



State of New Mexico
Human Services Department
Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT (HSD)

II. SUBJECT

8.50.111.12, Contempt Proceedings
8.50.130.13, Contesting Tax Refund Intercept in Responding Interstate Cases

III. PROGRAM AFFECTED

(TITLE IV-D) CHILD SUPPORT ENFORCEMENT

IV. ACTION

FINAL RULES

V. BACKGROUND SUMMARY

New Mexico Human Services Register Volume XXX, Issue 10, dated May 28, 2019 issued the proposed rules, 8.50.111.12, Contempt Proceedings, 8.50.130.13, Contesting Tax Refund Intercept in Responding Interstate Cases.

A public hearing was held on July 31, 2019 to receive public comments and testimony on this proposed rule and there were no attendees and no written or oral comments received.

Concise Explanatory Statement:

- Changes in the rules are to revise language to add that the division will screen cases and provide the court information when the non-custodial parent has an ability to pay or comply with the order; and to delete language stating that the Central Registry sends the OCSE an update to report that the matter is being transferred to the initiating state for the purpose of conducting an administrative hearing.

VI. RULES

These rules will be contained in 8.50.111.12 and 8.50.130.13. This final register and rules are available on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/Default.aspx> and on the Sunshine Portal at http://statenm.force.com/public/SSP_RuleHearingSearchPublic. If you do not have internet

access, a copy of the final register and rules may be requested by contacting the Child Support Enforcement Division at 505-827-1320.

VII. EFFECTIVE DATE

January 1, 2020

VIII. PUBLICATIONS

Publication of these rules approved by:

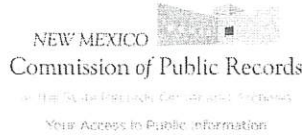


DR. DAVID SCRASE, SECRETARY
HUMAN SERVICES DEPARTMENT

2019 SEP 10 AM 1:35

NMAC

Transmittal Form



Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use Only) Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

2019 SEP 10 AM 1:35

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Changes in the rule are to replace language with language stating that the IV-D agency will screen cases and provide court information regarding when non-custodial parent has an ability to pay or comply with the order.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Dr. David Scrase

Check if authority has been delegated

Title:

Secretary

Signature: (BLACK ink only)

DR Scrase

Date signed:

9/9/19

2019 SEP 10 AM 1:35

This is an amendment to 8.50.111 NMAC, Section 12, effective 1/1/2020.

8.50.111.12 CONTEMPT PROCEEDINGS: [~~Contempt proceedings are used to enforce an existing order when the non-custodial parent has failed to make support payments as ordered.~~] The IV-D agency will pursue contempt provisions [~~as appropriate~~] when the non-custodial parent has an ability to pay or otherwise comply with the order. If an obligor is found by a court to be in contempt of court, the IV-D agency may request the court issue a bench warrant for the arrest of the obligor. Any bond requested by the IV-D agency in a bench warrant shall be a cash only bond to be paid to the IV-D agency and distributed in accordance with federal and state laws regarding distribution of support payments.

A. The IV-D agency will screen the case for information regarding the non-custodial parent's ability to pay or otherwise comply with the order.

B. The IV-D agency will provide the court with information regarding the non-custodial parent's ability to pay or otherwise comply with the order.

C. The IV-D agency will provide clear notice to the non-custodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

[8.50.111.12 NMAC - Rp, 8.50.111.16 NMAC, 12/30/2010: A, 1/1/2020]

2019 SEP 10 AM 1:34

NMAC

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- Reasons for not accepting substantive arguments made through public comment.

The change in the rule is to delete language stating that the Central Registry sends the OCSE an update to report that the matter is being transferred to the initiating state for the purpose of conducting an administrative hearing.

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Name:

Dr. David Scrase

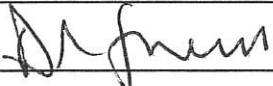
Check if authority has been delegated

Title:

Secretary

Signature: (BLACK ink only)

Date signed:



9/9/19

2019 SEP 10 AM 1:34

This is an amendment to 8.50.130 NMAC, Section 13, effective 1/1/2020.

8.50.130.13 CONTESTING TAX REFUND INTERCEPT IN RESPONDING INTERSTATE CASES:

Administrative hearing requests are referred to the central registry in the responding state if the obligor requests a hearing in that state.

A. When the obligor, after receiving the FMS offset notice from the other state, contacts the Title IV-D agency worker, the worker may refer the obligor to the state that issued the notice. However, if the obligor contacts the Title IV-D agency as the last resort because he or she cannot get assistance from the other state, the worker may contact the other state, or refer the obligor to central registry and central registry staff will contact the other state.

B. If a request from the obligor for an administrative hearing in New Mexico is received and the case was submitted based on another state's order, a review of the arrearage computation submitted for tax intercept and the underlying documentation, and any new evidence provided by the appellant is completed, and an attempt is made to resolve the complaint. If the complaint cannot be resolved by the Title IV-D agency worker and the obligor requests an administrative hearing in the initiating state, the other state is notified by the New Mexico Title IV-D agency of the request and all necessary information is provided within ~~ten (10)~~ 10 days of the obligor's request for an administrative hearing. ~~[At the same time, the central registry sends the OCSE an update to report that the matter is being transferred to the initiating state for the purpose of conducting an administrative hearing.]~~

C. The initiating state is responsible for all procedures required for conducting a hearing within that state.

[8.50.130.13 NMAC - Rp, 8.50.130.10 NMAC, 12/30/2010; A, 1/1/2020]