



STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT

# HUMAN SERVICES REGISTER

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## I. DEPARTMENT

HUMAN SERVICES DEPARTMENT

## II. SUBJECT

HEAT AND EAT PROGRAM

## III. PROGRAMS AFFECTED

STATE FUNDED ASSISTANCE PROGRAMS

## IV. ACTION

PROPOSED AMENDMENTS

## V. BACKGROUND

The Department is promulgating proposed regulations to the State Funded Assistance Programs administered by the Human Services Department (HSD), including its authority to promulgate regulation, and is governed by Chapter 9, Article 8, NMSA (Repl. 1983).

The Department is proposing to add section 8.106.631 NMAC Heat and Eat Program which is a State Funded Assistance Program. The objective of the New Mexico Heat and Eat Program is to provide households with a cash payment to assist with energy expenses to households that do not pay heating or cooling expenses and do not receive Low Income Heating Energy Assistance Program (LIHEAP) but have an identifiable shelter cost. Payments are credited to recipients through a state managed fund. In addition to the energy assistance payment, households who received the Heat and Eat energy assistance payment will see an increase in their deduction amount used to determine their SNAP benefit allotment. The energy assistance payment will be disbursed at the beginning of every federal fiscal year. Dependent on the availability of funds, the amount of the payment to the household will be no less than \$21. By receiving this payment, households will automatically become eligible to receive the Heating and Cooling Standard Utility Allowance (HCSUA) and in most cases will receive an increase in their SNAP benefits. The Heat and Eat benefit is limited to current SNAP recipients and no additional application is required. Based on the eligibility criteria of the Heat and Eat program, if households qualify for the payment, it will automatically be issued every federal fiscal year and the active SNAP case will be automatically updated.

The Heat and Eat program will be for households who:

- are receiving SNAP after being determined eligible as outlined in 8.139.110 NMAC;
- have gross income less than 165% of the poverty level; and
- do not pay for any heating or cooling expenses, including the payment of a fee to use an air conditioner; and
- are not receiving the maximum SNAP benefit: and
- have an identifiable shelter cost.

The current New Mexico Administrative Code (NMAC) provisions read that any other assistance payment of \$20 or more will qualify individuals for the HCSUA. This state funded assistance program will give individuals, as defined above, a \$21 case benefit energy assistance payment annually. The \$21 payment will also trigger an automated recalculation of SNAP benefits to include the HCSUA, in the amount of \$348 for Fiscal Year 2021, for the next 12 consecutive issuance months for the household. The HCSUA deduction amount is determined yearly.

## **VI. CONCISE EXPLANATORY STATEMENT**

The HSD is developing a new State Funded Assistance Program, the Heat and Eat Program, that will benefit the citizens of New Mexico to not only receive a supplemental energy assistance payment annually but will also increase their standard utility deduction and the SNAP benefit. The rule is being developed under the following statutory authority:

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

## **VII. PUBLIC HEARING**

A public hearing to receive testimony on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on **Friday, September 25, 2020 from 9:00am-10:00am**. The hearing will be held virtually through GoTo Meeting at this link: <https://global.gotomeeting.com/join/329083717>.

Anyone wishing to join via phone may call +1 (646) 749-3122, Access Code: 329-083-717. Written comment may be dropped off during the scheduled hearing time at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505 if the individual wishes to provide written comment during the scheduled hearing; this drop off site will be for written comment only. The conference room is located on the first floor in the ASD Rodeo Building.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-827-7254. This register and proposed regulations are also available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. If

you do not have Internet access, a copy of the proposed regulations may be requested by contacting the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling 505-827-7250.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-827-6201 or through the New Mexico Relay system, toll free at #711. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, **Friday, September 25, 2020**. Please send comments to:

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

You may send comments electronically to: [HSD-isdrules@state.nm.us](mailto:HSD-isdrules@state.nm.us)

## VII. PUBLICATION DATE

August 25, 2020

## VIII. PUBLICATION

Publication of these emergency regulations approved on 7/19/2020 by:

DocuSigned by:

*Angela Medrano*

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

Angela Medrano, Deputy Cabinet Secretary  
Signing electronically on behalf of D.S.

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 106 STATE FUNDED ASSISTANCE PROGRAMS**  
**PART 631 HEAT AND EAT PROGRAM**

**8.106.631.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.106.631.1 NMAC - N, 11/1/2020]

**8.106.631.2 SCOPE:** This rule applies to the general public.  
[8.106.631.2 NMAC - N, 11/1/2020]

**8.106.631.3 STATUTORY AUTHORITY:** New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.  
[8.106.631.3 NMAC - N, 11/1/2020]

**8.106.631.4 DURATION:** Permanent  
[8.106.631.4 NMAC - N, 11/1/2020]

**8.106.631.5 EFFECTIVE DATE:** November 1, 2020.  
[8.106.631.5 NMAC - N, 11/1/2020]

**8.106.631.6 OBJECTIVE:** The objective of the New Mexico Heat and Eat Program is to provide households with a cash payment to assist with energy expenses to households that do not pay heating or cooling expenses and do not receive LIHEAP but have an identifiable shelter cost. Payments are credited to recipients through a state managed fund. In addition to the energy assistance payment households who received this payment will see an increase in their deduction amount used to determine their SNAP benefit allotment.  
[8.106.631.6 NMAC - N, 11/1/2020]

**8. 106.631.7 DEFINITIONS: [RESERVED]**  
[8.106.631.7 NMAC - N, 11/1/2020]

**8. 106.631.8 PROGRAM ELIGIBILITY:** Benefits shall be processed annually at the beginning of the federal fiscal year dependent on the availability of funding.

**A. Limited to current SNAP recipients:** no application is needed for an individual or groups of individuals who reside together that do not pay separate heating or cooling costs and do not receive the Heating and Cooling Standard Utility Allowance (HCSUA).

**B. Household:** Eligible household include those who:

- (1) are receiving SNAP after being determined eligible as outlined in 8.139.110 NMAC;
- (2) have gross income less than one hundred sixty-five percent of the poverty level; and
- (3) do not pay for any heating or cooling expenses, including the payment of a fee to use

an air conditioner; and

- (4) are not receiving the maximum SNAP benefit; and
- (5) have an identifiable shelter cost.

**C. Eligible households:** will receive the HCSUA in accordance with 8.139.510.11 NMAC.

[8.106.631.8 NMAC - N, 11/1/2020]

**8. 106.631.9 BENEFIT DELIVERY**

**A. Effective date:** At the beginning of every federal fiscal year, October 1, a one-time energy assistance cash payment will be issued to eligible households as defined in Subsection A of 8.106.631.9.

**B. Benefit issuance:** Heat and Eat benefits are issued through a direct deposit into a household's EBT account. EBT cards are issued and maintained as defined at 8.139.610 NMAC. A Heat and Eat participating household has a definite issuance date so that benefits are received on or about the same time annually.

**C. Benefit Amount:** Dependent on the availability of state general fund a cash payment of no less than \$20 will be issued.

**D. Eligible Uses for Benefit:** This Cash benefit is intended to help the household meet their heating or cooling needs. Please refer to 8.106.610.8 NMAC for uses of Cash benefit.  
[8.106.631.9 NMAC - N, 11/1/2020]

**8. 106.631.10 RECOUPMENT** If the benefit is not used by the end of the federal fiscal year that the benefits was issued, September 30, the benefit will be recouped from the participants EBT card and placed back into the state general fund.  
[8.106.631.10 NMAC - N, 11/1/2020]

**HISTORY OF 8. 106.631NMAC: [RESERVED]**