



STATE OF NEW MEXICO
HUMAN SERVICES DEPARTMENT
HUMAN SERVICES REGISTER



I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

II. SUBJECT

GENERAL PROVISIONS

AMENDING 8.100.100 NMAC TO ADD SECTION 17 BENEFIT ISSUANCE SYSTEM

AMENDING 8.100.640 NMAC TO ADD SECTION 17 EBT ADJUSTMENTS

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

REMOVING 8.139.610.8 NMAC BENEFIT ISSUANCE SYSTEM

AMENDING 8.139.110.12B(4)(a) NMAC PERIOD OF INELIGIBILITY

CASH ASSISTANCE PROGRAMS

AMENDING 8.102.500 NMAC AND 8.106.500 NMAC WITH ANNUAL ADJUSTMENTS TO INCOME LIMITS

AMENDING 8.106.500.8 NMAC DEFINING SCHOOL AGE CHILD FOR DETERMINING ELIGIBILITY FOR THE CLOTHING ALLOWANCE

REMOVING 8.102.610.9 NMAC STALE BENEFIT ACCOUNTS

REMOVING 8.106.610.10 NMAC STALE BENEFIT ACCOUNTS

III. PROGRAMS AFFECTED

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)
NEW MEXICO WORKS (NMW) CASH ASSISTANCE PROGRAM
SUPPORT SERVICES PROGRAM
EDUCATION WORKS PROGRAM
GENERAL ASSISTANCE PROGRAMS

IV. ACTION

FINAL RULE

V. BACKGROUND

The Department is finalizing and adopting regulations that were proposed to the General Provisions, Supplemental Nutrition Assistance Program (SNAP), and Cash Assistance programs in the Human Services Register (HSR) Vol. 42 No. 25. These programs are administered by the Human Services Department, including its authority to promulgate regulations, and is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

Concise Explanatory Statement:

The Human Services Department (HSD) is proposing to amend the rule to comply with the CFR, provide clarifying language and to consolidate rules into General Provisions that apply to both SNAP and Cash programs to remove redundancy. 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 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).

The Department has chosen to not move forward at this time with the proposed amendments to 8.106.610.8 NMAC and 8.102.610.8 NMAC to state that no Cash benefit will be issued when the benefit amount is less than ten dollars.

This HSR addresses comments received regarding the proposed rule. A public hearing was scheduled for January 17, 2020 and was rescheduled due to inclement weather office closures in the Santa Fe area. An announcement of this reschedule was posted to the HSD website <https://www.hsd.state.nm.us/Default.aspx> and held on January 24, 2020, where there were no attendees. The Department received no comment.

VI. PUBLICATION DATE:

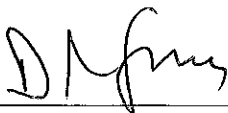
February 25, 2020

VII. EFFECTIVE DATE

March 1, 2020

VIII. PUBLICATION

Publication of these proposed amendments approved on 2/10/2020
by:



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

This is an amendment to 8.100.100 NMAC, Section 17 and 18-23 effective 3/1/2020.

8.100.100.17 BENEFIT ISSUANCE SYSTEM:

A. Electronic benefit transfer (EBT): SNAP and cash benefits are issued through a direct deposit into an EBT account. The benefits are maintained in a central database and accessed by the household through an individual debit card issued to the household.

B. Initial issuance of EBT card: The EBT card is issued to the designated payee of the eligible household or to the designated authorized representative.

(1) The EBT card is mailed to the head of household or the designated authorized representative on the first working day after the application is registered. The applicant or recipient shall receive training on the use of the EBT card prior to activation of the EBT card.

(2) The EBT card shall be issued to the payee for an eligible household through the most effective means identified by HSD which may include issuance at the county office or by mail.

(3) The applicant or recipient must verify his or her identity.

(4) The payee for the eligible household may select the four-digit personal identification number that will allow access to the household's benefits.

C. Replacement of the EBT card: The recipient or designated authorized representative shall be instructed on the procedure for replacement of an EBT card that has been lost, stolen or destroyed.

(1) The recipient or designated authorized representative may report a lost, stolen or destroyed EBT card through the HSD EBT contractor customer service help desk, HSD EBT customer service help desk or any ISD field office.

(2) The lost, stolen, or destroyed EBT card shall be deactivated prior to a replacement card being issued to the household.

(3) ISD shall make replacement EBT cards available for client to pick up or place the card in the mail within two business days following notice by the household to ISD that the card has been lost, stolen or damaged.

(4) ISD may impose a replacement fee by reducing the monthly allotment of the household receiving the replacement card, however, the fee may not exceed the cost to replace the card.

D. Excessive replacement cards: The HSD office of inspector general (HSD OIG) will generate a warning letter to SNAP recipients that have replaced their EBT card five or more times in a 12 month period. The letter is a notice of warning and will explain that as a result of the recipient's high number of replacement EBT cards, their EBT SNAP transactions will be closely monitored. The letter will become part of the recipient's case record. The letter will:

(1) be written in clear and simple language;

(2) meet the language requirements described at 7 CFR 272.4(b);

(3) specify the number of cards requested and over what period of time;

(4) explain that the next request, or the current request if the threshold has been exceeded, requires contact with ISD before another card is issued;

(5) provide all applicable information on how contact is to be made in order for the client to comply, such as whom to contact, a telephone number and address; and

(6) include a statement that explains what is considered a misuse or fraudulent use of benefits and the possibility of referral to the fraud investigation unit for suspicious activity.

E. Inactive EBT accounts: EBT accounts which have not been accessed by the recipient in the last 90 days are considered a stale account. HSD may store stale benefits offline after notification to the household of this action.

(1) The notification to the household shall include the reason for the proposed action and the necessary steps required by the recipient to reactive the account.

(2) The recipient may request reinstatement of their EBT account anytime within 364 days after the date of the last benefit account activity.

F. EBT benefit expungement: When benefits have had not activity:

(1) **SNAP:** HSD may expunge benefits that have not been accessed by the household after a period of 365 days. HSD must attempt to notify the household prior to expungement. Expunged benefits are no longer available to the household. Requests for reactivation must be received prior to expungement and a determination shall be made by the director or designee of the income support division.

(2) **Cash:** Cash assistance benefits which have had no activity for an excess of 180 days will be expunged. All benefits older than 180 days in the account will no longer be accessible to the household. The

household loses all rights to all expunged benefits. The department shall attempt to notify the household no less than 45 days prior to the expungement of the cash assistance benefits.
[8.100.100.17 NMAC - N, 3/1/2020]

8.100.100.[17] 18 TRAINING:

A. General statement: Effective staff development and training is an integral part of successful ISD program operations. ISD supports employee attendance at job-relevant training opportunities. Attendance at training sessions needs supervisory approval. Priorities for such approval are:

- (1) training to improve skills needed in an employee's current position;
- (2) training to add new skills useful in an employee's current position;
- (3) training for an employee's career development.

B. Budget: ISD managers are encouraged to develop training plans and budgets for their administrative units. Such plans must be coordinated with the ISD training staff. ISD training staff members are available for consultation in developing these plans and budgets.

[7/1/1997; 8.100.100.17 NMAC - Rn, 8 NMAC 3.ISD.060, 04/13/2001; Rn, 3/1/2020]

8.100.100.[18] 19 ADMINISTRATIVE TRAINING:

A. Personnel: New employees: ISD encourages prompt attendance at new-employee orientation sessions and requires completion of these sessions as specified in the division's training plan(s).

B. Professional development: ISD supports attendance at training sessions for an employee's professional development needs and goals. Such attendance requires supervisory review and approval and must not interfere with timely performance of an employee's ongoing duties.

[7/1/1997; 8.100.100.18 NMAC - Rn, 8 NMAC 3.ISD.062, 04/13/2001; Rn, 3/1/2020]

8.100.100.[19] 20 PROGRAM TRAINING:

A. New employee training: The division maintains a new-employee training curriculum for all major programs administered by ISD. This program is accessible to all division and HSD employees who need training in food stamps, financial assistance ~~and/or~~ or medical assistance programs.

B. Training standards: ISD training programs conform to the following standards:

(1) Needs assessments: Training programs are developed based upon generally accepted methods of training needs assessment, for example; formal analysis, training needs survey, performance statistics.

(2) Objectives and skills: Training developed and presented by ISD staff must be objective ~~and/or~~ or competency based.

(3) Agenda and prior notification: Training provided to ISD staff members by other HSD employees must, at a minimum:

- (a) be planned in advance with enough notice to adjust work schedules;
- (b) have a written agenda;
- (c) be coordinated with the ISD training staff.

(4) **Training event report:** All individuals who provide individual training sessions to ISD staff must complete an ISD training event report and submit the form to the ISD training staff.

[7/1/1997; 8.100.100.19 NMAC - Rn, 8 NMAC 3.ISD.065, 04/13/2001; Rn, 3/1/2020]

8.100.100.[20] 21 PROVIDER TRAINING: Provision of training sessions - The ISD training staff provides program training to providers on request as scheduling permits.

[7/1/1997, 04/01/98; 8.100.100.20 NMAC - Rn, 8 NMAC 3.ISD.066, 04/13/2001; Rn, 3/1/2020]

8.100.100.[21] 22 SECURITY:

A. Physical property: It is the responsibility of each ISD county director or bureau chief to develop and maintain plans for insuring the security office equipment, furniture and facilities according to department and other state and federal government guidelines.

B. Personnel security: ISD staff are provided training in tools and techniques to reduce the incidence ~~and/or~~ or likelihood of violence or threats directed towards the ISD employee.

[7/1/1997; 8.100.100.21 NMAC - Rn, 8 NMAC 3.ISD.070, 04/13/2001; Rn, 3/1/2020]

8.100.100.[22] 23 ITINERANT SERVICES:

A. ISD provides itinerant service to clients residing at a distance from local ISD offices. Income support specialists visit specified locations on a regularly scheduled basis and conduct required interviews.

B. Itinerant schedules are available through local ISD offices. An itinerant location may not be eliminated by ISD without public notice and adequate justification.

[7/1/1997; 8.100.100.22 NMAC - Rn, 8 NMAC 3.ISD.100, 04/13/2001; Rn, 3/1/2020]

This is an amendment to 8.100.640 NMAC, Section 17 and 18 effective 3/1/2020.

8.100.640.17 EBT Adjustments: EBT adjustment pertains to any EBT transaction resulting in a change to a client's cash or snap benefits. If a system error causes a customer to receive funds to which they were not entitled or causes their account to not be charged for an EBT transaction, an adjustment may be completed to reclaim the funds or settle the transaction.

A. Client-initiated adjustments: The department must act on all requests for adjustments made by client households within 90 calendar days of the error transaction.

(1) For SNAP the department has 10 business days from the date the household notifies it of the error to investigate and reach a decision on an adjustment and move funds into the client account.

(2) For cash the department has 20 business days from the date the household notifies it of the error to investigate and reach a decision on an adjustment and move funds into the client account.

(3) These timeframes also apply if the department or entity other than the household discovers a system error that requires a credit adjustment to the household. Business days are defined as calendar days other than Saturdays, Sundays, and federal holidays.

B. Retailer-initiated adjustments: The department must act upon all adjustments to debit a household's account no later than 10 business days from the date the error occurred, by placing a hold on the adjustment balance in the household's account. If there are insufficient benefits to cover the entire adjustment, a hold shall be placed on any remaining balance that exists, with the difference being subject to availability only in the next future month. The household shall be given adequate notice. The notice must be sent at the time the initial hold is attempted on the household's current month's remaining balance, clearly state the full adjustment amount, and advise the household that any amount still owed is subject to collection from the household's next future month's benefits.

(1) The household shall have 90 days from the date of the notice to request a fair hearing.

(2) Should the household dispute the adjustment and request a hearing within 10 days of the notice, a provisional credit must be made to the household's account by releasing the hold on the adjustment balance within 48 hours of the request by the household, pending resolution of the fair hearing. If no request for a hearing is made within 10 days of the notice, the hold is released on the adjustment balance, and this amount is credited to the retailer's account. If there are insufficient funds available in the current month to cover the full adjustment amount, the hold may be maintained and settled at one time after the next month's benefits become available.

[8.100.640.17 NMAC - N, 3/1/2020]

8.100.640.[17] 18DORMANT BENEFIT ACCOUNTS: Stale benefit accounts are those SNAP and cash assistance accounts that have not been accessed for [~~ninety (90)~~] 90 days from the most recent date of withdrawal.

A. Offline accounts: If EBT accounts are not accessed for 90 days, the department may store such benefits in an offline account.

(1) Notification: The department shall notify the eligibility determination group of this action before storing benefits in an offline account and how to reactivate the account.

(2) Reinstatement: An adult eligibility determination group member or authorized representative may contact the department or the EBT customer service help desk and request reinstatement of their EBT account.

(a) SNAP: SNAP benefits may be restored within 364 days of the initial date of benefit activity. Initial date of benefit activity is the first deposit made to the account upon initial approval of the eligibility determination group's benefits.

(b) Cash assistance: Cash assistance benefits may be restored within 364 days of the initial date of benefit activity. Initial date of benefit activity is the first deposit made to the account upon initial approval of the eligibility determination group's benefits.

B. Expungements: SNAP and cash assistance benefits that have not been accessed in excess of the threshold for each program will be expunged. All benefits will no longer be available to the eligibility determination group. The eligibility determination group loses all rights to expunged benefits.

(1) Stale benefit threshold:

(a) SNAP: SNAP benefits will be expunged after no activity within 364 days of the initial date of benefit activity.

(b) Cash assistance: Cash assistance benefits which have had no activity within 180 days of the initial date of benefit activity will be expunged.

(2) Notification: The contractor shall notify the department no less than five days prior to

expungement of the SNAP benefits. The department shall identify any SNAP claims against the eligibility determination group and shall apply upon expungement.

(a) **SNAP:** The department shall notify the eligibility determination group no less than 30 days prior to the expungement of the SNAP benefits. Request from the participant to reinstate any benefit must be received prior to date of expungement.

(b) **Cash assistance:** The department shall attempt to notify the eligibility determination group no less than 45 days prior to the expungement of the cash assistance benefits. A request from the participant to reinstate any benefit must be received prior to the date of expungement.

(3) **Payments of claims against the eligibility determination group.** The contractor shall notify the department no less than five days prior to expungement of the SNAP or cash assistance benefits and any claims against the eligibility determination group shall be removed from the account and applied to the claims upon expungement. 8.100.640.17 NMAC - N, 09/30/2013; A and Rn, 3/1/2020]

This is an amendment to 8.102.500 NMAC, Section 8 effective 3/1/2020.

8.102.500.8 GENERAL REQUIREMENTS:

A. Need determination process: Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

- (1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;
- (2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;
- (3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;
- (4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

B. Gross income limits: The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

- (1) Income eligibility limits are revised and adjusted each year in October.
- (2) The gross income limit for the size of the benefit group is as follows:
 - (a) one person [~~\$860~~] \$885
 - (b) two persons [~~\$1,166~~] \$1,199
 - (c) three persons [~~\$1,472~~] \$1,511
 - (d) four persons [~~\$1,778~~] \$1,824
 - (e) five persons [~~\$2,084~~] \$2,138
 - (f) six persons [~~\$2,390~~] \$2,451
 - (g) seven persons [~~\$2,696~~] \$2,763
 - (h) eight persons [~~\$3,002~~] \$3,077
 - (i) add [~~\$306~~] \$314 for each additional person.

C. Eligibility for support services only: Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

- (1) one person [~~\$1,012~~] \$1,041
- (2) two persons [~~\$1,372~~] \$1,410
- (3) three persons [~~\$1,732~~] \$1,778
- (4) four persons [~~\$2,092~~] \$2,146
- (5) five persons [~~\$2,452~~] \$2,515
- (6) six persons [~~\$2,812~~] \$2,883
- (7) seven persons [~~\$3,172~~] \$3,251
- (8) eight persons [~~\$3,532~~] \$3,620
- (9) add [~~\$360~~] \$369 for each additional person.

D. Standard of need:

- (1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.
- (2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.
- (3) The financial standard includes approximately \$91 per month for each participant in the benefit group.
- (4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

- (a) one person \$266
- (b) two persons \$357
- (c) three persons \$447
- (d) four persons \$539
- (e) five persons \$630
- (f) six persons \$721
- (g) seven persons \$812
- (h) eight persons \$922

(i) add \$91 for each additional person.

E. Special needs:

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

F. Non-inclusion of legal guardian in benefit group: Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 2/01/2018; A/E, 10/01/2018; A, 3/1/2019; A/E, 10/01/2019; A, 3/1/2020]

This is an amendment to 8.102.610 NMAC, 9 effective 3/1/2020.

~~8.102.610.9 — State benefits accounts: State benefit accounts are those cash assistance benefits accounts that have not been accessed for 90 days from the date of most recent withdrawal.~~

~~A. — Offline accounts: EBT accounts which have not been accessed by the recipient in the last 90 days are considered a state account. HSD may store state benefits offline after notification to the household of this action.~~

~~(1) — Notification: The department shall notify the household of this action before storing benefits in an offline account and provide necessary steps to reactivate the account.~~

~~(2) — Reinstatement: The participant may contact the HSDEBT help desk, the contractor customer service help desk, or the caseworker and request reinstatement of their EBT account anytime within 180 days from the initial date of benefit activity. Initial date of benefit activity is the first deposit made to the account upon initial approval of the household's benefits. Requests from the participant to reinstate any benefit must be received prior to the date of expungement~~

~~B. — Expungements: Cash assistance benefits which have had no activity for an excess of 180 days will be expunged. All benefits older than 180 days in the account will no longer be accessible to the household. The household loses all rights to all expunged benefits.~~

~~(1) — The department shall attempt to notify the household no less than 45 days prior to the expungement of the cash assistance benefits.~~

~~(2) — Payments of claims against the household. The contractor shall notify the department no less than five days prior to expungement of the cash assistance benefits and any cash assistance claims against the household shall be removed from the account and applied to the claims upon expungement.] [RESERVED]~~

~~[8.102.610.9 NMAC - Rp 8.102.610.9 NMAC, 07/01/2001; 8.102.610.9 NMAC - N, 02/28/2007; Repealed 3/1/2020]~~

This is an amendment to 8.106.500 NMAC, Section 8 effective 3/1/2020.

8.106.500.8 GA - GENERAL REQUIREMENTS:

A. Limited state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

B. **Need determination process:** Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;

(2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

C. **GA payment determination:** The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

D. **Gross income test:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

(a)	one person	[\$860]	\$885
(b)	two persons	[\$1,166]	\$1,199
(c)	three persons	[\$1,472]	\$1,511
(d)	four persons	[\$1,778]	\$1,824
(e)	five persons	[\$2,084]	\$2,138
(f)	six persons	[\$2,390]	\$2,451
(g)	seven persons	[\$2,696]	\$2,763
(h)	eight persons	[\$3,002]	\$3,077
(i)	add [\$306] \$314 for each additional person.		

E. **Standard of need:**

(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance benefit group on a monthly basis and is based on availability of state funds, 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 caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

F. **Net income test:** The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

G. **Special clothing allowance for school-age dependent children:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age ~~[if the child is six years of age or older and less than age 19 by the end of August.]~~ as defined by PED.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

H. **Supplemental issuance:** A one-time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the human services department and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

I. Minimum Benefit Amount: Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application.

[8.106.500.8 NMAC - N, 07/01/2004; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 01/01/2008; A, 06/16/2008; A/E, 10/01/2008; A, 07/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 12/01/2009; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A, 07/01/2013; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 2/01/2018; A/E, 10/01/2018; A, 3/1/2019; A/E, 10/01/2019; A, 3/1/2020]

This is an amendment to 8.106.610 NMAC, Section 10 effective 3/1/2020.

~~8.106.610.10 — STALE BENEFIT ACCOUNTS: Stale benefit accounts are those cash assistance benefit accounts that have not been accessed for 90 days from the most recent date of withdrawal.~~

~~A. — Offline accounts: EBT accounts which have not been accessed by the recipient in the last 90 days are considered a stale account. HSD may store stale benefits offline after notification to the household of this action.~~

~~(1) — Notification: The department shall notify the household of this action before storing the benefits in an offline account and provide the necessary steps to reactivate the account.~~

~~(2) — Reinstatement: The participant may contact the department or the HSD EBT help desk, the contractor customer service help desk, or the caseworker and request reinstatement of their EBT account anytime within 180 days from the initial date of benefit activity. Requests from the participant to reinstate any benefit must be received prior to the date of expungement.~~

~~B. — Expungement: Cash assistance benefits which have had no activity for an excess of 180 days will be expunged. All benefits older than 180 days in the account will no longer be accessible to the household. The household loses all rights to all expunged benefits.~~

~~(1) — Notification: The department shall notify the household no less than 45 days prior to the expungement of the cash assistance benefits.~~

~~(2) — Payment of claims against household. The contractor shall notify the department no less than five days prior to expungement of the cash assistance benefits and any cash assistance claims against the household shall be removed from the account and applied to the claims upon expungement.] [RESERVED]~~

[8.106.610.10 NMAC - Rp, 8.106.610.9 NMAC, 12/01/2009; Rp, 3/1/2020]

This is an amendment to 8.139.110 NMAC, Section 12 effective 3/1/2020.

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 at 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]~~ 125 days from the end of the annual QC review period [~~(January 5)] (February 4)~~ 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 ineligible effective the month following the month the adverse action notice time limit expires. Ineligibility will continue until ~~[seven]~~ nine 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 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.

(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, 05/15/2001; A, 03/01/2017; A, 3/1/2020]

This is an amendment to 8.139.610 NMAC, Section 8 -15 effective 3/1/2020.

[8.139.610.8 — BENEFIT ISSUANCE SYSTEM

~~A. **Electronic benefit transfer (EBT):** SNAP benefits are issued through a direct deposit into an EBT account. The benefits are maintained in a central database and accessed by the household through an individual debit card issued to the household.~~

~~B. **Initial issuance of EBT card:** The EBT card is issued to the designated payee of the eligible household or to the designated authorized representative.~~

~~(1) The EBT card is mailed to the head of household or the designated authorized representative on the first working day after the application is registered. The applicant or recipient shall receive training on the use of the EBT card prior to activation of the EBT card.~~

~~(2) The EBT card shall be issued to the payee for an eligible household through the most effective means identified by HSD which may include issuance at the county office or by mail.~~

~~(3) The applicant or recipient must verify his or her identity.~~

~~(4) The payee for the eligible household may select the four-digit personal identification number that will allow access to the household's SNAP benefits.~~

~~C. **Replacement of the EBT card:** The recipient or designated authorized representative shall be instructed on the procedure for replacement of an EBT card that has been lost, stolen or destroyed.~~

~~(1) The recipient or designated authorized representative may report a lost, stolen or destroyed EBT card through the HSD EBT contractor customer service help desk, HSD EBT customer service help desk or any ISD field office.~~

~~(2) The lost, stolen, or destroyed EBT card shall be deactivated prior to a replacement card being issued to the household.~~

~~(3) ISD shall make replacement EBT cards available for client to pick up or place the card in the mail within two business days following notice by the household to ISD that the card has been lost, stolen or damaged.~~

~~(4) ISD may impose a replacement fee by reducing the monthly allotment of the household receiving the replacement card, however, the fee may not exceed the cost to replace the card.~~

~~D. **Inactive EBT accounts:** EBT accounts which have not been accessed by the recipient in the last 90 days are considered a stale account. HSD may store stale benefits offline after notification to the household of this action.~~

~~(1) The notification to the household shall include the reason for the proposed action and the necessary steps required by the recipient to reactive the account.~~

~~(2) The recipient may request reinstatement of their EBT account anytime within 364 days after the date of the last benefit account activity.~~

~~E. **Excessive replacement cards:** The HSD office of inspector general (HSD-OIG) will generate a warning letter to SNAP recipients that have replaced their EBT card five or more times in a 12 month period. The letter is a notice of warning and will explain that as a result of the recipient's high number of replacement EBT cards, their EBT SNAP transactions will be closely monitored. The letter will become part of the recipient's case record. The letter will:~~

~~(1) be written in clear and simple language;~~

~~(2) meet the language requirements described at 7 CFR 272.4(b);~~

~~(3) specify the number of cards requested and over what period of time;~~

~~(4) explain that the next request, or the current request if the threshold has been exceeded, requires contact with ISD before another card is issued;~~

~~(5) provide all applicable information on how contact is to be made in order for the client to comply, such as whom to contact, a telephone number and address; and~~

~~(6) include a statement that explains what is considered a misuse or fraudulent use of benefits and the possibility of referral to the fraud investigation unit for suspicious activity.~~

~~F. **EBT benefit expungement:** HSD may expunge benefits that have not been accessed by the household after a period of 365 days. HSD must attempt to notify the household prior to expungement. Expunged benefits are no longer available to the household. Requests for reactivation must be received prior to expungement and a determination shall be made by the director or designee of the income support division.] **[RESERVED]**~~

~~[2/1/1995; 8.139.610.8 NMAC - Rn, 8 NMAC 3.FSP.610, 05/15/2001; A, 02/28/2007; A, 07/15/2013; A, 07/24/2018; Repealed, 3/1/2020]~~

8.139.610.[9] 8 [RESERVED]

[2/1/1995; 8.139.610.9 NMAC - Rn, 8 NMAC 3.FSP.611, 05/15/2001; A, 02/28/2007; A, 07/15/2013; Repealed, 07/24/2018; Rn, 3/1/2020]

8.139.610.[10] 9 ISSUANCE DATE:

A. HSD is responsible for timely and accurate benefit issuance to certified eligible households. A participating household has a definite issuance date so that SNAP benefits are received on or about the same time each month. The issuance date is based on the last two digits of the social security number of the individual to whom the SNAP benefits are issued. A household must have the opportunity to participate before the end of each issuance month.

B. Opportunity to participate: Opportunity to participate means a household is provided with SNAP benefits no later than 30 calendar days after the date an application is filed.

(1) Newly certified household: All newly certified households must be given an opportunity to participate no later than 30 calendar days following the date the application was filed. In EBT issuance situations, benefits must be authorized by the 29th day to be available to the household on the 30th day.

(a) Combined issuance: Households with an application date after the 15th of the month and are eligible for expedited assistance are eligible for combined issuance.

(i) SNAP benefits for the initial month and the second month will be issued the day after approval of expedited service.

(ii) SNAP benefits for the third month will be issued the first day of the third month after approval.

(iii) SNAP benefits for the fourth month will be issued during the first ten days of the month based on a ten day compressed staggered issuance schedule. The issuance schedule uses the last two digits of the head of households SSN to determine the day of the month benefits are issued.

(iv) SNAP benefits for the fifth and ongoing months will be issued on the 20 day staggered issuance schedule. The issuance schedule uses the last two digits of the head of household's SSN to determine the day of the month the benefits are issued.

(b) Households not entitled to combined issuance: The following households will not be entitled to combined issuance of the SNAP benefits:

(i) a household certified for one month only;

(ii) a household determined ineligible for the month of application, but eligible for the second month;

(iii) a household entitled to expedited service who must provide postponed verification to obtain the second month's SNAP benefits; or

(iv) a household that has been recertified.

(c) Standard Issuance: Households with an application date before the 15th of the month and approved in the month of application will have their prorated amount for initial month of benefits issued the day after the case is approved.

(i) SNAP benefits for the second month will be issued the first day of the month in the second month of approval.

(ii) SNAP benefits for the third month during the first ten days of month based on a ten day compressed staggered issuance schedule. The issuance schedule uses the last two digits of the head of households SSN to determine the day of the month benefits are issued.

(iii) SNAP benefits for the fourth and ongoing months will be issued on the 20 day staggered issuance schedule. The issuance schedule uses the last two digits of the head of household's SSN to determine the day of the month the benefits are issued.

(d) Expedited households: Households eligible for expedited service will receive SNAP benefits in the initial month within the expedited time limit. Benefits for the following month will be received on the household's designated issuance date if all postponed verification is provided before the end of the initial month.

[2/1/1995, 1/1/1997, 7/1/1998; 8.139.610.10 NMAC - Rn, 8 NMAC 3.FSP.612, 05/15/2001; A, 02/28/2007; A, 07/15/2013; Rn, 3/1/2020]

8.139.610.[14] 10 USE OF SNAP BENEFITS: Pursuant to Section 15(d) of the Food Stamp Act, SNAP benefits are an obligation of the United States within the meaning of 18 United States Code (U.S.C.) 8. The provisions of Title 18 of the United States Code, "crimes and criminal procedures," relative to counterfeiting,

misuse, [and/or] or alteration of obligations of the U.S., are applicable to SNAP benefits. Any unauthorized issuance, redemption, use, transfer, acquisition, alteration, or possession of SNAP benefits may subject an individual, partnership, corporation, or other legal entity to prosecution under Sections 15(b) and (c) of the Food Stamp Act or other applicable federal, state, or local law, regulation, or ordinance.

A. General uses: SNAP benefits are used by participants to purchase eligible foods, including seeds and plants, for home consumption. A household may designate other individuals to use SNAP benefits to purchase food for them. A household is not required to have cooking facilities or access to cooking facilities to participate in the program.

B. Special uses: Although SNAP benefits were originally intended to be used by eligible households to purchase food for home consumption, certain households are authorized to use SNAP benefits to obtain prepared meals or to facilitate their obtaining food. Authorized special uses for SNAP include:

(1) **Communal dining:** Eligible household members 60 years of age or over or SSI recipients and their spouses may use SNAP benefits to purchase meals prepared at communal dining facilities authorized by FNS. Communal dining facilities include senior citizen centers, apartment buildings occupied primarily by elderly persons or SSI households, public or private nonprofit establishments (eating or otherwise) that feed elderly persons or SSI recipients, and federally subsidized housing for the elderly at which meals are prepared and served to the residents. They also include private establishments under contract with an appropriate state or local agency to offer meals at concessional prices to elderly persons or SSI recipients.

(2) **Meals-on-wheels:** Eligible household members 60 years of age or over or members who are homebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and the spouses of such members, may use their SNAP benefits to purchase meals prepared and delivered to them by a nonprofit meal delivery service authorized by FNS. A meal delivery service is 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 concessional prices to elderly individuals and their spouses, and to the physically or mentally handicapped and individuals otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

(3) **Addicts and alcoholics in treatment programs:** Members of eligible households who are narcotics addicts or alcoholics who regularly participate in a drug or alcoholic treatment and rehabilitation program may use their SNAP benefits to purchase meals prepared for them during the course of such programs by a nonprofit organization or institution or a publically operated community mental health center which is authorized by FNS to redeem SNAP benefits.

(4) **Residents in group living arrangements:** Eligible residents of a group living arrangement may use their SNAP benefits to purchase meals prepared especially for them at a group living arrangement authorized by FNS to redeem SNAP benefits.

(5) **Residents of shelters for battered persons:** Residents of shelters for battered persons may use their SNAP benefits to purchase meals prepared specifically for them at a shelter authorized by FNS to redeem SNAP benefits.

(6) **Residents of shelters for the homeless:** Homeless households may use their SNAP benefits to purchase prepared meals from homeless meal providers authorized by FNS.

C. SNAP benefits as income: SNAP benefits provided to an eligible household will not to be considered income or resources for any purpose under federal, state, or local laws, including but not limited to, laws on taxation, welfare, and public assistance programs. No participating state or political subdivision may decrease any other assistance provided to an individual or individuals because such individuals receive SNAP benefits. [2/1/1995; 8.139.610.11 NMAC - Rn, 8 NMAC 3.FSP.614, 05/15/2001; A, 07/24/2018; Rn, 3/1/2020]

8.139.610.[12] 11 GENERAL (BENEFIT AMOUNT):

A. The SNAP benefit amount to be issued depends on the number of eligible members in the household and the net monthly income used to determine eligibility.

(1) HSD uses a 30-day calendar month to determine a household's SNAP benefit amount. A household applying on the 31st of the month will be treated as if it applied on the 30th.

(2) When a household is determined eligible, the SNAP benefit amount is calculated, issuance authorization is processed that night, and SNAP benefits are issued the following work day.

B. Maximum SNAP allotments:

(1) The maximum SNAP allotment shall be based on the thrifty food plan (TFP). TFP means 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, determined in accordance with USDA calculations. The

cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition. In order to develop maximum SNAP allotments, USDA shall make household size and other adjustments in the thrifty food plan taking into account economies of scale and other adjustments as required by law. The TFP amounts and maximum allotments are adjusted annually.

(2) Except when SNAP benefits are prorated and when reductions are made at the national level, a household's monthly SNAP benefit amount is equal to the maximum SNAP allotment for the household's size reduced by thirty percent of its net monthly income.

(3) The maximum SNAP allotment can be calculated by multiplying a household's net income by thirty percent, rounding the result up to the next whole dollar, and subtracting that amount from the TFP for the appropriate household size (<https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>).

C. Initial month: A household's SNAP benefit amount for the initial month of certification will be based on the day of the month the household applies for SNAP benefits. The household receives SNAP benefits from the date of application to the end of the month, unless the applicant household consists of residents of a public institution.

(1) **Applying from institutions:** For households applying for SSI and SNAP benefits before release from an institution, the SNAP benefit amount for the initial month of certification will be based on the date of the month the household is released from the institution. The household will receive SNAP benefits from the date of the household's release from the institution to the end of the month.

(2) **Benefits less than ten dollars (\$10.00):** If the initial month's calculations yield a SNAP benefit amount of less than ten dollars (\$10.00), then no issuance will be made for the initial month. For households entitled to no SNAP benefits in the initial month, but eligible in subsequent months, ISD shall certify a household beginning with the month of application.

D. Minimum benefit amount:

(1) Except during an initial month, all eligible one- and two-person households, including categorically eligible households, will receive a minimum monthly SNAP benefit amount.

(2) **Determination:** Minimum amounts are determined by federal guidelines and may be adjusted each year. All eligible one and two person households, including categorically eligible households, will receive the minimum monthly SNAP benefit amount, which can be found at <https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>.

(3) All eligible households with three or more members which are entitled to no benefits (except because of the proration requirements and the provision precluding issuances of less than ten dollars (\$10.00) in an initial month as per Paragraph 2 of Subsection C of 8.139.610.12 NMAC), ISD shall deny the household's application on the grounds that its net income exceeds the level at which benefits are issued. [2/1/1995, 7/1/1998; 8.139.610.12 NMAC - Rn, 8 NMAC 3.FSP.620, 05/15/2001; A, 02/28/2007; A/E, 04/01/2009; A, 07/15/2013; A/E, 04/01/2018; A, 07/24/2018; Rn, 3/1/2020]

8.139.610.[43] 12 CALCULATING THE BENEFIT AMOUNT: A household's net income is used to determine its SNAP benefit amount. The net income is the gross amount less allowable deductions. To determine the household's net income:

A. The gross monthly income earned by all household members is added to the total monthly unearned income of all household members, less income exclusions, to determine the household's total gross income. The household must qualify at the gross income calculation.

B. The total gross monthly earned income is multiplied by twenty percent; the result is subtracted from the total gross earned income; add the result to the total monthly unearned income; or multiply the total gross monthly earned income by eighty percent and add the result to the total monthly unearned income.

C. Subtract the standard deduction.

D. If the household is entitled to an excess medical deduction, determine if total medical expenses exceed 35 dollars (\$35.00). If so, subtract the amount which exceeds 35 dollars (\$35.00).

E. Subtract the child support deduction as determined by Paragraph 2 of Subsection G of 8.139.520.11 NMAC.

F. Subtract allowable monthly dependent care expenses, if any, up to the maximum amount per dependent; if the household has no shelter expenses, the net income has been determined at this point; go to step J.

G. If the household has shelter expenses, divide the result in Subsection F by two.

H. Determine if the household is entitled to an excess shelter expense deduction as follows:

(1) **For households not entitled to uncapped shelter:**

(a) total the allowable shelter expenses;

(b) subtract from the total shelter expenses fifty percent of the household's monthly income after all other deductions have been subtracted, i.e., the result in Subsection G;

(c) the remaining amount is the excess shelter expense; compare this amount to the current excess shelter deduction limit as found at <https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>;

(d) subtract the current excess shelter deduction amount or the result in Paragraph (c), whichever is less, from the household's monthly income determined in Subsection F; the household's net income has been determined; go to step I.

(2) **For households entitled to uncapped shelter:** Households containing an elderly or disabled member are entitled to an uncapped shelter expense deduction. Such households have the full amount of the shelter expense exceeding fifty percent of the households net income subtracted. To determine the net income for a household entitled to an uncapped shelter expense deduction, complete steps A through G as described above, and then:

(a) total the allowable shelter expenses;

(b) subtract from the total shelter expenses fifty percent of the household's monthly income after all other deductions have been subtracted (the result in Subsection G); the remaining amount is the excess shelter expense;

(c) subtract the amount in Paragraph (b) from the monthly income amount determined in Subsection F; the household's net income has been determined; go to step I.

I. Round each income calculation to the nearest dollar (one cent (\$.01) through 49 cents (\$.49) round down; 50 cents (\$.50) through 99 cents (\$.99) round up).

J. Multiply the household's net income by thirty percent; round the cents up to the nearest dollar, and subtract that amount from the maximum SNAP benefit amount for the household's size. The SNAP benefit amount for the household is determined.

[2/1/1995, 10/1/1995; 8.139.610.13 NMAC - Rn, 8 NMAC 3.FSP.621, 05/15/2001; A, 07/24/2018; Rn, 3/1/2020]

8.139.610.[14] 13REPLACEMENT OF BENEFITS:

A. **Conditions for replacement:** Subject to certain restrictions, households may be authorized a replacement issuance when the household reports the food purchased with SNAP benefits was destroyed in a household misfortune or natural disaster. The loss must be reported within ten calendar days of the day the food purchased with SNAP benefits was destroyed. The loss is ineligible for replacement if the loss is not reported timely.

(1) **Replacing benefits:** Subject to certain restrictions, households may be authorized a replacement issuance of SNAP benefits when the household reports that food purchased with the SNAP benefits was destroyed in a household misfortune or natural disaster.

(2) **Reporting the loss:** The loss of food purchased with SNAP benefits must be reported in a timely manner by the household. The report will be considered timely if the loss is reported within 10 days of the date the food purchased with SNAP benefits is destroyed in household misfortune or natural disaster.

(3) **Ineligible for replacement:** Food purchased with SNAP benefits will not be replaced if:

(a) the household reports that the food purchased with SNAP benefits was destroyed after receipt in an event other than a household misfortune or natural disaster; or

(b) the loss was not timely reported by the household.

(4) **Household responsibilities:** To qualify for a replacement, the household must:

(a) report the loss in a timely manner, either orally or in writing; and

(b) sign an affidavit or statement attesting to the loss of the household's food purchased with SNAP benefits.

(5) **HSD responsibilities:** HSD shall issue the replacement SNAP benefit amount if warranted, within 10 days after the report of loss, or within two working days of the date that HSD receives the signed affidavit or statement, whichever is later. Replacement of SNAP benefits will be delayed until a determination of the value of the benefits can be made.

(6) **Affidavits:** If a signed affidavit is not received by ISD within 10 days of the date the loss is reported, there will be no replacement. If the 10th day falls on a weekend or holiday, the deadline is the day after the weekend or holiday. The affidavit is retained in the client electronic case record. It attests to the destruction of food purchased with the original issuance and specifies the reason for the replacement. It shall also state that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim.

(7) **Authorization:** There will be no limit on the number of replacements a household may be authorized for food purchased with SNAP benefits which was destroyed in a household misfortune or natural disaster.

(8) **Verification of conditions for replacement:** Before replacing destroyed food purchased with SNAP benefits, ISD shall determine that the destruction occurred in a household misfortune or natural disaster, such as a fire, as well as in natural disasters affecting more than one household. This is verified through one of the following:

- (a) collateral contacts; or
- (b) documentation from a community agency such as but not limited to, the fire department or the red cross; or
- (c) a home visit; or
- (d) FNS has issued a disaster declaration and a household is eligible for emergency SNAP benefits; a household cannot receive both the disaster SNAP benefit and a replacement benefit for a household misfortune or natural disaster.

B. Calculation of replacement: A replacement of the actual value of the loss not to exceed one month's SNAP benefit amount may be issued if food purchased with SNAP benefits is destroyed in a household misfortune or natural disaster affecting a participating household. HSD will provide a replacement issuance within 10 days of a reported loss.

C. Fair hearings: A household must be informed of its right to a fair hearing to contest denial of a replacement issuance. Replacements will not be authorized during the appeal process. A replacement is authorized if the appeal is decided in favor of the household.

[2/1/1995; 8.139.610.14 NMAC - Rn, 8 NMAC 3.FSP.627, 05/15/2001; A, 02/28/2007; A, 07/24/2018; Rn, 3/1/2020]

8.139.610.[15] 14 NATIONAL REDUCTION OR SUSPENSION: If funding for SNAP is depleted, Section 18 of the Food Stamp Act of 1977, as amended, provides for reduction, suspension or cancellation of SNAP benefits for one or more months, or a combination of these three actions.

A. Reduction:

(1) If a reduction in SNAP allotments is deemed necessary, the maximum SNAP allotments amounts for all household sizes is reduced by a percentage specified by FNS. The maximum SNAP allotments amounts for each household size are reduced by the same percentage. This results in all households of a given size having their benefits reduced by the same dollar amount. The dollar reduction is smallest for a one-person household and greatest for the largest households. Since the dollar amount is the same for all households of the same size, the rate of reduction is lowest for zero net income households and greatest for the highest net income households.

(2) All one- and two-person households affected by a reduction action are guaranteed a minimum monthly SNAP benefit, unless the action is a cancellation of SNAP benefits, suspension of SNAP benefits, or reduction in SNAP benefits of ninety percent or more of the total amount of benefits projected to be issued in the affected month. The benefit reduction notice issued by USDA specifies whether the minimum SNAP benefit amount will be provided.

(3) SNAP benefits shall also be able to be adjusted to provide for the rounding of benefit levels of one dollar (\$1.00), three dollars (\$3.00) and five dollars (\$5.00) to two dollars (\$2.00), four dollars (\$4.00) and six dollars (\$6.00), respectively.

B. Suspension or cancellation:

(1) If a decision is made to suspend or cancel the distribution of SNAP benefits in a given month, FNS shall notify HSD of the date the suspension or cancellation will take effect. If SNAP benefits are suspended or cancelled, the minimum benefit provision for one- and two-person households is disregarded and all households will have their benefits suspended or cancelled.

(2) **Resumption of benefits:** Upon notification by FNS that a benefit suspension has ended, HSD shall act immediately to resume benefit issuance to certified households.

C. Notices: SNAP benefit reductions, suspensions, and cancellations are considered a federal adjustment to SNAP benefits. HSD shall notify all households of benefit reductions, suspensions, or cancellations in accordance with adequate notice provisions in Subsection A of 8.139.120.13 NMAC. HSD shall not provide an adverse action notice to a household affected by a benefit reduction, suspension, or cancellation.

D. Effect of reduction on certification:

(1) **Normal processing:** Eligibility determination for applicant households under normal

(non-expedited) processing will not be affected by a benefit reduction, suspension, or cancellation. HSD shall accept and process applications during a month(s) in which a reduction, suspension, or cancellation is in effect in accordance with 8.139.110.12 NMAC, application processing. The determination of eligibility will also be made according to these provisions. If an applicant household is determined eligible for SNAP benefits and a reduction is in effect, the benefit amount is calculated by reducing the maximum SNAP allotments amount by the appropriate percentage for the applicant's household size and then deducting thirty percent of the household's net SNAP income from the reduced maximum SNAP allotments amount. If an applicant household is determined eligible for SNAP benefits while a suspension or cancellation is in effect, no benefits will be issued to the household until issuance is again authorized by FNS.

(2) **Expedited service:** Expedited processing continues during the months in which reductions, suspensions or cancellations are in effect.

(a) **Reductions:** Households receiving expedited service in months in which reductions are in effect and that are determined eligible will be issued reduced benefits. The reduced SNAP benefit amount will be made available within the time frame specified for expedited issuance.

(b) **Suspension:** Households receiving expedited service in months in which a suspension is in effect and that are determined eligible will have a benefit determination made within the time frames for expedited issuance. If a suspension remains in effect at the time issuance is authorized, the issuance will be suspended until FNS lifts the suspension.

(c) **Cancellations:** Households eligible for expedited processing which apply for SNAP benefits during months in which cancellations are in effect will receive expedited service. The deadline for completing the processing is five calendar days or the end of the month of application, whichever date is later. All other rules for providing expedited service are applicable.

(3) **Certification periods:** The reduction, suspension, or cancellation of SNAP benefits in a given month will have no effect on the certification period assigned to a household. Those households with certification period expiring during a month in which SNAP benefits have been reduced, suspended or cancelled will be recertified and have a new certification period assigned.

E. Fair hearings: Any household that has its SNAP benefit amount reduced, suspended or cancelled as a result of an order issued by FNS may request a fair hearing if the household disagrees with the action. The fair hearing process is subject to the following conditions:

(1) **Basis for fair hearings:** HSD is not required to hold fair hearings unless the request is based on a household's belief that the SNAP benefit amount was computed incorrectly under suspension, reduction, or cancellation rules or that such rules were applied or interpreted incorrectly. HSD shall deny a fair hearing to a household that is merely disputing the fact that a reduction, suspension, or cancellation was ordered.

(2) **Continuation of benefits pending fair hearing:** Since the reduction, suspension, or cancellation is necessary to avoid an expenditure of funds beyond those appropriated by congress, households do not have a right to continuation of SNAP benefits pending a fair hearing.

(3) **Retroactive benefits:** A household will receive retroactive SNAP benefits in an appropriate amount if it is found that its SNAP benefits were reduced by more than the amount by which HSD was directed to reduce SNAP benefits.

F. Restoration of benefits:

(1) HSD shall have issuance services available to serve households receiving restored or retroactive SNAP benefits for a previous, unaffected month if benefit reduction, suspension or cancellation has been ordered.

(2) Households whose SNAP benefits are reduced, suspended or cancelled as a result of these procedures will not be entitled to restoration of lost benefits at a future date. However, if there is a surplus of funds as a result of the reduction or cancellation, FNS will direct HSD to restore benefits to affected households, unless the secretary of agriculture determines that the amount of surplus funds is too small for this to be practical.

(3) HSD shall design procedures to implement the restoration of SNAP benefits promptly if FNS directs the restoration of benefits.

[2/1/1995; 8.139.610.15 NMAC - Rn, 8 NMAC 3.FSP.635, 05/15/2001; A, 02/28/2007; A, 07/24/2018; Rn, 3/1/2020]