



NM

STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT



# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

## II. SUBJECT

VERIFICATION STANDARDS SUBSEQUENT TO INITIAL CERTIFICATION  
ABLE BODIED ADULTS WITHOUT DEPENDENTS (ABAWD) TIME LIMIT  
PERCENTAGE EXEMPTIONS

## III. PROGRAMS AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)  
CASH ASSISTANCE PROGRAMS

## IV. ACTION

FINAL RULE

## V. BACKGROUND

The Department is finalizing and adopting regulations that were proposed to the Supplemental Nutrition Assistance Program (SNAP) and Cash Assistance Programs in the Human Services Register (HSR) Vol. 42 No. 16. These programs are administered by the Human Services Department (HSD), who has the authority to promulgate regulation, and is governed by Chapter 9, Article 8, NMSA (Repl. 1983).

### **Concise Explanatory Statement:**

The HSD has adopted the rule to be in compliance with the CFR and to align program requirements. The rule will be amended under the following statutory authority:

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 Parts 270-282 and 45 CFR Parts 200-299. 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).



This HSR addresses comments received regarding the proposed rule. A public hearing was held on September 13, 2019, where there were no attendees. The Department received one written comment.

**Comment:**

“State law requires the New Mexico Human Services Department (“the Department”) to comply with the administrative procedures in the State Rules Act, because it is an “agency” under the Act. The State Rules Act defines a ‘rule’ as ‘any rule, regulation, or standard’ that affects ‘one or 12agency,’ or ‘persons served by the agency.’ Any policy that meets this definition of a rule must be promulgated into regulation. The implementation or waiver of the ABAWD time limit impacts tens of thousands of New Mexicans served by the Department, and therefore must explicitly be in regulation.

The Department’s current regulation is illegally vague and does not comply with the State Rules Act, because it does not state whether the time limit for Able Bodied Adults Without Dependents (ABAWDs) is in place or not. This means that New Mexicans will not know whether they are subject to the time limit. The regulation simply states the rule is in effect unless there is a waiver. There is no information about whether a waiver is in place or not. This must be in regulation so New Mexicans know whether they are subject to the time limit and can comment on the Department’s decision to adopt a waiver, partial waiver, or remove a waiver.”

**NMHS D Response:**

The Department appreciates the comment; the comment does not pertain to the proposed rule change. Previously the Department addressed a similar comment and is federally compliant with 7 CFR 273.24; the Department and will be adopting the proposed rule. The existing ABAWD rule in the New Mexico Administrative Code (NMAC) does contain the effective date for the ABAWD 3-month time limit requirement. 8.139.410.14 NMAC Requirements for Able Bodied Adults, addresses the stated concerns. This NMAC policy provides an explicit effective date for the ABAWD time limit and addresses the concern that New Mexicans will not know whether they are subject to the time limit. The NMAC policy states:

“ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able-bodied adults without dependents (“ABAWD”) program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three-month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD 3-month time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36-month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three year period.”

**VI. PUBLICATION DATE**



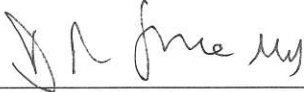
October 29, 2019

**VII. EFFECTIVE DATE**

November 1, 2019

**VIII. PUBLICATION**

Publication of these amendments approved on 10/17/19 by:



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DAVID R. SCRASE, M.D., SECRETARY  
HUMAN SERVICES DEPARTMENT



This is an amendment to 8.102.120 NMAC, Sections 9, and 11 effective 11/1/2019.

**8.102.120.9 ELIGIBILITY REVIEWS:**

**A. Follow-up reviews:**

(1) A follow-up review shall be scheduled during a certification period whenever information becomes known to the county office indicating a possible change in a benefit group's circumstances that may affect eligibility or payment amount.

(2) Review of a specific condition may be made by home visit, office visit, third party contacts or correspondence as needed.

(3) Circumstances which may require follow-up review include, but are not limited to:

(a) change in NMW participation work requirements;

(b) school attendance of children age six or older;

~~(c) any other anticipated change in circumstances which will require a change of grant during a certification period.~~

**B. Recertification:**

(1) Cash assistance shall be approved for a fixed certification period at the end of which the assistance shall be terminated.

(2) The recertification shall consist of a complete review of all conditions of eligibility; determination of eligibility for an additional period of time and redetermination of the amount of assistance payment. The recertification requires a redetermination of eligibility on those conditions that are subject to change. There shall be a prospective determination beginning the month following the month the certification expires.

(3) The caseworker shall ensure that CSED has been notified of all pertinent information regarding any non-custodial parent who has a child in the benefit group, including but not limited to the current address and work place of the non-custodial parent.

(4) **Conditions not subject to change:** ~~[The caseworker reviews documentation of conditions not subject to change. If the record does not contain satisfactory evidence, additional verification shall be obtained.]~~ Unchanged information shall not be re-verified unless it is incomplete, inaccurate, inconsistent, or outdated. Outdated is defined as unchanged verification that is more than 60 days old relative to the current month of participation.

(5) **Work program:** The caseworker shall give information to the NMW participants about earned income incentives, assistance through the transitional child care program, medicaid transitional benefits, and work program requirements, opportunities and services. Work program participation shall be reviewed.

(6) **Need and payment determination:** The caseworker shall obtain current information about family and benefit group: ~~[income, resources, and circumstances, to determine financial need and amount of payment.]~~

~~(a) **Income:** if the source has changed or the amount has changed by more than \$50;~~

~~(b) **Resources:** if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit; and~~

~~(c) any other information which has changed or is questionable.~~

(7) **Change reporting:** The caseworker shall review with the client the possible changes in circumstances which must be reported if they occur.

**(8) Providing verification:**

~~(a) If electronic verification is not available, the household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.~~

~~(b) ISD shall assist a household in obtaining verification, provided the household is cooperating in the application process.~~

~~(c) A household or their authorized representative may supply documentary evidence in person, by mail, fax, electronic device or through the YES NM web portal.~~

~~(d) A household shall not be required to supply verification in person at the ISD office or to schedule an appointment to provide such verification.~~

~~(e) ISD shall accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application.~~

**(9) Recertification time standards:**

(a) Timely reapplication: Applications filed before the 15th of the expiration month will be considered timely. A household member or authorized representative that attends an interview and provides all necessary verification by the end of the household's current certification period, will have the opportunity to participate by the household's normal issuance cycle in the month following the end of the current certification period, if all eligibility factors have been met.

(b) Reapplication after the 15<sup>th</sup>: If an application for recertification is submitted after the 15th but before the end of a household's certification period and the household is determined eligible for the first month following the end of the certification period, that month is not considered an initial month and benefits are not prorated.

(c) Late applications: An application that is submitted to ISD after the certification period has expired can be accepted within 30 days after the certification period expires or the case has been closed for any reason. Initial month verification standards will be used for all applications received during this time frame and the benefits for a late recertification will be prorated from the date of approval.

**C. Certification scheduling:**

(1) Each case must have eligibility and payment reviewed at least once during the period specified for that category. Cash assistance cases, which also receive SNAP, shall be recertified at the same time the SNAP certification is completed.

(2) The certification period shall not exceed the following standards:

(a) Regular reporting benefit groups: A benefit group not subject to simplified reporting requirements shall be certified for:

(i) [~~every~~] five months or less [~~for~~]: education works program;

(ii) [~~every~~] 12 months [~~for~~]: state supplement for SSI recipients in residential care;

(iii) [~~eight months for: refugee resettlement program~~] eight months from date of arrival: refugee resettlement program.

(b) Simplified reporting benefit groups: Certification provisions that apply to a NMW benefit group subject to simplified reporting are set forth at Subsection A of 8.102.120.11 NMAC.

**D. Interview:**

(1) All recertification interviews shall be in person at the local office or, when circumstances warrant, over the phone or at another place reasonably accessible and agreeable to both the recipient/relative or caretaker and the caseworker. The recipient may bring any individual to the interview.

(2) The interview must be with the recipient, unless the recipient's physical or mental condition makes the interview impossible or inadvisable. See 8.100.130 NMAC for instructions on obtaining information.

(3) To help a recipient report changes that may affect the recipient's eligibility or amount of payment, the caseworker shall make available a change report form upon request, which the client may use to notify the county office of changes in circumstance.

**E. Scheduling recertification reviews:** The certification period end date shall be scheduled for the appropriate interval indicated in Subsection C of 8.102.120.9 NMAC, starting with the initial month of eligibility, or the month following the month in which previous certification expired.

**F. Exchange of information with SSA:**

(1) If information received during any eligibility review indicates that a participant in NMW or GA may be eligible for supplemental security income (SSI) benefits, (this includes children and adults who appear disabled, and needy adults over 65), the caseworker shall promptly refer the participant to the social security administration district office for application. An individual found eligible for SSI must participate in that program.

(2) During the review process, ISD will sometimes learn information relevant to the eligibility of a family member who is a SSI recipient. If there is a clear indication that a SSI recipient's countable income exceeds the maximum allowable under the SSI program, the discrepancy shall be reported to the social security administration (SSA) district office. SSA shall also be notified when it appears that the resources of an SSI recipient exceed SSI program standards.

[8.102.120.9 NMAC - Rp 8.102.120.9 NMAC, 7/1/2001; A, 02/14/2002; A, 01/01/2004; A, 7/17/2006; A, 11/15/2007; A, 09/01/2017; A, 11/1/2019]

**8.102.120.11 SIMPLIFIED REPORTING:** [~~Simplified reporting is a periodic reporting requirement for benefit groups that receive NMW cash assistance. A benefit group assigned to simplified reporting must file a report of changes in the sixth month of a 12-month certification period.~~] Simplified reporting (SR) is a periodic



reporting requirement for benefit groups that receive NMW cash assistance. A benefit group assigned to SR must file an interim report form in the sixth month of a 12-month certification period.

**A. Certification period:**

(1) **Initial application:** A benefit group that is applying for both SNAP and NMW, shall be assigned a NMW certification period that ends in the same month as the SNAP certification period with the exception of those SNAP benefit groups assigned to a 24-month certification.

(2) An initial applicant for NMW that is already participating and assigned to simplified reporting in the SNAP program:

(a) if approved for NMW, shall be assigned a NMW certification period that will end the same month as the SNAP certification period; and

(b) must file an interim report form in the same month that one is due in the SNAP program;

(c) if NMW is approved in the same month an interim report form is due in the SNAP program, the requirement in Subparagraph (b), above, is waived for NMW.

(3) A benefit group that is approved for NMW, but does not receive SNAP shall be assigned a twelve-month certification period:

(a) beginning the first month of eligibility; and

(b) shall have an interim report form due in the sixth month of the NMW

certification period.

(4) A benefit group that is receiving NMW and applies for SNAP shall have NMW eligibility re-determined at the same time that the SNAP eligibility is determined.

(a) If NMW benefits increase, the increase shall be effective the month following the first month of approval for SNAP and NMW shall be assigned a certification period that ends in the month the simplified reporting SNAP certification ends.

(b) If approved for SNAP and the NMW benefit decreases, the decrease shall be effective the month following the month the NOAA expires, and the NMW benefit group shall be assigned a certification period that ends in the same month the SNAP certification ends.

(c) If approved for SNAP and the NMW benefit is terminated, the termination shall be effective the month following the month the NOAA expires, and the SNAP case shall be transitioned to TFS.

(5) **Recertification:** A benefit group that is recertifying and is approved and assigned to simplified reporting shall be assigned a certification period that:

(a) is 12 months long;

(b) begins the month after the current certification ends; or

(c) is set to end in the same month as a SNAP case with a common member.

**B. Excluded from simplified reporting:** The simplified reporting requirement shall be assigned to all NMW benefit groups except programs listed in Paragraph (2) of Subsection C of 8.102.120.9 NMAC.

**C. Simplified reporting requirements:** A benefit group assigned to simplified reporting shall be required to file an interim report form no later than the tenth day of the sixth month of the 12-month certification period, or in compliance with the SNAP simplified report, whichever is appropriate. The benefit group must include the following information along with necessary verification, as required at 8.100.130 NMAC:

(1) any change in benefit group composition, whether a member has moved in or out of the home along with the date, the change took place;

(2) ~~[the amount of money received from employment by each benefit group member]~~ a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

(3) ~~[the amount of unearned income received by each benefit group member;]~~ changes in either:

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

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

(4) ~~[changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit, such as but not limited to:~~

~~(a) the account number and balance for a new checking or savings account belonging to any household member; or~~

~~(b) the amount of any new stocks or bonds or other financial instruments belonging to any household member.~~

~~(5) dependent care expenses;~~

~~(6) verification for residence, only if, there has been a change in residence since the last certification;~~

~~(7) changes in child support receipt; and~~

~~(8) changes in alien status for a benefit group member.] a change of more than one hundred dollars (\$100) in the amount of unearned income;~~

~~(5) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit; [such as but not limited to:~~

~~(6) dependent care expenses;~~

~~(7) [verification for] changes in residence, only if, there has been a change in residence since the last certification;~~

~~(8) changes in child support receipt; and~~

~~(9) changes in immigration status for a benefit group member.~~

**D. Budgeting methodology for simplified reporting at initial application and recertification:**

(1) Prospective budgeting shall be used for an applicant benefit group at initial application and at recertification as set forth at 8.102.500.9 NMAC.

(2) At initial application, eligibility and amount of payment for the applicant benefit group shall be determined prospectively for the each of the first six months of the certification.

(3) At recertification, eligibility and amount of payment shall be determined prospectively for six months following last month benefit group's certification period.

**E. Budgeting methodology for simplified reporting:**

(1) At processing the interim report form, eligibility and amount of payment shall be determined prospectively for the six months following the month the interim report form is due.

(2) In determining a benefit group's eligibility and payment amount, the income already received shall be used to prospectively anticipate income the benefit group expects to receive during the certification period according to the following schedule:

(a) **Weekly:** ~~[For income received weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.]~~ For income received weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 60 days prior to the month the interim report form is due.

(b) **Bi-weekly:** ~~[For income received bi-weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.]~~ For income received bi-weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 60 days prior to the month the interim report form is due.

(c) **Semi-monthly:** ~~[For income received semi-monthly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.]~~ For income received semi-monthly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 60 days prior to the month the interim report form is due.

(d) **Monthly:** ~~[For income received monthly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the report is due and the month the report is due.]~~ For income received monthly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 60 days prior to the month the interim report form is due.

(e) **Income received more frequently than weekly:** ~~[For benefit groups with income received more frequently than weekly, exact income, rather than averaged and converted income shall be used to determine benefits. For income received more frequently than weekly the participant benefit group must submit and ISD shall accept as verification income received from any consecutive past 30-day period that includes 30 days prior to the month the interim report form and the month the report is due.]~~ For benefit groups with income received more frequently than weekly, exact income, rather than averaged and converted income shall be used to determine benefits. For income received more frequently than weekly the participant benefit group must submit and

ISD shall accept as verification income received from any consecutive past 30-day period that includes 60 days prior to the month the interim report form is due.

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

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

**(3) Self-employment:**

(a) Requirements for determination of self-employment income are set forth at Subsection E of 8.139.520.10 NMAC, and the verification standards for business and self-employment income are set forth at 8.100.130.25 NMAC.

(b) A benefit group assigned simplified reporting that has had self-employment income annualized by ISD shall be required to report changes in self-employment income only if the benefit group has filed a tax return subsequent to its last approval or recertification for NMW.

(c) A benefit group assigned simplified reporting that does not have the self-employment income annualized must report self-employment income on the interim report form. The income reported on the simplified report form will be calculated in the following manner.

(i) If a self-employment enterprise has been in existence for less than one year, the income from self-employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the duration of the certification period.

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

(d) A benefit group required to report simplified self-employment income that fails to provide verification of an allowable deduction at the interim or during the month the interim report form is due shall not be allowed the deduction. ISD shall process the report if all other mandatory verification has been provided.

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

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

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

(c) averaged income shall be rounded to the nearest whole dollar prior to

application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**F. Time limits for submission and processing an interim report form:**

(1) An interim report form shall be mailed to a benefit group in the month prior to the month the report is due.

(2) A benefit group assigned to simplified reporting shall be required to submit an interim report form by the tenth calendar day of the month the interim report form is due in order to receive uninterrupted benefits.

(3) The interim report form shall be reviewed for completeness within ten days of receipt.

(a) If the form is complete and all verifications are provided, ISD shall complete the processing of the form within 10 days of receipt.

(b) If the form is complete and all verifications are provided except for verification of an allowable deduction, the report shall be processed without the deduction. The household shall be:

(i) notified that verification is lacking; and

(ii) shall be given 10 days to provide verification of an allowable

deduction;

(iii) a deduction that is verified within the month the interim report form is due shall be processed as part of the interim report;

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

(v) a deduction that does not have the required verification shall not be allowed until verification of the expense is provided.

(4) ~~[An interim report form that is incomplete or not signed shall be returned to the benefit group for completion.]~~ Incomplete interim report form is received:

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

- (i) shall be notified that the form is incomplete;
- (ii) what needs to be completed for the interim report form; and
- (iii) shall be given 10 calendar days to provide the signed interim report form to be reviewed for completeness.

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

- (i) shall be notified that the form is incomplete;
- (ii) what information must be provided to complete the interim report form;

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

(5) The benefit group must return the completed interim report form and all required verification within 10 calendar days to avoid a break in benefits. A benefit group that fails to submit an interim report form by the end of the month in which it is due, shall be issued ~~[an adequate notice of closure]~~ a notice of case action.

**G. ~~[Information requirements for simplified reporting:]~~ Information requirements for the interim report form:**

The interim report form shall specify:

- (1) the date by which a benefit group must submit the form for uninterrupted benefits;
- (2) the consequences of submitting a late or incomplete form;
- (3) that verification must be submitted with the interim report form;
- (4) where to call for help in completing the form;
- (5) the consequences of providing incorrect information; and
- (6) notice of rights.

**H. Requirement to report certain changes between reporting periods:** A benefit group must report changes within 10 days of the date a change becomes known to the benefit group:

- (1) a benefit group reports income in excess of eighty-five percent of federal poverty guidelines for size of the benefit group;
- (2) ~~[the benefit group must report when a social security number is assigned to a benefit group member;~~
- (3) a parent must report when a dependent child, age six years or older, drops out of school or has three unexcused absences from school within 14 days of occurrence;
- ~~[(4)]~~ (3) a mandatory adult who is participating in NMW Program has moved in or out of the home;
- ~~[(5)]~~ (4) a mandatory child who has moved in or out of the home;
- ~~[(6)]~~ (5) a household member has passed away;
- ~~[(7)]~~ (6) a mandatory member has moved from New Mexico;
- ~~[(8)]~~ (7) unearned income in excess of the maximum monthly benefit for the size of the benefit group;
- ~~[(9)]~~ (8) changes in countable resources if the total of all countable resources for the benefit group exceed the \$1500 liquid or \$2000 non-liquid resource limit;
- ~~[(10)]~~ (9) in the absence of a written report, a 13-day notice of adverse action is required if the change will result in a reduction or termination of benefits.

**I. Action on changes reported between reporting periods for benefit groups assigned to simplified reporting:** In addition to changes that must be reported in accordance with Subsection H of 8.102.120.11 NMAC, ISD must act on changes in between interim report forms, if it would increase the household's benefits. ISD shall not act on changes that would result in a decrease in the household's benefits unless:

- (1) ~~[ISD shall act on all reported changes.]~~ The household has voluntarily requested that its case be closed;
- (2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined as:
  - (a) information is not questionable; and

- (b) the provider of the information is the primary source of information;
- (c) the trusted data sources must be pulling their own data not from third party information; or
- (d) the recipient's attestation exactly matches the information received from a third party.
- (3) A newborn shall be added to the benefit group effective the month following the month the report is received.
- (4) The loss of earned income shall be considered for eligibility in the second month after the loss and ongoing until the next scheduled interim report or end of certification whichever is first, provided that:
  - (a) the loss of income was reported to the agency, and verified by the benefit group; and
  - (b) the loss of income was not due to voluntary quit.
- (5) The loss of unearned income shall be considered for eligibility in the month after the loss and ongoing until the next scheduled interim report or end of certification whichever is first, provided that the loss of income was reported to the agency, and verified by the benefit group.
- (6) A household member has been identified as a fleeing felon or probation violator in accordance with 8.102.410.15 NMAC.

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

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

(a) if the household's benefit level decreases or the household becomes ineligible as a result of the change, ISD shall issue a notice of adverse action within 10 calendar days of the date the change was reported unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.

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

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

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

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

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

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

(ii) if the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th calendar day of the following month, or the household's normal issuance cycle in that month, whichever is later.

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

(4) **Providing verification:** The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (2)(a) and (2)(b) above. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its SNAP benefit amount shall revert to the original benefit amount.

**K. Resolving unclear information:**

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.102.120.11 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

(2) **Unclear information resulting from certain data matches:**

(a) if the department receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the consequences of failing to respond to the notice.

(b) if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

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

(1) **Decreased benefit amount:** After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued TANF benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced.

(2) **Increased benefit amount:** When a household fails to timely report a change which will result in an increased TANF benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 calendar days after the date the change was reported.

**M. Non-reporting sanctions:** A benefit group assigned to simplified reporting shall be subject to a non-reporting sanction in accordance with regulations at 8.102.620.11 NMAC for failure to provide accurate change information on the interim report form or for failure to report by the tenth calendar day of the month following the month that household income exceeds eighty-five percent of federal poverty guidelines for the size of the benefit group.

[8.102.120.11 NMAC - N, 02/14/2002; A, 01/01/2004; A, 11/15/2007; A, 11/14/2008; A, 04/01/2010; A, 09/01/2017; A, 11/1/2019]

This is an amendment to 8.106.120 NMAC, Section 12 effective 11/1/2019.

**8.106.120.12 RECERTIFICATION TIME STANDARDS:**

**A.** GA benefits shall not continue beyond the certification period if eligibility requirements in Section 10 above have not been met; regardless of disability review.

**B. Reapplication:**

**(1) Timely reapplication:** Applications submitted before the 15<sup>th</sup> of the expiration month will be considered timely.

**(2) Untimely reapplication:** An application received after the 15<sup>th</sup> but before the end of a benefit group's certification period expires has lost its right to interrupted benefits.

**(a)** If the benefit group is determined eligible, without regard to disability, the benefit group is entitled to ongoing benefits that are not prorated.

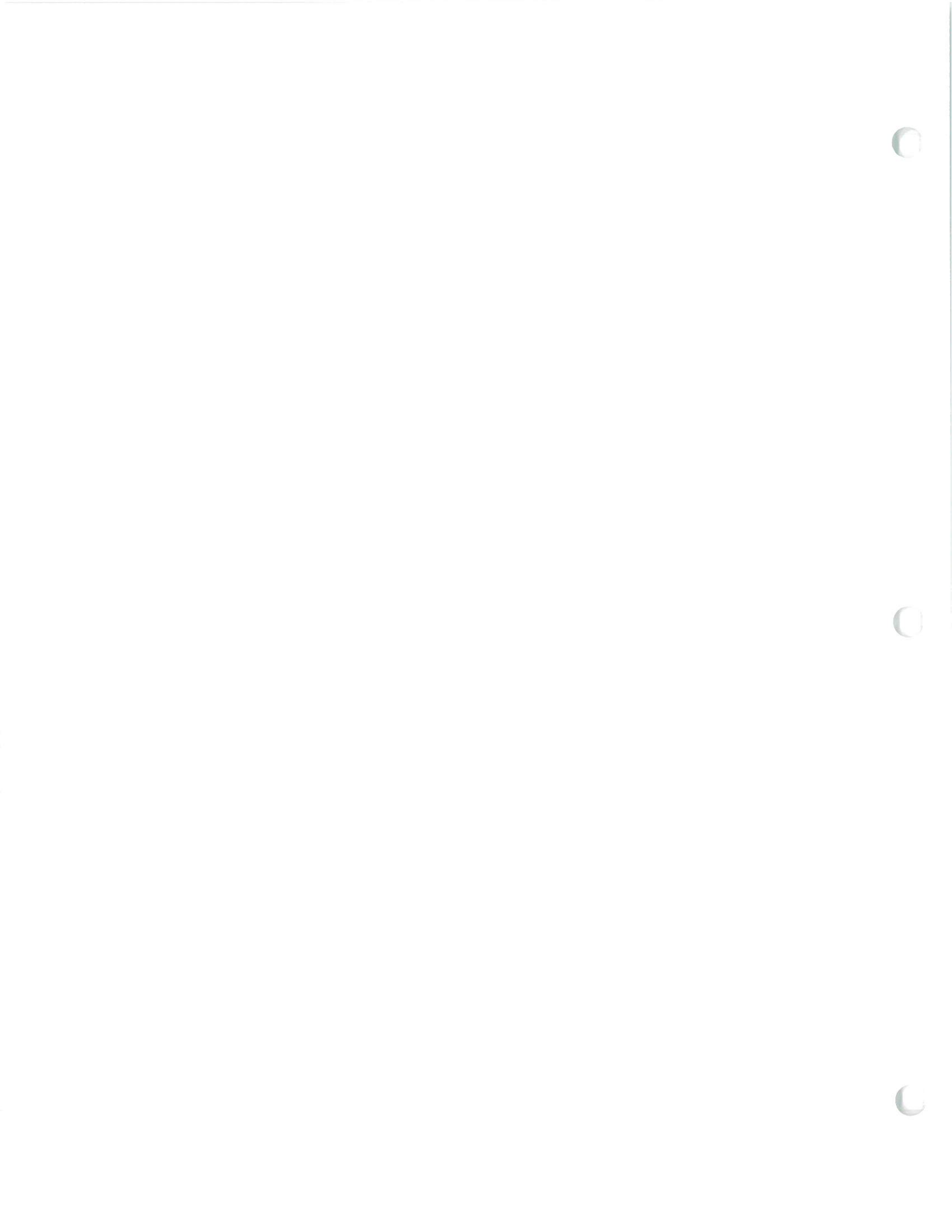
**(b)** Initial month verification standards will be used for all applications received more than one calendar month after the certification period expires or the case has been closed for any reason.

**(3) Late applications:** An application that is submitted to ISD within 30 days after the certification period has expired or the case has been closed for any reason can be accepted and recertification standards outlined in 8.102.120.9 NMAC will be followed. If approved, the benefits will be prorated from the date of approval. Any applications received more than 30 days after the certification period expires or closes for any reason will follow the initial month verification standards.

**C. Verification:** A benefit group that has reapplied timely, completed an interview and provided required verification, specific to eligibility, will be given 10 days to provide the verification or until the certification period expires, whichever is longer. If the certification period expires before the 10-day deadline for submitting the required verification, the benefit group will be entitled to a full month's benefits, if eligible, within five days after verification is submitted.

**D. Agency failure to act:** A benefit group that has made a timely application for recertification, but due to agency error, is not determined eligible in sufficient time to provide for issuance by the benefit group's normal issuance date in the following month, will be entitled to restoration of lost benefits.

[8.106.120.12 NMAC - N, 12/01/2009; A, 11/1/2019]





This is an amendment to 8.139.110 NMAC, Section 12, effective 11/1/2019.

**8.139.110.12 PROCESSING APPLICATIONS:**

**A.** HSD is responsible for timely and accurate issuance of benefits to eligible households. All applications for assistance will be processed as soon as possible. Applicants who complete the application process will have their eligibility determined and be given an opportunity to participate within the time limits mandated for expedited or normal application processing. ISD will explain the time limits to the applicant and inform them of the date by which the application will be processed. With the exception of those manual provisions that specify "working days," time limits begin on the first calendar day following the action that triggered the time limit.

**B. Household cooperation:** To determine eligibility an application form must be completed and signed, a household or its authorized representative interviewed, and certain information on the application verified.

**(1) At application:** If a household refuses to cooperate in completing the process, the application will be denied at the time of refusal. For a determination of refusal to be made, a household must be able to cooperate, but clearly demonstrates that it will not take action that it can take and that is required to complete the application process. If there is any question that a household has failed to cooperate as opposed to refused to cooperate, it will not be denied. Once denied for refusal to cooperate, a household may reapply but will not be determined eligible until it cooperates with ISD.

**(2) Subsequent reviews:** A household will be determined ineligible if it refuses to cooperate in a subsequent review of eligibility. Such reviews include those because of reported changes and an application for recertification. Once terminated for refusal to cooperate, a household may reapply, but will not be determined eligible until it cooperates with ISD.

**(3) Outside sources:** A household will not be determined ineligible when an individual outside the household fails to cooperate with a request for verification. Individuals identified as ineligible household members in 8.139.400.12 NMAC will not be considered as individuals outside the household.

**(4) Cooperation with quality control (QC):** A household will be determined ineligible if it fails or refuses to cooperate in a QC review of eligibility and benefit amount.

**(a) Period of ineligibility:**

**(i)** A household that refuses to cooperate with a state QC review will be determined ineligible effective the month following the month the adverse action notice time limit expires. Ineligibility will continue until 95 days from the end of the annual QC review period (January 5) during which non-cooperation is found. The annual QC review period begins October 1 and ends September 30.

**(ii)** A household that refuses to cooperate with a federal QC review will be determined ineligible effective the month following the month the adverse action notice time limit expires. Ineligibility will continue until seven months from the end of the annual review period (May 1) during which non-cooperation is found. The annual QC review period begins October 1 and ends September 30.

**(b) Re-establishing eligibility:**

**(i)** A household may reapply during the period of ineligibility, but will not be determined eligible until it cooperates with the QC review, and is otherwise eligible.

**(ii)** A household which reapplies at the end of the period of ineligibility will not be determined ineligible because of its failure or refusal to cooperate with a state or federal QC review. The household must provide verification necessary to determine eligibility at reapplication in accordance with Subsection H of 8.139.110.11 NMAC.

**C. Verification standards:** Verification is use of third-party information or documentation to establish the accuracy of statements on the application, or information provided by the applicant or recipient.

**(1) Initial certification:** Verification is mandatory for the following information prior to initial certification for both new and reopened cases.

**(a) Financial information:**

- (i)** gross nonexempt income, and
- (ii)** resources.

**(b) Any of the following if the expense would result in a deduction:**

- (i)** utility expenses;
- (ii)** continuing shelter expenses;
- (iii)** dependent care expenses;
- (iv)** deductible medical expenses including the amount of reimbursements;
- (v)** legally obligated child support expenses, and amount actually paid;

(vi) if any of the above expenses will not result in a deduction, verification shall not be required (for example, less than \$35 in medical expenses, or shelter expenses that do not exceed fifty percent of income after all other deductions).

(c) Nonfinancial information:

- (i) residence;
- (ii) citizenship, if questionable, and alien status of household members who are individually applying for benefits only;
- (iii) identity of the applicant and authorized representative, if designated;
- (iv) household size and composition;
- (v) disability, if necessary;
- (vi) social security numbers, except that eligibility or issuance of benefits shall not be delayed solely to verify the social security number of a household member, and
- (vii) any questionable information that must be verified to determine eligibility.

(2) **Verification subsequent to initial certification: Verification of the following is mandatory at recertification: [in accordance with the individual's reporting requirements found at 8.139.120.9 through 12 NMAC:]**

- (a) a change in income if the source has changed or the amount has changed by more than \$50;
- (b) a change in utility expenses if the source has changed;
- (c) previously unreported medical expenses, and total recurring medical expenses which have changed by more than \$25;
- (d) new social security numbers, for individuals who are applying for benefits, that shall be verified as detailed in 8.139.410.8 NMAC;
- (e) any other information which has changed or is questionable;
- (f) unchanged information shall not be re-verified unless it is incomplete, inaccurate, inconsistent, or outdated. Outdated is defined as unchanged verification that is more than sixty days old relative to the current month of participation.
- (g) satisfactory compliance with time limits for individuals subject to the time limit in accordance with 8.139.410.14 NMAC.

(3) **Providing verification:**

- (a) If electronic verification is not available, the household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.
- (b) ISD shall assist a household in obtaining verification, provided the household is cooperating in the application process.
- (c) A household or their authorized representative may supply documentary evidence in person, by mail, fax, electronic device or through the YES NM web portal.
- (d) A household shall not be required to supply verification in person at the ISD office or to schedule an appointment to provide such verification.
- (e) ISD shall accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application.

(4) **Documentation:** A case file shall be documented to support eligibility, ineligibility, and benefit amount determination. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

[2/1/1995, 6/1/1995, 6/15/1996; 8.139.110.12 NMAC - Rn, 8 NMAC 3.FSP.114, 5/15/2001; A, 3/1/2017; A, 11/1/2019]

This is an amendment to 8.139.410 NMAC, Section 14, effective 11/1/2019.

**8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS:** ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents (“ABAWD”) program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36 month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three year period.

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

- (1) work in exchange for money;
- (2) work in exchange for goods or services (“in kind” work); or
- (3) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person’s job skills, or involves volunteer time and effort to a not-for-profit organization.

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

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

- (1) any individual residing in or relocating to a county that has an unemployment rate twenty percent above the national average as defined by ISD;
- (2) any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD.

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

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

- (1) Exceptions to the three month time limit required participation are found at 7 CFR 273.24(c).
- (2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.
  - (a) unfitness can be obvious to ISD and documented in the case file; or
  - (b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

**F.** ISD will administer the [~~fifteen~~] twelve percent exemptions, as allowed by the food and nutrition service (FNS) and as determined by ISD, in accordance with 7 CFR 273.24(g). [8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014; A, 2/13/2015; A, 01/01/2016; A, 01/01/2016; A, 09/01/2017; A, 11/1/2019]

