 3.FSP.000.3, 05/15/2001; Rp, 08/01/2023]

8.139.520.4 DURATION: Permanent
[02/01/1995; 8.139.520.4 NMAC / Rn, 8 NMAC 3.FSP.000.4, 05/15/2001; Rp, 08/01/2023]

8.139.520.5 EFFECTIVE DATE: February 1, 1995
[02/01/1995; 8.139.520.5 NMAC / Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; Rp, 08/01/2023]

8.139.520.6 OBJECTIVE: Issuance of the revised food stamp program policy manual is intended to be used in administration of the food stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.
[02/01/1995; 8.139.520.6 NMAC / Rn, 8 NMAC 3.FSP.000.6, 05/15/2001; Rp, 08/01/2023]

8.139.520.7 DEFINITIONS: [RESERVED]

8.139.520.8 INCOME: The national income eligibility standards are based on the federal income poverty levels established in section 673(2) of the Community Services Block Grant Act [42 U.S.C. 9902(2)]. The net income standard is the federal income poverty guideline for the 48 contiguous states and the District of Columbia. The gross income standard is 130% of that amount. The income standards are adjusted annually each October 1st. Activities described in this section relate to the calculation of a household's income to determine eligibility and food stamp benefit amount.

A. Elderly/disabled households: Households which contain an elderly or disabled member, as defined in 8.139.100 NMAC, definitions, must meet the net income eligibility standards listed in Subsection E of 8.139.500.8 NMAC.

B. Other households: Households which do not contain an elderly or disabled member, as defined, must meet the gross income eligibility standards for the food stamp program (FSP) (Subsection E of 8.139.500.8 NMAC). If a household is determined eligible based on gross income standards, deductions shall be allowed in calculating net monthly income to arrive at a final eligibility determination based on net income standards.

C. Categorically eligible: Households that are entitled to broad/based categorically eligibility must meet gross and net income eligibility. Households that are categorically eligible, due to receipt of financial assistance do not need to meet the gross or net income eligibility standard. The food stamp benefit amount for all CE households shall be based on net income limits. All categorically eligible one/ and two/person households are entitled to the minimum food stamp benefit amount, except in an initial month if the prorated benefit is less than \$10.

D. Income of ineligible or disqualified household members:
(1) The earned or unearned income of an individual disqualified for intentional program

violation (IPV) or for noncompliance with the employment and training (E&T) work requirements shall be attributed in its entirety to the remaining members.

(2) The earned or unearned income of an individual disqualified for failing to provide or apply for a social security number or because the individual is an ineligible alien shall continue to be counted as income, minus a pro rata share for the disqualified or ineligible member(s).

E. Income of non/household members: The earned or unearned income of an individual listed below shall not be considered available to the household with which the individual lives:

- (1) roomers;
- (2) boarders;
- (3) foster children, if the household chooses not to include them;
- (4) live/in attendants; and
- (5) ineligible students.

[02/01/1995, 07/01/1997, 07/01/1998, 06/01/1999; 8.139.520.8 NMAC / Rn, 8 NMAC 3.FSP.520, 05/15/2001; A, 02/14/2002; A, 04/01/2010; Rp, 08/01/2023]

8.139.520.9 INCOME STANDARDS

A. Earned income: Earned income includes the following:

- (1) **Wages and salaries:** All wages and salaries paid to an employee.
- (2) **Sick pay:** Sick pay is counted as earned income if the person receiving sick pay will be returning to work after recovery and is still considered an employee by the employer.
- (3) **Military personnel:** A household consisting of one or more military personnel receiving a basic allowance for quarters and/or basic allowance for subsistence instead of free housing and/or food shall have such funds counted as earned income.
- (4) **Self/employment:** The gross income from a self/employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, minus the costs of doing business, is considered earned income. This is the gross income of the self/employed individual.
- (5) **Rental property:** Income from rental property is considered earned only if a household member is actively engaged in the management of the property an average of at least twenty (20) hours per week. The owner is allowed the cost of doing business.
- (6) **Roomer or boarder:** Payments from a roomer or boarder are considered self/employment income. The 20 hours per week provision applied to rental property does not apply to roomer or boarder situations.
- (7) **Training allowances:** A training allowance from a vocational and rehabilitative program recognized by federal, state or local governments, such as DVR, is considered earned income, to the extent the training allowance is not a reimbursement.
- (8) **VISTA payments:** Payments under Title I (VISTA, university year for action, etc.) of the Domestic Volunteer Service Act of 1973 (Pub. L. 93/113 Stat., as amended) are considered earned income to applicant households not receiving food stamp benefits at the time the household member joined VISTA.
- (9) **Workforce Investment Act:** Earnings of an individual participating in an on/the/job training program under Section 204 (b) (1) (C) or Section 254 (c) (1) (A) of the Workforce Investment Act (WIA). This provision does not apply to household members under 19 years of age who are under the parental control of an adult member, regardless of school attendance or enrollment. Earnings include monies paid under the WIA and monies paid by the employer. This section includes adult and youth programs and summer youth employment and training programs, but does not include job corps, E&T programs for Native Americans, migrant and seasonal farm workers, and veterans employment programs.

B. Unearned income: Unearned income includes, but is not limited to, the following:

- (1) **Federal assistance programs:** Assistance payments from federal or federally aided cash assistance programs, such as supplemental security income (SSI), Title IV/A (temporary assistance to needy families), general assistance (GA), or other assistance programs based on need. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.
- (2) **Other benefits:** Annuities, pensions, retirement, veteran's or disability benefits, workman's compensation, unemployment compensation benefits (UCB), OASDI, and strike benefits are unearned income.
- (3) **Foster care payments:** Foster care payments for children or adults shall be counted in their entirety unless the household providing the foster care chooses to exclude the foster child household member.

(4) **Support or alimony:** Support or alimony payments made directly to the household from non/household members.

(5) **Educational funds:** Scholarships, educational grants, fellowships, deferred payment loans for education, and veteran's educational benefits, are counted, after allowable deductions, unless the educational assistance is excluded in its entirety in Subsection E of 8.139.520.9 NMAC. Gifts or money a student may receive from parents or other private source on a periodic basis shall be counted as unearned income, including the portion used to pay for tuition and mandatory fees.

(6) **Government/sponsored programs:** Payments to individuals from individual Indian monies and grants from the bureau of Indian affairs.

(7) **Gain or benefit:** Dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or a benefit to the household. Interest income includes payments on a bank account that are simply posted in a bank book and not paid directly to a household.

(8) **Trust funds:** Money withdrawn or dividends that are or could be received by a household from a trust fund considered an excludable resource. Such trust withdrawals shall be considered income in the month received, unless excluded in Subsection D of 8.139.520.9 NMAC. Dividends which the household has the option of either receiving as income or reinvesting in the trust shall be considered income in the month they become available to the household, unless excluded per Subsection D of 8.139.520.9 NMAC.

(9) **Rental property:** Income from rental property shall be considered unearned when a household member engages in the management of the property less than 20 hours per week. The gross income minus the cost of doing business is counted as household income.

(10) **Sponsored alien income:** The amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that is deemed to be that of the alien (Subsection G of 8.139.420.9 NMAC).

(11) **Termination pay:** Severance pay (e.g., two weeks pay instead of notice) and supplementary unemployment benefits (a series of payments similar to UCB, but paid by the employer) received after termination shall be considered unearned income.

(12) **Vacation or sick pay:** Unused vacation or sick pay paid in installments over a period of at least two months is considered unearned income in the months received. If paid as a lump sum at termination of employment, the income is considered a resource in the month received.

(13) **Cash awards, gifts, prizes:** Cash awards, gifts, prizes and winnings shall be considered unearned income in the month received, subject to the \$30.00 per quarter exclusion, even if paid on a one/time basis.

(14) **One/time income:** The distinction between one/time income and a one/time lump sum resource is that a lump sum is money owed the household from a past period and paid retroactively.

C. Other countable income:

(1) **Legal entitlement:** Any payment that a household is legally entitled to receive, but is diverted by the provider of the payment to a third party for an expense incurred or owed by the household shall be counted as income. The distinction is whether the individual or organization making a payment on behalf of a household is using funds that otherwise must be paid to the household, such as wages, cash assistance grant, or child support or alimony payments. In these cases, a household is legally entitled to the money. If an employer, agency, or former spouse who owes such funds to a household diverts the money to a third party to pay for a household expense, the money is still counted as income, unless a court orders the money diverted.

(2) **Garnished wages:** Wages earned by a household member that are garnished or diverted by an employer and paid to a third party for a household expense shall be counted as income.

(3) **Public assistance:** All or part of a public assistance grant that is normally provided by a money payment to a household, but is diverted to a third party or to a protective payee for purposes of managing expenses, shall be counted as income.

(4) **Third party energy assistance payments:** Any payment made to a household under a state law to provide energy assistance shall be considered money payable directly to the household, unless under the law the payment cannot be provided in cash.

D. Excluded income: The following income shall be excluded in determining FS benefits:

(1) **Federal laws:** Income excluded by federal laws. The comprehensive list is found in 8.139.527 NMAC.

(2) **In/kind benefits:** Any gain or benefit which is not in the form of money paid directly to the household, including non/monetary or in/kind benefits such as meals, clothing, public housing, gifts for special occasions, or produce from a garden.

(3) **Vendor payments:** Money payments that a household is not legally entitled to receive.

and which are paid directly to a third party for a household expense are considered a vendor payment. A money payment made on behalf of a household is considered a vendor payment whenever an individual or organization outside the household uses its own funds to make a direct payment to a household's creditors, or to a person or organization providing a service to a household. Vendor payments include but are not limited to:

(a) rent paid directly to the landlord by a friend or relative, who is not a household member;

(b) rent or mortgage payments made to landlords or the mortgagee by the department of housing and urban development (HUD) or by a state or local housing authority;

(c) payments by a government agency to a child care institution to provide day care for a household member;

(d) insurance company payments made directly to titleholders or loan companies when a household member becomes disabled or dies and is covered by credit life and disability insurance;

(e) housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless;

(f) a rent payment by an employer made directly to the landlord, in addition to paying the household its regular wages, is considered a vendor payment and is excluded as income.

(4) **Energy assistance:** Any payment or allowance made for the purpose of providing energy assistance under any federal law, except for a payment or allowance provided under Title IV/A of the Social Security Act; any federal or state one/time assistance for weatherization or emergency repair or replacement of heating or cooling devices.

(5) **State or local general assistance:** Any general assistance provided to a household which cannot, under state law, be provided in cash directly to a household.

(6) **Child care food program:** Payments made to a household from the child care food program for child care, or any amount received as payment for care or reimbursement for costs incurred is excluded income.

(7) **Plan for achieving self/support (PASS) program:** Income of an SSI recipient necessary for the fulfillment of a plan for achieving self/support which has been approved under Sections 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act. The income may be spent in accordance with an approved PASS or deposited into a PASS savings account for future use.

(8) **Infrequent/irregular income:** Any income received in the certification period which is received too infrequently or irregularly to be reasonably anticipated. The income received cannot exceed \$30.00 in a quarter.

(9) **Lump/sum payment:** Money received in the form of a nonrecurring lump sum payment, including but not limited to income tax refunds; rebates or credits; retroactive lump sum social security or SSI; cash assistance; railroad retirement; or other similar payments. Lump sum insurance settlements and refunds of security deposits on rental property or utilities are counted as resources in the month received, unless specifically excluded from consideration as a resource by federal law.

(10) **TANF diversion:** A TANF payment made to divert a family from becoming dependent on cash assistance shall be considered as a nonrecurring lump/sum payment if the payment is not defined as ongoing monthly assistance.

(11) **Loans:** All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(12) **Charitable donations:** Charitable cash donations based on need from one or more private, nonprofit charitable organizations, not to exceed \$300 in a federal fiscal quarter (January through March, April through June, July through September, and October through December).

(13) **Earned income tax credit (EITC):** EITC payments received either as a lump sum, or advance payments of earned income tax credits received as part of a paycheck or as a reduction in taxes that otherwise would have been paid at the end of the year.

(14) **Diverted retirement income:** The portion of a civil service retirement annuity or military retirement payment that is diverted to a former spouse by court order in a divorce decree is excluded from the income of the retiree.

(15) **Annual clothing allowance:** The clothing allowance provided each year to an TANF household whose children are entering or returning to school.

(16) **Utility reimbursements:** Any amount paid by the department of housing and urban development (HUD) or farmers home administration (FHA) to a household as a utility reimbursement, or to a utility provider on behalf of a household, is excluded income.

E. Educational expenses:

(1) Title IV/BIA: Cash assistance received under Title IV of the higher education amendments of 1992, including federal college work study authorized under Title IV, or cash assistance received from bureau of Indian affairs student assistance programs shall be excluded in determining eligibility and food stamp benefit amounts effective for award years beginning on or after July 3, 1993.

(2) Title XIII: Financial assistance received under Title XIII of the Tribal Development Student Assistance Act shall be excluded in determining eligibility and food stamp benefit amounts effective October 1, 1992.

(3) Earmarked funds: All educational assistance, including, but not limited to, educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits, and the like, provided for a student to participate in or attend a recognized institution of post/secondary education, school for the handicapped, vocational education program, or program that provides for the completion of a secondary (i.e., high school) diploma or equivalency (GED), shall be excluded to the extent that the assistance is either used or made available for:

(a) tuition;

(b) mandatory fees, including rental or purchase of any equipment, materials, and supplies required to pursue the course of study involved;

(c) books and supplies;

(d) transportation expenses;

(e) origination fees and insurance premiums on student loans; and

(f) miscellaneous personal expenses (other than living expenses) incidental to a student's attendance at a school, institution, or program.

(4) Restrictions:

(a) Educational assistance provided for normal living expenses (room, board, and dependent care) shall not be excluded as income.

(b) Educational expenses in excess of the educational assistance provided may not be deducted from other income.

(c) A student household eligible for a deduction for dependent care expenses may claim only the amount which exceeds the amount of educational assistance made available for dependent care.

(5) Deferred payment educational loans: Any amount of state, local, or private deferred payment educational loans shall be excluded to the extent that the lender specifically earmarks or budgets part of or all of the loan for educational expenses. If the institution, school, program, or other lender does not earmark or budget amounts from the loan for educational expenses, students receive an exclusion for amounts verified as an educational expense.

F. Reimbursements:

(1) Past or future expenses: Reimbursements for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household, shall be excluded.

(2) Identified expense: Reimbursements made for an identified expense, other than normal living expenses, and used for the purpose intended, shall be excluded.

(3) Normal living expenses: Reimbursements for normal living expenses, such as rent or mortgage, clothing, or food eaten at home, shall be considered a gain or benefit to a household and are not excluded.

(4) Multiple expenses: If a reimbursement, including a flat allowance, covers multiple expenses, each expense does not need to be identified separately, as long as none of the reimbursement covers normal living expenses. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income.

(5) Excludable reimbursements:

(a) Job/training related: Reimbursements or flat allowances for job or training/related expenses, such as travel, per diem, uniforms, and transportation to and from the job or training site. Reimbursements provided over and above the basic wages for such expenses are excluded. However, these expenses, if not reimbursed, are not otherwise deductible from income.

(b) Migrant worker expenses: Reimbursements for travel expenses incurred by migrant workers.

(c) Volunteers: Reimbursements for out/of/pocket expenses incurred by volunteers in the course of their work.

(d) Medical or dependent care: Medical or dependent care reimbursements.

(e) Nonfederal educational expense: Nonfederal reimbursements or allowances

for students for specific educational expenses, such as travel or books, but not allowances for normal living expenses such as food, rent, or clothing shall be excluded. Portions of a general grant or scholarship must be specifically earmarked by the grantor as an educational expense rather than for living expenses to be excludable as a reimbursement.

(f) **Title XX services:** Reimbursements received by households to pay for services provided by Title XX of the Social Security Act.

(g) **E&T program:** Reimbursements for expenses necessary for participation in an education component to fulfill E&T work requirements in a work program.

(6) Nonexcludable reimbursements:

(a) **Title IV/A grant:** No portion of an title IV/A grant shall be excluded as a reimbursement if the grant is increased to adjust for work/related or child care expenses.

(b) **Educational funds:** No portion of any federal or nonfederal (state, local, private) educational loan, grant, scholarship, fellowship, veteran's educational benefit and the like shall be excluded as a reimbursement, to the extent that it provides income assistance for normal living expenses.

G. Payments for third party beneficiary: Payments received and used for the care and maintenance of a third/party beneficiary who is not a household member shall be excluded as income. If the intended beneficiaries of a single payment include both household and non/household members, any identifiable portion of the payment intended and used for the care and maintenance of a nonmember is excluded. If the nonmember's share cannot be readily identified, the payment is divided equally among intended beneficiaries. The exclusion is applied to the nonmember's pro rata share, or the amount actually used for the nonmember's care and maintenance, whichever is less.

H. Earned income of a student: The earned income of an elementary or secondary school student living in the same food stamp household with a natural, adoptive or step/parent, or under the parental control of another member of the same food stamp household other than a parent, shall be excluded if the student is:

(1) under age 18, and is

(2) attending classes, including GED classes, at least half/time.

(3) **Temporary interruptions:** The exclusion shall continue to apply during temporary interruptions in school attendance for semester or vacation breaks, provided that the child's enrollment will resume following the break.

(4) **Child's/other members income:** If a child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be divided equally among the working members and the child's pro rata share shall be excluded.

(5) **Child turns 18 years old:** The earnings of students shall be counted beginning the month following the month the student turns 18.

I. Money owed to other sources:

(1) **Money withheld to repay previous overpayments:** Money withheld to repay prior overpayments (recoupments) or money voluntarily or involuntarily returned from an assistance payment, earned income, or other income source shall be excluded from income, provided that:

(a) repayment is made from the same income source, and

(b) the income is from a countable income source.

(c) this exclusion applies only to recoupment or repayment situations.

(2) **Other withholding:** Money withheld for any other purpose is considered income. Money withheld for other purposes include: Medicare premiums; processing fees for child support payments collected by CSED; and deductions (taxes, insurance, etc.) from unearned income, such as civil service, PERA, and military retirement benefits.

(3) **Failure to comply with another assistance program's requirements or fraud:** A household's food stamp benefit amount shall not increase when benefits received from another program have been decreased (reduced, suspended or terminated) because of a determination by the other program of intentional failure to comply with a requirement of the other program or an act of fraud. This provision applies in cases where the other program is a means/tested, federal, state or local welfare or public assistance program, which is governed by welfare or public assistance laws or regulations and which distributes public funds.

(a) **Conditions:**

(i) If the department is not able to obtain necessary cooperation from another federal, state or local means/tested welfare or public assistance program to enable it to comply with the requirements of this provision, the department is not held responsible as long as a good faith effort to obtain the information has been made.

(ii) A household's current food stamp benefit amount shall not be reduced, suspended or terminated when the benefits under another assistance program have been decreased.

(iii) Food stamp benefits shall be adjusted when eligible members are added to the food stamp household regardless whether or not the household is prohibited from receiving benefits for the additional member under another federal, state, or local welfare or public assistance means/tested program.

(iv) Changes in household circumstances which are not related to a penalty imposed by another federal, state or local welfare or public means/tested assistance program shall not be affected by this provision.

(b) This provision does not apply to individuals or households subject to disqualification for noncompliance with E & T work requirements which are comparable to Title IV or UCB work requirements in Subsection H of 8.139.410.12 NMAC. In such cases, an individual or household disqualification occurs and food stamp benefits are reduced.

(c) There is no time restriction on the application of this provision. The prohibition against increasing food stamp benefits shall apply for the duration of the penalty imposed by the welfare or public assistance program.

(d) **Recoups:** Food stamp benefits shall not increase in cases where the household is subject to either a reduction in benefits and/or recoupment due to intentional failure to comply with the other program's requirements. Food stamp benefits shall not increase as long as a reduction and/or recoupment is in effect.

(e) This provision does not result in a reduction, termination, or suspension of a household's current food stamp benefit amount, therefore a caseworker need not send an adverse action notice. A caseworker may send adequate notice to a household affected by this provision.

(4) **Child support payments transferred under title IV/D:** A child support payment received by a cash assistance household that must be transferred to or retained by the child support enforcement division (title IV/D) to maintain cash assistance eligibility, shall be excluded as income.

J. Guaranteed Based Income: Guaranteed Basic Income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program.

(1) **Exempt:** When any funding comes from a private source

(2) **Counted:** When all funding comes from a public source

K. Universal Basic Income: Universal Basic Income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen.

(1) **Exempt:** When any funding comes from a private source

(2) **Counted:** When all funding comes from a public source

[02/01/1995, 10/01/95, 11/01/96, 01/01/97, 07/01/97, 11/01/97, 06/01/99; 8.139.520.9 NMAC / Rn, 8 NMAC 3.FSP. 521, 05/15/2001; A, 02/14/2002;Rp, 08/01/2023]

8.139.520.10 COUNTING INCOME

A. Income averaging:

(1) **Optional income averaging:** Income received by a household may be averaged at the household's option (See 8.139.500.10 NMAC) except as specified below.

(2) **Mandatory income averaging:** Averaging is mandatory for income received under the following circumstances:

(a) contract or self/employment income;

(b) educational monies.

B. Rounding off: Calculations shall be rounded to the nearest dollar. Figures between one cent and forty/nine cents (1¢ / 49¢) are rounded down; figures between fifty cents and ninety/nine cents (50¢ / 99¢) are rounded up. When adding gross amounts received weekly, biweekly or semi/monthly to arrive at the monthly income, cents are retained until the total monthly amount is determined; the total monthly amount is rounded as the final step. Cents resulting from the computation of the twenty percent (20%) earned income deduction are rounded before being subtracted from earned income. Cents are retained in the computation of shelter and medical expenses until the final step.

C. Ineligible or disqualified household members: An ineligible or disqualified household member shall not be included when:

(1) determining the maximum food stamp benefit amount for the household's size;

(2) comparing the household's monthly income with the income eligibility standards; or

(3) comparing the household's resources with the resource eligibility limits.

(4) Intentional program violation (IPV) or work disqualified:

(a) The income and resources of individuals disqualified for IPV or noncompliance with E&T work requirements shall be counted in their entirety.

(b) A household's allowable deductions for earned income, medical expenses, dependent care expenses, excess shelter expenses, and the standard deduction continue to apply to the remaining household members.

(c) HSD shall make sure that a household's food stamp benefit amount is not increased as a result of the disqualification of one or more members.

(5) Ineligible alien or SSN disqualified:

(a) Resources: Resources of ineligible aliens, or individuals disqualified for failure or refusal to apply for or provide a social security number, shall be counted in their entirety.

(b) Income and deductions of ineligible aliens:

(i) Income belonging to the ineligible alien shall be counted on a pro rata basis to remaining eligible household members. The prorated share is calculated by first subtracting any allowable exclusions from the ineligible alien's income, then dividing the income evenly by all household members, including the excluded member(s). The result is multiplied by the number of eligible household members to determine countable income.

(ii) The 20% earned income deduction is applied to the countable income attributed to the remaining eligible household members.

(iii) The allowable expense(s) either billed to or paid by the ineligible alien shall be allowed in its entirety as a household expense.

(c) Income and deductions for ABAWD or SSN disqualified individuals:

(i) Income belonging to an individual disqualified because of ABAWD status or failure or refusal to provide a social security number shall be counted on a pro rata basis to remaining eligible household members. The prorated share is calculated by first subtracting any allowable exclusions from the disqualified member's income, then dividing the income evenly by all household members, including the excluded member(s). The result is multiplied by the number of eligible household members to determine countable income.

(ii) The 20% earned income deduction is applied to the countable income attributed to the remaining household members.

(iii) The portion an allowable expense either paid by or billed to a disqualified individual(s) is divided evenly among all household members, including the disqualified individual(s). All but the disqualified individual's share is counted as a deductible expense for the remaining household members.

(6) Reduction/termination during certification period: When an individual is excluded or disqualified during the certification period, the caseworker shall determine the eligibility of the remaining household members based on information already in the case record.

(7) Excluded for IPV disqualification: If a household's benefits are reduced or terminated during the certification period because one of its members was disqualified for an IPV, the caseworker shall notify the remaining household members of changes in eligibility and food stamp benefit amount at the same time the excluded member is notified of the disqualification. The household is not entitled to an adverse action notice but may request a fair hearing to contest the reduction or termination of benefits, unless it has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.

(8) Excluded for other causes: If a household's benefits are reduced or terminated during the certification period because one or more of its members is an ineligible alien, is disqualified for failure to comply with E&T work requirements, disqualified for failing or refusing to apply for or provide a social security number, the caseworker shall issue an adverse action notice informing the household of the individual's ineligibility, the reason for the ineligibility, the eligibility and benefit amount of the remaining member(s), and the actions the household must take to end the disqualification.

D. Nonhousehold members:

(1) Income and resources: The income and resources of nonhousehold members, such as certain students, roomers, and boarders, are not considered available. Cash payments from a nonhousehold member to the household shall be counted as income (Subsection E of 8.139.520.8 NMAC). Vendor payments (Subsection D of 8.139.520.9 NMAC) shall be excluded as income.

(2) Deductible expenses: If a household shares deductible expenses with a nonhousehold member, only the amount actually paid or contributed by the household is deductible as an expense. If the payments or contributions cannot be differentiated, the expenses shall be divided evenly among individuals actually paying or

contributing to the expense; only the household's pro rata share is deducted.

(3) Combined income of household/nonhousehold members: When the earned income of one or more household members and the earned income of a nonhousehold member are combined as one wage, the income for the household shall be determined as follows.

(a) If the household's share can be identified, it is counted as earned income.

(b) If the household's share cannot be identified, the caseworker shall divide the earned income among all those whom it was intended to cover and count a prorated share to the household.

E. Self/employed household: The following guidelines shall be used to determine eligibility and food stamp benefit amount for self/employed households, including those households that own or operate commercial boarding houses.

(1) Averaging self/employment income:

(a) Annualizing:

(i) Households which by contract or self/employment derive their annual income in a period of time shorter than one year shall have income averaged over a 12/month period, provided that the income from the contract is not received on an hourly or piecework basis.

(ii) Annualizing shall not apply to seasonal or migrant farm workers.

(iii) Self/employment income representing a household's annual income shall be averaged over a 12/month period, even if the income is received within only a short period of time.

(iv) The self/employment income shall be annualized even if the household receives income from other sources in addition to self/employment.

(v) Self/employed households include, but are not limited to, school employees, sharecroppers, and farmers. Tenured teachers who may not actually have a signed contract shall have their income considered on this basis.

(vi) For self/employed households that receive their annual income in a short period of time, an initial certification period is assigned to bring the household into the annual cycle.

(vii) Households which receive their annual income from self/employment and have no other source of income may be certified for up to twelve (12) months.

(b) Anticipated income:

(i) If the averaged annualized amount or self/employment income received on a monthly basis does not accurately reflect a household's actual circumstances because it has experienced a substantial increase or decrease in business, self/employment income shall be calculated on anticipated earnings.

(ii) Income shall not be calculated based on previous income (e.g., income tax returns) if a self/employed household has experienced a substantial increase or decrease in business.

(c) Projected income: If a household's 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 coming year. If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household shall be certified for short periods of time until the business has been in operation long enough to make a longer projection.

(d) Seasonal income: Self/employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover.

(2) Determining monthly self/employment income:

(a) For the period of time over which self/employment income is averaged, the caseworker shall add all self/employment income, including capital gains, exclude the cost of producing the self/employment income, and divide the self/employment income by the number of months over which the income shall be averaged.

(b) A capital gain is defined as proceeds from the sale of capital goods or equipment. Capital gains are counted in full as income to determine self/employment income.

(c) For households with self/employment income calculated on an anticipated basis, the caseworker shall add any capital gains the household anticipates receiving in the next 12 months, beginning with the date the application is filed. The resulting amount is counted in successive certification periods during the 12 months, except that a new average monthly amount is calculated if the anticipated amount of capital gains changes.

(3) Determining net self/employment income:

(a) A household's total self/employment income, minus the allowable costs of producing the income, shall be counted as gross income to the household. The gross self/employment income shall be added to any other earned income.

(b) The total monthly gross earned income, after allowing the 20% earned income deduction, is added to all monthly unearned income to determine income eligibility.

(c) For households anticipating income, the cost of producing income is calculated by anticipating allowable costs of producing the self/employment income.

(d) Expenses exceeding self/employment income shall not be deducted from other income.

(e) If a self/employment enterprise is a farming or ranching operation, expenses exceeding self/employment income may be offset against any other countable household income, provided that the farming or ranching operation grosses or is anticipated to gross at least \$1,000 annually.

(4) **Allowable costs:** Allowable costs of producing self/employment income include, but are not limited to:

(a) identifiable costs of labor, stock, raw material, seed and fertilizer;

(b) payments on the principal of the purchase price of income/producing real estate and capital assets, equipment, machinery, and other durable goods;

(c) interest paid to purchase income/producing property;

(d) insurance premiums, and taxes paid on income/producing property;

(e) transportation costs necessary to produce self employment income, such as farmers carrying grain to elevators, or trips to obtain needed supplies, are allowable costs of doing business; costs are allowed at \$.25 per mile;

(f) payment of gross receipts taxes.

(5) **Costs not allowed:** In determining net self/employment income, the following shall not be allowed as a cost of doing business:

(a) net losses from previous periods;

(b) federal, state, and local personal income taxes, money set aside for retirement purposes, and other work/related personal expenses (such as transportation to and from work), since these expenses are accounted for by the 20 percent earned income deduction (Paragraph (3) of Subsection E of 8.139.520.10 NMAC);

(c) charitable contributions and entertainment; and

(d) depreciation.

F. Boarders:

(1) Individuals paying a reasonable amount for room and board shall be excluded from a household when determining the household's eligibility and food stamp benefit amount.

(2) Payments from a boarder shall be counted as self/employment income.

(3) Household income eligibility is determined as follows.

(a) Income from a boarder includes all direct payments to the household for room and meals, including contributions for shelter expenses.

(b) Shelter expenses paid by a boarder directly to someone outside the household shall not be counted as income. Such payments are considered vendor payments, and are not used to determine reasonable compensation (Paragraph (4) of Subsection C of 8.139.400.11 NMAC), or as a shelter expense for the household.

(4) After determining the income received from a boarder, the caseworker shall exclude the portion of the boarder payment which is a cost of doing business. The cost of doing business is equal to either of the following, provided that the amount allowed as a cost of doing business does not exceed the payment the household receives from the boarder for lodging and meals:

(a) the amount of the maximum food stamp allotment for a household size that is equal to the number of boarders (Subsection E of 8.139.500.8 NMAC); or

(b) the actual documented cost of providing room and meals if the actual cost exceeds the appropriate maximum food stamp allotment; if actual costs are used, only separate and identifiable costs of providing room and meals to boarders are excluded.

[02/01/1995, 07/01/1998; 8.139.520.10 NMAC / Rn, 8 NMAC 3.FSP.524, 05/15/2001; A, 02/14/2002; A, 01/01/2004; Rp, 08/01/2023]

8.139.520.11 GENERAL DEDUCTIONS:

A. **Use of deductions:** A household must qualify for deductions by first meeting a gross income test. A household is not eligible if gross income is more than the standard listed in Subsection E of 8.139.500.8 NMAC for a household size. If income falls below the gross income limit, a household shall be allowed deductions, where

applicable, to make a final eligibility and benefit amount determination. Households that include elderly or disabled members, as defined, automatically qualify for deductions: eligibility is determined based on net rather than gross income.

B. Standard deduction: All households are allowed a standard deduction from income. The standard deduction is listed in Paragraph (3) of Subsection F of 8.139.500.8 NMAC, tables, and is adjusted effective every October 1st.

C. Earned income deduction: Twenty percent (20%) of gross earned income shall be deducted. Excluded income is not used for purposes of computing the earned income deduction.

(1) Computing an overissuance: The earned income deduction (EID) shall not be allowed when calculating the income to be used in determining an overissuance which is due to the failure of a household to report earned income in a timely manner.

(2) Work supplementation programs: The EID shall not be allowed for any amount of income which is earned under a work supplementation or support program and is attributable to public assistance.

D. Medical deductions: Allowable medical deductions include:

(1) Elderly/disabled: Medical expenses in excess of \$35.00 per month, excluding special diets, incurred by any household member who is elderly or disabled.

(2) Emergency SSI: Individuals receiving emergency SSI benefits based on presumptive eligibility shall be eligible for the medical deduction.

(3) Death: A medical expense incurred by a household member who dies shall be allowed as a deduction if the member was eligible for the deduction at the time of death and if the remaining household members are legally responsible for payment.

(4) Hospital/outpatient/nursing home: Medical expenses, such as hospitalization or outpatient treatment, nursing care and nursing home care, including payments by a household for an individual who was an eligible household member immediately before entering a hospital or nursing home facility recognized by the state, are allowable deductions.

(5) Not eligible: Spouses, children or other individuals in the household who are not elderly or disabled, shall not be entitled to claim the medical deduction.

(6) Allowing medical expenses:

(a) One/time only expense:

(i) A household may choose to have a one/time only expense, reported at certification, deducted in a lump sum or averaged over the certification period.

(ii) If a household incurs a one/time medical expense and has made arrangements with the provider to make monthly installments (beyond the current certification period), the expense may be allowed each month as arranged.

(iii) A household reporting a one/time only medical expense during its certification period may choose to have a one/time deduction or to have the expense averaged over the remaining months of the certification period.

(b) Households certified for 24 months: A household certified for 24 months cannot have a one/time medical expense averaged over the 24/month certification period.

(i) A one/time medical expense may be deducted in the first month of the 24/month certification period; or the one/time medical expense may be deducted and averaged over the first 12 months of the 24/month certification period.

(ii) One/time medical expenses reported after the first 12 months of the certification period shall be averaged over the remaining months.

(c) Expense in last month of certification: If a household is billed for and reports an expense during the last month of its certification period, the deduction shall not be allowed. If the expense will be paid in installments during the following certification period, the deduction shall be allowed during the appropriate number of months in the subsequent certification period.

(d) Fluctuating expenses: Fluctuating medical expenses shall be allowed as deductions if regularly recurring, reasonably anticipated, and verified. Once determined, the household is not required to report changes of \$25 or less or reverify expenses each month.

(e) Anticipated changes in expenses: At certification and recertification the household must report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on:

(i) anticipated changes in the household's medical expenses that can reasonably be expected to occur during the certification period based on available information about the recipients

medical condition, public or private insurance coverage, and current verified medical expenses; and

(ii) expenses that occurred during the certification period that will continue in the new certification period; and

(iii) consideration of unpaid and past due medical expenses that will continue in the certification period.

(f) If a household reports an allowable medical expense at the time of certification but cannot provide verification at that time, and if the amount of the expense cannot be reasonably anticipated based upon available information about the recipients' medical condition and public or private medical insurance coverage, the household shall have the nonreimbursable portion of the medical expense considered at the time the amount of the expense or reimbursement is reported and verified.

(g) A household shall not be required to file reports about its medical expenses during the certification period. If a household voluntarily reports a change in its medical expenses, the caseworker shall act on the change in accordance with regulations in (c) of Paragraph (1) of Subsection B of 8.139.120.10 NMAC.

(7) **Past due and unpaid medical expenses:** The medical expense deduction shall not be determined by averaging past due or unpaid monthly medical expenses. Such expenses shall be used only as an indicator of what can reasonably be anticipated. Medical expenses which the household might reasonably anticipate receiving include but are not limited to costs of medical services and treatment received regularly, but less often than monthly, and prescription drugs.

(8) **Medical and dental care:** Medical and dental care, psychotherapy, and rehabilitation services, provided by licensed practitioners authorized by state law, or other qualified health professional, shall be allowed as medical expense deductions. State licenses in New Mexico are authorized by occupational licensing boards. A state/licensed practitioner has such a license. Native American practitioners (medicine men) are not licensed, but are recognized as health practitioners for this purpose.

(9) **Prescription drugs and medical supplies:** Prescription drugs, when prescribed by a licensed practitioner authorized under state law, and over-the-counter medications (including insulin) when approved by a licensed practitioner or other qualified health professional, shall be allowed as deductions. In addition, costs for medical supplies, sick/room equipment (including rental), or other prescribed equipment are deductible.

(10) **Health and hospitalization/medicare premiums:** Health and hospitalization insurance premiums, and medicare premiums, as well as any cost sharing or spend/down expenses incurred by medicaid recipients, are allowable deductions. If a medical insurance policy includes benefits for household members not eligible for a deduction, only that portion of the premium assigned to the eligible member(s) may be considered a deduction. In the absence of specific information about how much of the premium is for the eligible member(s), a pro rata amount may be used. This system may be used even if the policy holder does not qualify for the deduction but the policy includes a person(s) who does qualify. The cost of life or health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies that continue mortgage or loan payments while the beneficiary is disabled, are not deductible.

(11) **Transportation and lodging costs:** Reasonable costs of transportation and lodging to obtain medical treatment or services are deductible. The allowance for mileage in privately owned vehicles is the same as the amount allowed state employees. Lodging costs may not exceed the daily expense amount allowed (per diem) for state employees.

(12) **Maintaining an attendant:** Costs of maintaining an attendant, homemaker or home health aide, child care services, or housekeeper that are necessary because of age, infirmity, or illness are deductible medical expenses. In addition, an amount equal to the food stamp benefit amount for one person is deductible if the household furnishes the majority of the attendant's meals. The food stamp benefit amount for the meal/related deduction is the one in effect at the time of initial certification. The caseworker shall update the food stamp benefit amount for meals at the next scheduled recertification. If a household incurs attendant care expenses that could qualify under both the medical deduction and the dependent care deduction, the caseworker shall treat the expense as a medical expense.

(13) **Other expenses:** Other deductible expenses include but are not limited to:

(a) dentures, hearing aids, prosthetics;

(b) securing and maintaining a seeing/eye or hearing dog, or other service animal, including the cost of dog food and veterinary bills; and

(c) eyeglasses or contact lenses prescribed by an ophthalmologist or an optometrist.

(14) **Prescription drug card expense:**

(a) An individual participating in the food stamp program who has enrolled for the

medicare/approved drug discount card shall have \$23.00 credited to the monthly medical expense allowed for that individual.

(b) An individual participating in the food stamp program who receives a \$600.00 transitional assistance credit on the medicare/approved drug discount card for the calendar years 2004 and 2005 shall have \$50.00 credited to the monthly medical expense allowed for that individual for each month after September 2004, through December 2005, and not beyond that month.

E. Dependent care expenses:

(1) **Deductible amounts:** Payments may be deducted for the actual cost of the care of children or other dependents when necessary for a household member to accept or continue employment, comply with E&T work requirements, or an equivalent effort by those not required to comply with E&T work requirements, or attend training or pursue education which is preparatory to employment or leads to a degree. An amount up to the maximum allowed may be deducted for each child requiring dependent care (See Paragraph (3) of Subsection F of 8.139.500.8 NMAC, deductions and standards).

(2) **Household member provides care:** If a household member provides dependent care, the payment is neither income to the payee nor a deduction for the payor (see Subsection A of 8.139.500.11 NMAC).

(3) **Income excluded/deduction allowed:** Households whose dependent care costs are paid in accordance with 8.139.527 NMAC, income and resources excluded by federal law, shall be entitled to a dependent care deduction only for the amount of the child care expense not reimbursed by a work program or transitional day care (TDC) program. Child care expenses reimbursed or paid by a work program or TDC are not deductible.

F. Household expenses:

(1) Shelter expenses:

(a) **Definition:** Continuing charges for the shelter occupied by a household include rent, mortgage payment, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home and interest on such payments. If payments are made on more than one mortgage on the home, each payment is counted for the period the payment is intended to cover. Security deposits on rental property and downpayments for the purchase of a home are not allowed as shelter expense deductions. Closing costs shall not be allowed as a shelter expense, unless the closing costs can be itemized to identify costs that are allowable deductions, such as insurance and property taxes.

(b) **Excess shelter expense deduction:** Monthly shelter expenses in excess of fifty percent (50%) of a household's income, after all other deductions have been allowed may be deducted, subject to the following restrictions:

(i) The shelter deduction may not exceed the maximum amount indicated in Paragraph (3) Subsection F of 8.139.500.8 NMAC, unless the household contains a member who is elderly or disabled, as defined.

(ii) Households may not claim shelter expenses if the expense shall be paid as a vendor payment by an individual or organization outside the household.

(iii) The household must be responsible for payment of the shelter expense; however the household need not have paid the expense to claim the deduction. A current billing statement is used to establish the expense. The expense may not be allowed more than once.

(2) **Taxes and insurance:** Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings, are deductible expenses.

(3) **Natural disasters:** Expenses for the repair of a home that has been substantially damaged or destroyed by a natural disaster such as fire or flood may be deducted. Expenses shall not be allowed if the household has been or will be reimbursed by public or private relief agencies, insurance companies, or any other source. Expense deductions are limited to the repair of the home and not its furnishings.

(4) Costs of temporarily unoccupied home:

(a) If the home is temporarily unoccupied by a household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss, the shelter costs for the home may be deducted. However, a household may claim only one SUA.

(b) For costs of a home vacated by the household to be included in its shelter costs:
(i) the household must intend to return to the home;
(ii) the current occupants of the home, if any, cannot be claiming shelter expenses for food stamp purposes;

(iii) the home cannot be leased or rented during the household's absence.

(c) Verification is required of households claiming this deduction if the cost is questionable or would result in a deduction.

(5) **Maximum deduction limit adjustment:** The maximum deduction limit for excess shelter expenses will be revised as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as follows: effective January 1, 1997 through September 30, 1998, the deduction will be \$250; from October 1, 1998 through September 30, 2000 the deduction will be \$275; and effective from October 1, 2000 the deduction will be \$300; and will remain so indefinitely.

(6) **Homeless shelter standard:** A household in which all household members are defined as homeless, within the definition at Paragraph (40) of Subsection A of 8.139.100.7 NMAC, shall be allowed the homeless shelter standard if the household incurs any shelter expenses at any time during the month.

(a) The homeless household may claim actual shelter expenses if the expenses exceed the homeless shelter standard and the expenses are verified. Verification standards at Subsection A of 8.100.130.15 NMAC and 8.100.130.9 NMAC shall be used to verify shelter expenses, as well as other reasonable documentation determined to establish the homeless household's actual expenses.

(b) The caseworker shall assist the homeless household in determining whether claiming the homeless shelter standard or actual expenses would be most beneficial to the household.

(c) The homeless shelter standard shall be deducted from the household's countable net income.

(7) **Utility expenses:**

(a) **Allowable expenses for the mandatory utility standards:** Allowable expenses that may be used to determine the mandatory utility standards include the cost of home heating or cooling; cooking fuel; electricity; water and sewerage; garbage and trash collection fees; the service fee for one telephone, including but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, taxes; and fees charged by the utility provider for initial installation of the utility.

(i) A one/time deposit is not allowed as a utility expense.

(ii) Expenses billed to a landlord or housing unit, but separately identifiable from the rent as an expense to the household, are allowable expenses.

(iii) A household shall not be allowed actual utility expenses, even if the expenses exceed the amount of the mandatory utility standard for which the household is eligible.

(iv) A household that is determined eligible for a mandatory utility standard deduction shall receive only one standard deduction during the household's food stamp certification period.

(b) **Mandatory heating or cooling standard:** A food stamp household shall be allowed the heating/cooling standard utility allowance (HCSUA) during the household's certification period. The HCSUA includes all utility expenses for heating or cooling the household's home. The household's heating or cooling expense must be billed separately from other shelter expenses. The HCSUA shall be allowed if the household:

(i) incurs a heating or cooling expense separate from other shelter expenses; or

(ii) receives or received a direct payment or a payment is made on behalf of the household under the Low Income Home Energy Assistance Act of 1981; or

(iii) receives or received a payment or a payment is made on behalf of the household under any other similar energy assistance program as long as the household still incurs out/of/pocket heating or cooling expenses in excess of the energy assistance provided; or

(iv) lives in a public housing unit that has central utility meters, incurs a heating or cooling expense, and the household is charged only for excess heating or cooling usage.

(c) **Mandatory limited utility standard:** A food stamp household shall be allowed a limited utility allowance (LUA) if the household does not incur a heating or cooling expense but does incur two or more of the following expenses:

(i) electricity or fuel, for purposes other than heating or cooling;

(ii) water;

(iii) sewerage;

(iv) well and septic tank installation or maintenance;

(v) garbage or trash collection; and

(vi) one telephone.

(d) **Mandatory telephone standard:** A food stamp household shall be allowed the telephone standard if the household incurs an expense only for the telephone used by the household. The telephone

standard shall be allowed for only one telephone charge for the residence.

G. Child support deduction: A deduction shall be allowed for child support payments paid by a household member to or for a non/household member, provided that the household member has a legal obligation to pay child support and such payments are being made.

(1) **Legal obligation and verification:** The household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays shall be verified. Any document that verifies the household's legal obligation to pay child support, such as a court or administrative order, or legally enforceable separation agreement shall be acceptable verification. Documents that are accepted as verification of the household's legal obligation to pay child support shall not be accepted as verification of the household's actual monthly child support payments. Actual payment of child support shall be verified by documentation including, but not limited to, cancelled checks, wage withholding statements, verification of withholding from unemployment compensation, and statements from the custodial parent regarding direct payments or third party payments the non/custodial parent pays or expects to pay on behalf of the custodial parent. The department shall be responsible for obtaining verification of the household's child support payments if the payments are made to the child support enforcement division.

(2) **Determining the deduction amount:**

(a) **Household with at least three months of payment history:** Average the last three month period, taking into account any anticipated changes in the legal obligation. This average is the child support deduction amount. In the event that the client has at least a three month payment history and the payment includes arrearages, the amount paid toward arrearages shall be used in the average.

(b) **Household with less than three months of payment history:** The department shall estimate the anticipated payments according to the obligation and discussion with the client. This anticipation shall not include payments toward arrearages.

H. Nondeductable expenses:

(1) **Excluded reimbursement/vendor payments:**

(a) That portion of any allowable expense that is reimbursed to the household or that is paid through a vendor payment to a third party is not allowable as a deduction.

(b) Actual utility expense deductions or the SUA, as appropriate, shall be allowed for households receiving payments from LIHEAP, or receiving energy assistance payments under a program other than LIHEAP, as long as the household continues to incur out/of/pocket expenses for home heating or cooling.

(c) A reimbursement paid by HUD or FmHA to a household, or indirectly to a utility provider, is not allowed as a deductible expense.

(d) A household receiving HUD or FmHA utility reimbursements shall be entitled to the SUA if it incurs heating or cooling costs exceeding the amount of excluded utility reimbursements.

(2) **Household member provides service:**

(a) When one household member pays another household member to provide a product or service, the money that is exchanged is neither an expense for one nor income for the other household member. Expenses are deductible only when a product or service is provided by someone outside the household and the household makes a money payment for the product or service.

(b) Similarly, income is not counted for one household member who is paid by another household member to obtain wood for home heating. The actual cost of the wood is allowed as a utility expense if an outside money payment is made. Money exchanged between household members is not considered income to the individual receiving the money and is not an expense to the member paying it.

(3) **Past due shelter expenses:** Payment on delinquent rent, mortgage, property taxes or utilities are not allowed as deductible expenses even if not previously billed.

[02/01/1995, 12/17/1996, 07/01/1997; 8.139.520.11 NMAC / Rn, 8 NMAC 3.FSP.525.8, 05/15/2001; A, 02/14/2002, A, 09/01/2003; A/E, 10/01/2004; Rp, 08/01/2023]

8.139.520.12 CALCULATING INCOME: To determine a household's income eligibility, the following guidelines will be followed:

A. The gross monthly income of all members, minus any income exclusions, is a household's gross income. Households which do not include elderly or disabled members must meet the gross income standard before other calculations are made.

B. Twenty percent (20%) of gross earned income is subtracted to determine net monthly earned income. (Or multiply the gross earned income by 80%).

C. Total monthly earned income of all household members, minus income exclusions, if any, is

added to net monthly unearned income.

D. The standard deduction is subtracted.

E. If a household member(s) is entitled to an excess medical deduction, the amount of medical expenses that exceeds \$35 is deducted.

F. Allowable monthly dependent care expenses, if any, are subtracted, up to the maximum amount allowed per dependent.

G. Subtract allowable monthly child support payment.

H. Add allowable shelter expenses to determine total shelter costs.

I. Subtract from total shelter costs fifty percent (50%) of the household's monthly income after all of the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost.

(1) The excess shelter cost, up to the maximum amount allowed, is subtracted from monthly income determined after G above.

(2) Households with elderly or disabled members have the full shelter cost amount exceeding 50% of net income subtracted.

(3) The household's net monthly income has been determined.

J. The household's net monthly income is compared to the net income standard Subsection E of 8.139.500.8 NMAC to determine eligibility.

[02/01/1995, 10/01/1995; 8.139.520.12 NMAC / Rn, 8 NMAC 3.FSP.526, 05/15/2001; Rp, 08/01/2023]

HISTORY OF 8.139.520 NMAC:

Pre/NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD 460.0000, Action on Households with Special Circumstances, 8/15/1980.

ISD 450.0000, Determining Household Eligibility and Benefit Levels, 8/15/1980.

ISD/Rule 429.0000, Food Assistance / Income, 11/4/1982.

ISD/Rule 429.0000, Food Assistance / Income, 2/17/1983.

ISD/Rule 429.0000, Food Assistance / Income, 9/8/1983.

ISD/Rule 429.0000, Food Assistance / Income, 1/20/1984.

ISD/Rule 429.0000, Food Assistance / Income, 5/1/1986.

ISD FS 430, Food Stamp Deductions, 3/1/1988.

ISD FS 440, Food Stamp Financial Determinations, 3/1/1988.

ISD/Rule 431.0000, Food Assistance / Determining Household Eligibility/Benefit Levels and Related Activities, 11/4/1982.

ISD/Rule 430.0000, Determining Household Eligibility/Benefit Levels and Related Activities, 2/9/1983.

ISD/Rule 430.0000, Determining Household Eligibility/Benefit Levels and Related Activities, 10/13/1983.

ISD/Rule 430.0000, Determining Household Eligibility/Benefit Levels and Related Activities, 4/24/1984.

ISD/Rule 430.0000, Determining Household Eligibility/Benefit Levels and Related Activities, 8/27/1984.

ISD/Rule 432.0000, Food Assistance / Determining Resources, 11/4/1982.

ISD/Rule 433.0000, Food Assistance / Determining Income, 11/4/1982.

ISD/Rule 433.0000, Determining Income, 2/9/1983.

ISD/Rule 433.0000, Determining Income Prospectively, 10/13/1983.

ISD/Rule 433.0000, Determining Income Prospectively, 4/24/1984.

ISD/Rule 434.0000, Food Assistance / Determining Deductible Expenses, 11/4/1982.

ISD/Rule 434.0000, Determining Deductible Expenses, 10/13/1983.

ISD/Rule 434.0000, Determining Deductible Expenses, 4/24/1984.

ISD/Rule 434.0000, Determining Deductible Expenses, 5/11/1984.

ISD/Rule 434.0000, Determining Deductible Expenses, 8/3/1984.

ISD/Rule 435.0000, Food Assistance / Calculating Income and Benefit Levels, 11/4/1982.

ISD/Rule 435.0000, Calculating Income and Benefit Levels, 2/11/1983.

ISD/Rule 435.0000, Calculating Income and Benefit Levels, 10/13/1983.

ISD/Rule 453.0000, Food Assistance / Self/employed Households, 11/5/1982.

ISD/Rule 453.0000, Food Assistance / Self/employed Households, 4/24/1986.

ISD/Rule 454.0000, Food Assistance / Boarders, 11/5/1982.

ISD/Rule 455.0000, Food Assistance / Treatment of Income/Resources and Deductions of Disqualified Members and Ineligible Aliens, 11/5/1982.

ISD/Rule 455.0000, Treatment of Income and Resources and Deductions of Excluded Members, 5/31/1983.

ISD/Rule 455.0000, Treatment of Income, Resources and Eligibility/Benefit Level of Excluded Members, 8/23/1983.

ISD FS 420, Food Stamp Income Eligibility, 3/1/1988.

ISD FS 430, Food Stamp Deductions, 3/1/1988.

ISD FS 440, Food Stamp Financial Determinations, 3/1/1988.

History of Repealed Material: [RESERVED]

TITLE 8 SOCIAL SERVICES
CHAPTER 139 FOOD STAMP PROGRAM
PART 527 FOOD STAMP PROGRAM / INCOME AND RESOURCES EXCLUDED BY FEDERAL LAW

8.139.527.1 ISSUING AGENCY: New Mexico Human Services Department
[02/01/95; 8.139.527.1 NMAC / Rn, 8 NMAC 3.FSP.000.1, 05/15/2001; Rp, 08/01/2023]

8.139.527.2 SCOPE: General public
[02/01/95; 8.139.527.2 NMAC / Rn, 8 NMAC 3.FSP.000.2, 05/15/2001; Rp, 08/01/2023]

8.139.527.3 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).
[02/01/95; 8.139.527.3 NMAC / Rn, 8 NMAC 3.FSP.000.3, 05/15/2001; Rp, 08/01/2023]

8.139.527.4 DURATION: Permanent
[02/01/95; 8.139.527.4 NMAC / Rn, 8 NMAC 3.FSP.000.4, 05/15/2001; Rp, 08/01/2023]

8.139.527.5 EFFECTIVE DATE: February 1, 1995
[02/01/95; 8.139.527.5 NMAC / Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; Rp, 08/01/2023]

8.139.527.6 OBJECTIVE: Issuance of the revised food stamp program policy manual is intended to be used in administration of the food stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.
[02/01/95; 8.139.527.6 NMAC / Rn, 8 NMAC 3.FSP.000.6, 05/15/2001; Rp, 08/01/2023]

8.139.527.7 DEFINITIONS: [RESERVED]

8.139.527.8 INCOME AND RESOURCES EXCLUDED BY FEDERAL LAWS: Certain income and resources are specifically excluded by federal law from consideration in determining eligibility for the food stamp program.
[07/01/97; 8.139.527.8 NMAC / Rn, 8 NMAC 3.FSP.527, 05/15/2001; Rp, 08/01/2023]

8.139.527.9 GENERAL:

A. The value of assistance to children under P.L. 79/396, Section 12(e) of the National School Lunch Act, as amended by Section 9(d) of P.L. 94/105. This law authorizes the school lunch program, the summer food service program for children, the commodity distribution program, and the child and adult care food program. The exclusion applies to assistance provided to children rather than that paid to providers.

B. The value of assistance to children under P.L. 89/642, Section 11(b) of the Child Nutrition Act of 1966 is not considered income or resources for any purpose. This law authorizes the special milk program, the school breakfast program, and the special supplemental food program for women, infants, and children (WIC).

C. Under WIC demonstration projects, coupons that may be exchanged for food at farmers' markets by P.L. 100/435, Section 501, 9/19/88, which amended Section 17(m)(7) of the Child Nutrition Act of 1966.

D. Reimbursements received under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, P.L. 91/646, Section 216.

E. Any payment under Titles I and II of the Domestic Volunteer Services Act of 1973, P.L. 93/113.

(1) Payments under Title I of the Act, including payments from VISTA, university year for action and the urban crime prevention program, made to volunteers will be excluded for an individual receiving FS benefits or public assistance at the time the individual joined the Title I program, except that households which were

receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion.

(2) Temporary interruptions in food stamp participation do not alter the exclusion after an initial determination has been made.

(3) New applicants who were not receiving food stamps at the time they joined VISTA will have their volunteer payments counted as earned income.

(4) Payments to volunteers under Title II, including RSVP, foster grandparents program and senior companion program, are excluded as income.

F. Payments precipitated by an emergency or major disaster as defined in the Disaster Relief Act of 1974, P.L. 93/288, Section 312(d), as amended by the Disaster Relief and Emergency Assistance Amendments of 1988, P.L. 100/707, Section 105(i). This exclusion applies to federal assistance, including Federal Emergency Management Assistance (FEMA) funds, provided to directly affected individuals and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. Most, but not all FEMA funds are excluded. For example, some payments made to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision. A major disaster is any natural catastrophe such as a hurricane, drought, or, regardless of cause, any fire, flood, or explosion, which the president determines causes damage of enough severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. An emergency is any occasion or instance for which the president determines that federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

G. The amount of any home energy assistance payments or allowances provided directly to, or on behalf of, a household under the Low Income Home Energy Assistance Act, P.L. 99/425, Section (e), 9/30/86. In determining any excess shelter expense deduction, the full amount of such payments or allowances is deemed to be expended by such household for heating or cooling expenses.

H. Amounts made available for tuition and fees, and, for students attending an institution at least half time, for books, supplies, transportation and miscellaneous personal expenses (other than room, board, and dependent care) provided under Title IV of the Higher Education Act Amendments of 1986, P.L. 99/498, Section 479B, as amended by P.L. 100/50, June 3, 1987, and by the bureau of Indian affairs.

(1) The Higher Education Amendments of 1992, P.L. 102/325, 7/23/92, contain two separate provisions affecting the treatment of payments made under the Higher Education Act. In regard to Title IV, Student Assistance, Part F, Section 479B provides that: Notwithstanding any other provision of law, student financial assistance received under Title IV or under bureau of Indian affairs student assistance programs, will not be counted in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any federal, state, or local program financed in whole or in part with federal funds. Educational assistance authorized under Title IV will be excluded with respect to determinations beginning on or after July 1, 1993.

(2) Excluded educational assistance authorized under Title IV includes the following:

- (a) basic educational opportunity grants (BEOG or PELL);
- (b) presidential access scholarships (super PELL grants);
- (c) supplemental educational opportunity grants (SEOG);
- (d) state student incentives grants (SSIG);
- (e) federal direct student loan programs (FDSLPL) (formerly GSL and FFELP):
 - (i) federal direct supplemental loan program (provides loans to students);
 - (ii) federal direct PLUS program (provides loans to parents);
 - (iii) federal direct Stafford loan program;
 - (iv) federal consolidated loan program;
- (f) direct loans to students in institutions of higher education (Perkins loans, formerly NDSL);
- (g) federal work study funds (not all federal work study funds come under Title IV of the Higher Education Act);
- (h) TRIO grants (to organizations or institutions for students from disadvantaged backgrounds);
- (i) upward bound (some stipends go to students);

- (ii) student support services;
- (iii) Robert E. McNair post/baccalaureate achievement;
- (i) Robert C. Byrd honors scholarship program;
- (j) college assistance migrant program (CAMP) for students whose families are engaged in migrant and seasonal farm work;
- (k) high school equivalency program (HEP);
- (l) national early intervention scholarship and partnership program.
- (3) There is only one BIA student assistance program per se. It is the higher education grant program, which is sometimes called the scholarship grant program. Education or training assistance received under any BIA program must be excluded. There is an adult education program providing money to adults to get a GED, attend technical schools, and to receive job training. There is also an employment assistance program. In addition, education and training may be made available under separate programs like the Indian child and family programs. Each tribe has a BIA agency that may be contacted for more information about education and training assistance.
- (4) Section 480(b) of Title IV provides that the changes made in part F of Title IV of the Act by the amendment made by this section shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.
- (5) Under Title XIII, Indian Higher Education Programs, Part E/Tribal Development Student Assistance Revolving Loan Program, under the Tribal Development Student Assistance Act, Section 1343(c) provides that for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other federal law, and may not penalize students in determining eligibility for other funds. The Part E exclusion was effective October 1, 1992.
- (6) Payments received under the Carl D. Perkins Vocational Education Act, Section 507, P.L. 98/524, as amended by P.L. 101/392, 9/25/90, Section 501 and 701 of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, are excluded.
- (7) Amounts made available for tuition and fees, and for students attending an institution at least half time, books, supplies, transportation, dependent care, and miscellaneous personal expenses (other than room and board) are excluded. This provision was effective July 1, 1991. The programs under the Carl D. Perkins Act include the following:
 - (a) Indian vocational education program;
 - (b) native Hawaiian vocational education program;
 - (c) state vocational and applied technology education program, which contains the:
 - (i) state program and state leadership activities;
 - (ii) program for single parents, displaced homemakers, and single pregnant women;
 - (iii) sex equity program;
 - (iv) programs for criminal offenders;
 - (v) secondary school vocational education program;
 - (vi) postsecondary and adult vocational education program;
 - (vii) state assistance for vocational education support programs by community based organizations;
 - (viii) consumer and homemaking education program;
 - (ix) comprehensive career guidance and counseling program;
 - (x) business/labor/education partnership for training program;
 - (d) national tech/prep education program;
 - (e) state/administered tech/prep education program;
 - (f) supplementary state grants for facilities and equipment and other program improvement activities;
 - (g) community education employment centers program;
 - (h) vocational education lighthouse schools program;
 - (i) tribally controlled postsecondary vocational Institutions program;
 - (j) vocational education research program;
 - (k) national network for curriculum coordination in vocational and technical education;
 - (l) national center or centers for research in vocational education;
 - (m) materials development in telecommunications program;
 - (n) demonstration centers for the training of dislocated workers program;

(o) vocational education training and study grants program;
(p) vocational education leadership development awards program;
(q) vocational educator training fellowships program;
(r) internships for gifted and talented vocational education students program;
(s) business and education standards program;
(t) blue ribbon vocational education program;
(u) educational programs for federal correctional Institutions;
(v) model programs of regional training for skilled trades;
(w) demonstration projects for the integration of vocational and academic learning program;

(x) cooperative demonstration programs;
(y) bilingual vocational training program;
(z) bilingual vocational instructor training program;
(aa) bilingual materials, methods, and techniques program;

(8) Federal Perkins Loans authorized under Part E of Title IV of the Higher Education Act must be handled in accordance with other Title IV income.

(9) Section 5(d)(3) of the Food Stamp Act, as amended by P.L. 101/624, Food Agriculture, Conservation and Trade Act of 1990, Title XVIII, Mickey Leland Memorial Domestic Hunger Relief Act, 11/28/90, and P.L. 102/237, Food, Agriculture, Conservation, and Trade Act Amendments of 1991, Section 903, provide that educational monies are excluded from income:

(a) when they are awarded to a person enrolled at a recognized institution of post/secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent of (GED);

(b) to the extent that they do not exceed the amount used for or made available as an allowance determined by the school, institution, program, or other grantor, for tuition, mandatory fees, including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved, books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses) of the student incidental to attending such school, institution, or program; and

(c) to the extent loans include any origination fees and insurance premiums.

I. Payments, allowances, and earnings to individuals participating in programs under the Job Training Partnership Act (JTPA) of 1982, P.L. 97/300 except for on/the/job training payments provided under section 204(5) of Title II of the JTPA to dependents 19 years of age or older.

J. Payments, allowances, and earnings of individuals participating in projects conducted under Title I of the National and Community Services Act of 1990. Such projects were considered to be conducted under the JTPA, per P.L. 101/610, Section 117(d), 11/16/90, which clarified Section 142(b) of the JTPA. There are about 47 different NCSA programs, and they vary by state.

K. Funds received by individuals 55 and older under the Senior Community Service Employment Program under Title V of the Older Americans Act, P.L. 100/175, Section 166, 11/29/87. Each state and eight organizations receive Title V funds. The eight organizations that receive Title V funds are:

(1) green thumb,
(2) national council on aging,
(3) national council of senior citizens,
(4) American association of retired persons,
(5) U.S. forest service,
(6) national association for Spanish speaking elderly,
(7) national urban league,
(8) national council on black aging.

L. Any amount by which the basic pay of an individual is reduced under P.L. 99/576, Veteran's Benefits Improvement and Health Care Authorization Act of 1986, Section 303(a)(1), 8/7/86, which amended Section 1411(b) and 1412(c) of the Veterans Educational Act of 1984 (GI Bill), which will revert to the treasury. Title 38 of the USC, Chapter 30, Section 1411 refers to basic educational assistance entitlement for service on active duty, and Section 1412 refers to basic educational assistance entitlement for service in the selected reserve. Section 216 of P.L. 99/576 authorized stipends for participation in study of Vietnam/era veterans' psychological problems. These payments are not excluded by law.

M. P.L. 100/242, Section 126(c)(5)(A), 11/6/87, the Housing and Community Development Act of 1987, excludes most increases in earned income of a family residing in certain housing while participating in HUD

demonstration projects authorized by Section 126. Demonstration projects are authorized by this law for Charlotte, NC, and ten additional locations. The affected regional offices are contacted individually regarding these projects.

N. P.L. 101/625, Section 522(i)(4), 11/28/90, Cranston/Gonzales National Affordable Housing Act, excludes most increases in the earned income of a family residing in certain housing while participating in HUD demonstration projects authorized by this public law. Demonstration projects are authorized by this law for Chicago, IL, and three other locations. The affected regional offices are contacted individually regarding these projects.

O. The value of any child care payment made under the Family Support Act, P.L. 100/485, Section 301, which amended Section 402 (g) (1)(E) of the Social Security Act, including payments made under Title IV/A of the Social Security Act, and including transitional child care payments (entitlement payments).

P. "At risk" block grant child care payments are excluded by P.L. 101/508, Section 5801, which amended Section 402(i) of the Social Security Act (11/5/90). No deduction may be allowed for any expense covered by such payments.

Q. The value of any child care provided or arranged, or any amount received as payment for such care or reimbursement for costs incurred for such care is excluded by P.L. 102/586, Section 8, signed 11/4/92, which amended the Child Care and Development Block Grant Act Amendments of 1992 by adding section 658S. The value or amount of child care is excluded from income for purposes of any federal or federally/assisted program that bases eligibility or amount of benefits on need. These payments are made under the Social Security Act, as amended.

R. A payment made to a participant for costs that are necessary and directly related to participation in a work program. Such costs include, but are not limited to, dependent care costs, transportation, expenses related to work, training or education, such as uniforms, personal safety items, other necessary equipment, and books or training manuals. Such costs may not include the cost of meals away from home. In addition, the value of dependent care services provided for or arranged for are excluded.

S. The full amount of any public assistance (PA) or general assistance (GA) housing assistance payment made to a third party on behalf of a household residing in transitional housing for the homeless by P.L. 103/66, the Mickey Leland Childhood Hunger Relief Act, 1993, which revised Section 5(k)(2)(F) of the Food Stamp Act. The exclusion is effective 9/1/94.

T. Payments made under the Radiation Exposure Compensation Act, P.L. 101/426, Section 6 (h)(2), 10/15/90.

U. All payments from the agent orange settlement fund or any other fund established pursuant to the settlement in the agent orange product liability litigation retroactive to January 1, 1989 in accordance with the Agent Orange Compensation Exclusion Act, P.L. 101/201, 12/6/89. An agent orange disabled veteran receives yearly payments. Survivors of deceased disabled veterans receive a lump/sum payment. These payments are disbursed by the AETNA insurance company.

(1) P.L. 101/239, signed 12/19/89, the Omnibus Budget Reconciliation Act of 1989, Section 10405, also excluded payments made from the agent orange settlement fund or any other fund established pursuant to the settlement in the **In re: agent orange product liability litigation**, M.D.L. No. 381 (E.D.N.Y.) from income and resources in determining eligibility for the amount of benefits under the food stamp program.

(2) P.L. 102/4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service/connected disabilities resulting from exposure to agent orange. Such VA payments are not excluded by law.

V. Any earned income tax credit is excluded from income, and is not taken into account in determining resources for the month of receipt and the following month, under P.L. 101/508, 11/5/90, the Omnibus Budget Reconciliation Act of 1990, Title XI Revenue Provisions, Section 11111, Modifications of Earned Income Tax Credit, subsection (b). This provision is effective for taxable years beginning after December 31, 1990. Subsequently, the September 1988 amendments to the Food Stamp Act require the exclusion from income of any payment made to a household under Section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit). The August 1993 amendments to the Food Stamp Act require the exclusion from resources of any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in the program continuously during the 12/month period. The 1993 amendments are to be implemented September 1, 1994.

W. Payments made to individuals because of their status as victims of Nazi persecution per P.L. 103/286, August 1, 1994. The exclusion is effective for eligibility and benefit determinations made on or after August 1, 1994, and excludes payments made before, on or after August 1.

X. Combat related military pay if the pay is the result of deployment to or service in a combat zone and was not received immediately prior to serving in combat zone.

Y. Guaranteed Basic Income is a program where citizens receive direct cash payments on a regular basis if they meet the eligibility criteria for that program. Income from this program is exempt when any funding comes from a private source.

Z. Universal Basic Income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to citizen. Income from this program is exempt when any funding comes from a private source.

[02/01/95; 8.139.527.9 NMAC / Rn, 8 NMAC 3.FSP.527(A), 05/15/2001; A/E, 10/15/2008; Rp, 08/01/2023]

8.139.527.10 AMERICAN INDIAN OR ALASKA NATIVE

A. Payments to the Turtle Mountain Band of Chippewas, Arizona (P.L. 97/403).

B. Payments to the Blackfeet, Grosventre, and Assiniboine tribes (Montana) and the Papago, Arizona tribe per P.L. 97/408.

C. Per capita and interest payments made to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and to the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana under P.L. 98/124, Section 5. Funds were awarded in docket 10/81L.

D. Funds awarded in docket number 15/72 of the United States Court of Claims and distributed to members of the Red Lake Band of Chippewas in accordance with P.L. 98/123, Section 3, 10/13/83.

E. Payments to the Saginaw Chippewa Indian Tribe of Michigan under P.L. 99/346, Section 6 (b)(2).

F. Per capita payments distributed to, or held in trust for, the Chippewas of the Mississippi in accordance with P.L. 99/377, Section 4(b), 8/8/86. The judgments were awarded in Docket Number 18/S. The funds are divided by reservation affiliation for the Mille Lac, White Earth, and Leech Lake Reservations, all of Minnesota.

G. All compensation, including cash, stock partnership interest, land, interest in land, and other benefits received under the Alaska Native Claims Settlement Act, P.L. 92/203, Section 29, dated 1/2/76 and the Alaska Native Claims Settlement Act Amendments of 1987, P.L. 100/241, Section 15, 2/3/88.

H. In accordance with 25 USCS 1407, Judgment Funds, as amended by P.L. 93/134 and P.L. 97/458, funds appropriated in satisfaction of judgments of the Indian claims commission or claims court in favor of any Indian tribe, band, etc. which:

(1) are distributed per capita or held in trust pursuant to a plan approved under the provisions of this Act [25 USCS Subsections 1401 et seq], or

(2) on the date of enactment of this act [January 12, 1983], are to be distributed per capita, or are held in trust pursuant to a plan approved by congress prior to the date of enactment of this Act [January 12, 1983], or

(3) were distributed pursuant to a plan approved by congress after December 31, 1981, but prior to the date of enactment of this act [January 12, 1983], and any purchases made with such funds, including all interest and investment income accrued thereon while such funds are so held in trust, except for per capita payments in excess of \$2,000. The \$2,000 amount applies to each payment made to each person. Initial purchases made with exempt payments distributed between January 1, 1982 and January 12, 1983 are excluded from resources to the extent that excluded funds were used.

I. Per capita payments from funds which are held in trust by the secretary of the interior (trust fund distributions) for an Indian tribe per P.L. 98/64, 8/2/83, which applied the exclusion in 25 USC 1407. Per capita payments may be authorized for specific tribes under other public laws.

J. Relocation assistance payments to members of the Navajo and Hopi tribes under P.L. 93/531, section 22.

K. Income derived from certain submarginal land held in trust for certain Indian tribes under P.L. 94/114, section 6, 10/17/75. The tribes that may benefit are the:

(1) Bad River band of the Lake Superior tribe of Chippewa Indians of Wisconsin;

(2) Blackfeet tribe;

(3) Cherokee nation of Oklahoma;

(4) Cheyenne River Sioux tribe;

(5) Crow Creek Sioux tribe;

(6) lower Brule Sioux tribe;

(7) Devils Lake Sioux tribe;

(8) Fort Belknap Indian community;

- (9) Assiniboine and Sioux tribes;
- (10) Lac Courte Oreilles band of Lake Superior Chippewa Indians;
- (11) Keweenaw bay Indian community;
- (12) Minnesota Chippewa tribe;
- (13) Navajo tribe;
- (14) Oglala Sioux tribe;
- (15) Rosebud Sioux tribe;
- (16) Shoshone/Bannock tribes;
- (17) Standing Rock Sioux tribe.
- L. Payments from the disposition of funds to the Grand River Band of Ottawa Indians, per P.L. 94/540.
- M. Indian claims commission payments made to the confederated tribes and bands of the Yakima Indian nation and the Apache tribe of the Mescalero reservation under P.L. 95/433, Section 2.
- N. Payments made to the Passamaquoddy tribe, the Penobscot nation, and the Houlton Band of Maliseet under the Maine Indian Claims Settlement Act of 1980, P.L. 96/420, Section 9(c), 10/10/80.
- O. Funds made to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act, under P.L. 98/500, Section 8, 10/17/84, except for per capita shares in excess of \$2,000.
- P. Funds distributed per capita to the Sac and Fox Indians or held in trust per P.L. 94/189, Section 6, 12/31/75. The funds are divided between members of the Sac and Fox tribe of Oklahoma and the Sac and Fox tribe of the Mississippi in Iowa. The judgments were awarded in Indian claims commission dockets numbered 219, 153, 135, 158, 231, 83, and 95.
- Q. Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior in accordance with P.L. 99/146, Section 6(b), 11/11/85. Judgments were awarded in dockets numbered 18/S, 18/U, 18/C, and 18/T. Dockets 18/S and 18/U are divided among the following reservations:
- (1) Wisconsin: Bad River reservation, Lac du Flambeau reservation, Sokaogon Chippewa community, Red Cliff reservation, St. Croix reservation.
- (2) Michigan: Keweenaw Bay Indian community, (l'Anse, Lac Vieux Desert, and Ontonagon Bands).
- (3) Minnesota: Fond du Lac reservation, Grand Portage reservation, Nett Lake reservation (including Vermillion lake and Deek creek), White Earth reservation.
- (4) Under Dockets 18/C and 18/T, funds are given to the Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians of the Lac Courte Oreilles reservation of Wisconsin, the Bad River Band of the Lake Superior tribe of Chippewa Indians of the Bad River reservation, the Sokaogon Chippewa community of the Mole Lake Band of Chippewa Indians, and the St. Croix Chippewa Indians of Wisconsin.
- R. Monies paid to the White Earth Band of Chippewa Indians in Minnesota, under the White Earth Reservation Land Settlement Act of 1985, per P.L. 99/264, Section 16, 3/24/86.
- S. Funds, assets, or income from the trust fund established and paid to the Puyallup tribe in the state of Washington will not affect the eligibility or benefit amount of its members for any federal program, per P.L. 101/41, 6/21/89, Section 10(b), of the Puyallup tribe of Indians Settlement Act of 1989. Section 10(c) provides that none of the funds, assets, or income from the trust fund established in Section 6(b) shall at any time be used a basis for denying or reducing funds to the tribe or its members under any federal, state or local program.
- T. Funds appropriated in satisfaction of judgments awarded to the Seminole Indians in Dockets 73, 151, and 73/A of the Indian claims commission, except for per capita payments in excess of \$2,000 under P.L. 101/277, 4/30/90. Payments were allocated to the Seminole nation of Oklahoma, the Seminole tribe of Florida, the Miccosukee tribe of Indians of Florida, and the independent Seminole Indians of Florida.
- U. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 in accordance with P.L. 101/503, Section 8(b), dated November 3, 1990.
- V. Interests of individual Indians in trust or restricted lands, and up to \$2,000 per year of income received by individual Indians that is derived from such interests under 25 USCS 1408, as amended by P.L. 93/134, Section 8, 10/19/73, P.L. 97/458 and P.L. 103/66, Section 13736, 10/7/93. Interests include an Indian's right to or legal share of the trust or restricted lands and any income accrued from the funds in trust or the restricted lands. The exclusion applies to each individual Indian with an interest. The income exclusion applies for both eligibility and benefit amount purposes in the rood stamp program. The income exclusion applies to calendar years and is effective beginning January 1, 1994.
- W. Grant programs for child and family services on or near reservations in preparation for and implementation of child welfare codes under 25 USC 1931 Indian Child Welfare, P.L. 95/608, 11/8/78).

subparagraph (a). Such programs may include, but are not limited to, family assistance, including homemaker and home counselors, day care, after school care, and employment, recreational activities, and respite care; home improvement; the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters; and education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs. Subparagraph (b) provides that assistance under 25 USCS 1901 et seq. shall not be a basis for the denial or reduction of any assistance otherwise authorized under any federally assisted programs.

[02/01/95; 8.139.527.10 NMAC / Rn, 8 NMAC 3.FSP.527(B), 05/15/2001; Rp, 08/01/2023]

HISTORY OF 8.139.527 NMAC:

Pre/NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD 440.0000, Eligibility Criteria / Financial, 8/15/1980.

ISD 440.0000, Eligibility Criteria / Financial, 10/24/1980.

ISD/Rule 428.0000, Food Assistance / Resources, 11/4/1982.

ISD/Rule 428.0000, Food Assistance / Resources, 2/14/1983.

ISD/Rule 428.0000, Food Assistance / Resources, 1/12/1984.

ISD/Rule 428.0000, Food Assistance / Resources, 5/1/1986.

ISD FS 410, Food Stamp Resources, 3/1/1988.

History of Repealed Material: [RESERVED]

The Human Services Income Support Division is approving to repeal its rule 8.139.527 NMAC - Food Stamp Program - Income And Resources excluded by Federal law filed (4/26/2001) and replace it with 8.139.527 NMAC - Food Stamp Program - Income And Resources excluded by Federal law effective 08/1/2023.

The Human Services Income Support Division is approving to repeal its rule 8.139.520 NMAC, Food Stamp Program - Eligibility Policy - Income And Deductions filed (4/26/2001) and replace it with 8.139.520 NMAC, Food Stamp Program - Eligibility Policy - Income And Deductions effective 08/1/2023.